ELECTION OFFICIAL MANUAL

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# Table of Contents

Table of Contents............................................................................................................................................................. 1-1

**Chapter 1: Introduction** ............................................................................................................................................. 1-1

Section 1.01... Definitions........................................................................................................................................ 1-1

Section 1.02... Laws.................................................................................................................................................... 1-2

  The United States Constitution............................................................................................................................... 1-2

  The Ohio Constitution................................................................................................................................................ 1-2

  Federal Laws .......................................................................................................................................................... 1-3

  State Law.................................................................................................................................................................. 1-3

**Chapter 2: Election Administration** ....................................................................................................................... 2-1

Section 1.01... Types of Elections................................................................................................................................ 2-1

  General Elections.......................................................................................................................................................... 2-1

  Primary Elections.......................................................................................................................................................... 2-1

  Special Elections....................................................................................................................................................... 2-2

  Advisory Elections.................................................................................................................................................... 2-2

Section 1.02... The Board of Elections........................................................................................................................... 2-3

  Board Membership...................................................................................................................................................... 2-3

  Director & Deputy Director........................................................................................................................................ 2-5

  Organization.................................................................................................................................................................. 2-9

  Suspension & Removal........................................................................................................................................... 2-14

  Training Requirements............................................................................................................................................ 2-14

Section 1.03... Board Office........................................................................................................................................... 2-18

  Facilities........................................................................................................................................................................ 2-18

  Board Hours............................................................................................................................................................ 2-19

  Human Resource Management............................................................................................................................... 2-19

  Board Procedure....................................................................................................................................................... 2-21

  Rules of Order............................................................................................................................................................ 2-25

  Tie Votes...................................................................................................................................................................... 2-25

  Duties of the Board................................................................................................................................................... 2-27

  Acting in Quasi-Judicial Capacity........................................................................................................................... 2-31

  Duties of the Director & Deputy Director................................................................................................................ 2-33
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.06</td>
<td>Election Administration Planning</td>
<td>2-75</td>
</tr>
<tr>
<td></td>
<td>Election Administration Plans</td>
<td>2-75</td>
</tr>
<tr>
<td></td>
<td>Contingency Plans</td>
<td>2-76</td>
</tr>
<tr>
<td>1.07</td>
<td>Security</td>
<td>2-77</td>
</tr>
<tr>
<td></td>
<td>Security of the Board Office</td>
<td>2-77</td>
</tr>
<tr>
<td></td>
<td>Secure and Proper Storage of Voting Equipment</td>
<td>2-77</td>
</tr>
<tr>
<td></td>
<td>Taking of Voting Equipment Off-Site</td>
<td>2-78</td>
</tr>
<tr>
<td></td>
<td>Inventory of Voting Equipment</td>
<td>2-79</td>
</tr>
<tr>
<td></td>
<td>Secure and Proper Storage of Ballots and Election Data Media</td>
<td>2-79</td>
</tr>
<tr>
<td></td>
<td>Inventory of Ballots</td>
<td>2-80</td>
</tr>
<tr>
<td></td>
<td>Security of Voting System and Tabulation Programs/Software</td>
<td>2-81</td>
</tr>
<tr>
<td></td>
<td>Passwords</td>
<td>2-81</td>
</tr>
<tr>
<td></td>
<td>User Account Management</td>
<td>2-82</td>
</tr>
<tr>
<td></td>
<td>Access Log</td>
<td>2-83</td>
</tr>
<tr>
<td></td>
<td>Third Party Access to Voting System</td>
<td>2-84</td>
</tr>
<tr>
<td>1.08</td>
<td>Legal Counsel</td>
<td>2-84</td>
</tr>
<tr>
<td></td>
<td>County Prosecuting Attorney</td>
<td>2-84</td>
</tr>
<tr>
<td></td>
<td>Municipal Legal Counsel</td>
<td>2-85</td>
</tr>
<tr>
<td></td>
<td>Secretary of State</td>
<td>2-85</td>
</tr>
<tr>
<td></td>
<td>Conflicting Opinions</td>
<td>2-85</td>
</tr>
<tr>
<td></td>
<td>Election-related Law Enforcement Duties of Sheriff</td>
<td>2-86</td>
</tr>
<tr>
<td>1.09</td>
<td>Information Technology Security</td>
<td>2-87</td>
</tr>
<tr>
<td></td>
<td>Vulnerability Management</td>
<td>2-87</td>
</tr>
<tr>
<td></td>
<td>Email and Website Security</td>
<td>2-88</td>
</tr>
<tr>
<td></td>
<td>Network Security</td>
<td>2-89</td>
</tr>
<tr>
<td></td>
<td>Voter Registration and Election Management System Data</td>
<td>2-89</td>
</tr>
<tr>
<td>3.01</td>
<td>Definitions</td>
<td>3-1</td>
</tr>
<tr>
<td></td>
<td>Voter Status Codes</td>
<td>3-1</td>
</tr>
<tr>
<td>Section 1.02</td>
<td>Eligibility</td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Qualifications</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residency</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 1.03</th>
<th>Forms for Voter Registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forms</td>
<td></td>
</tr>
<tr>
<td>Requests for Voter Registration Forms</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 1.04</th>
<th>Processing Voter Registration Forms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generally</td>
<td></td>
</tr>
<tr>
<td>Required Information</td>
<td></td>
</tr>
<tr>
<td>Additional Fields</td>
<td></td>
</tr>
<tr>
<td>Incomplete, Invalid, or Ineligible Registrations</td>
<td></td>
</tr>
<tr>
<td>Acknowledgement Card for Valid Registration</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 1.05</th>
<th>Deadline for Receipt of Voter Registration and Change of Name and/or Address Forms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boards Must Publish Notice of Deadline</td>
<td></td>
</tr>
<tr>
<td>Registration Deadline</td>
<td></td>
</tr>
<tr>
<td>Office Hours on Voter Registration Deadline</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 1.06</th>
<th>Entering Registrations into the Statewide Voter Registration Database</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entering Incomplete Voter Registration Application as Pending File</td>
<td></td>
</tr>
<tr>
<td>Tracking the Source of Registration Forms</td>
<td></td>
</tr>
<tr>
<td>Data Entry Standards</td>
<td></td>
</tr>
<tr>
<td>Entering a Voter’s Name</td>
<td></td>
</tr>
<tr>
<td>Entering a Voter’s Address using a Standardized Address</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 1.07</th>
<th>Bureau of Motor Vehicles Voter Registration Transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overview</td>
<td></td>
</tr>
<tr>
<td>Program Processing Details</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 1.08</th>
<th>Secretary of State’s Online Voter Registration System</th>
</tr>
</thead>
</table>
Section 1.15... Challenge of Right to Vote ................................................................. 3-60
  Challenges Filed Pursuant to R.C. 3503.24 ......................................................... 3-60
  General Considerations ......................................................................................... 3-62
Section 1.16... Public Records ................................................................................ 3-63
  Registration Forms and Lists .............................................................................. 3-63
  Voter Registration List Maintenance (NCOA and Supplemental Process) Records ........................................... 3-63
  Records Retention Chart ....................................................................................... 3-64

Chapter 4: Ballots ...................................................................................................... 4-1

Section 1.01... General Guidelines ........................................................................ 4-1
  Format ..................................................................................................................... 4-1
  Voter Instructions .................................................................................................... 4-2
  Ballot Stubs ........................................................................................................... 4-3
  Page Numbers ....................................................................................................... 4-3
  Partisan Primary Election Only ............................................................................ 4-3
  17-Year-Old Voters (Primary Election Only) ......................................................... 4-4
  Elimination of Partisan Primary Elections in Odd-Numbered Years ....................... 4-5

Section 1.02... Candidate Guidelines ................................................................... 4-6
  Office Headings ..................................................................................................... 4-6
  Candidate Names .................................................................................................. 4-7
  Candidate’s Political Party ...................................................................................... 4-9
  Rotation of Candidates’ Names .......................................................................... 4-9
  Rotation on Absentee Ballots ............................................................................... 4-10

Section 1.03... Questions & Issues ......................................................................... 4-10
  Headings ............................................................................................................... 4-10
  Ballot Language .................................................................................................... 4-10
  Percentage of Votes .............................................................................................. 4-11

Section 1.04... Proofs .............................................................................................. 4-11
  Proofing Ballots .................................................................................................... 4-11
  Posting Proofs ...................................................................................................... 4-12
  Copy of Absentee Ballots to Secretary of State .................................................... 4-13

Section 1.05... Overlaps ........................................................................................ 4-13
Issuing Ballots ............................................................................................................................................................ 5-23
Poll list to identify electors requesting absent voter’s ballot. ................................................................. 5-27
Absentee Ballot Status Lookup ............................................................................................................................ 5-28

Section 1.06... Processing Absentee Ballots......................................................................................................... 5-28
Incomplete or Non-Conforming Identification Envelope .................................................................................... 5-30

Section 1.07... Mandatory Step-by-Step Process for Counting Absentee Ballots ........................................ 5-32
Step 1: Determine whether the ballot was timely submitted: ................................................................. 5-32
Step 2: Determine whether the voter has provided the minimum required information: ......................... 5-33
Step 3: Determine whether voluntary information provided on the absentee identification envelope confirms the voter’s eligibility. ......................................................................................................... 5-35
Step 4: Open eligible absentee ballots and confirm contents. ........................................................................ 5-37

Section 1.08... Eligibility of Former Ohio Residents to Vote by Absentee Ballot in Ohio in a Presidential Election ..................................................................................................................................................... 5-38
Certificate of Intent to Vote in a Presidential Election ..................................................................................... 5-39
Notice to Secretary of State .............................................................................................................................. 5-39
Absentee Ballot for Former Ohio Resident ....................................................................................................... 5-39
Election Day Voting for Former Ohio Resident .............................................................................................. 5-39
Type of Ballot for Former Ohio Resident ........................................................................................................ 5-40

Chapter 6: Provisional Voting .................................................................................................................................. 6-1
Section 1.01... The Basics - What, Who, When, Where, and How............................................................. 6-1
What is a provisional ballot? .................................................................................................................................... 6-1
Who is eligible to cast a provisional ballot? ....................................................................................................... 6-1
When and where can a provisional ballot be cast? ............................................................................................. 6-3
How does a voter cast a provisional ballot? ...................................................................................................... 6-3

Section 1.02... Provisional Ballots Cast in the Wrong Precinct .................................................................. 6-7
The Importance of the Correct Precinct ............................................................................................................ 6-7
Provisional Ballot Cast in the Wrong Precinct of a Single-Precinct Polling Location ................................. 6-7
Provisional Ballot Cast in Wrong Precinct of Multi-Precinct Polling Location ............................................. 6-7

Section 1.03... Processing Provisional Ballots ................................................................................................. 6-8
Examination of Provisional Affirmations Prior to Official Canvass .......................................................... 6-8
Supplemental Information during Seven-Day Period ....................................................................................... 6-8
Board Members Vote on Eligibility .................................................................................................................... 6-8
Step 1: Determine whether the affirmation statement on the provisional ballot envelope contains each of the following five items.

Step 2: Determine whether the provisional voter indicated on the affirmation statement showed an acceptable form of identification to the precinct election official or whether the provisional voter provided at least one of the following on the affirmation statement: The last four digits of the voter’s Social Security number, the voter’s driver license number, or state identification card number.

Step 3: Determine whether the board can verify the identity of the voter based on the information provided on the provisional ballot affirmation or provided by the voter within the seven-day period.

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

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

Step 6: Determine whether the voter already requested and cast a ballot in the election.

Step 7: If you have completed Steps 1 through 6 and determined that the provisional ballot should be rejected, you must consider and apply 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), which is copied in full in Section 1.06 of this chapter.
Chapter 7: Election Day Voting

Section 1.01... Delivery and Return of Ballots and Voting Equipment

Delivery to Polling Location
Polling Place Security and Emergency Response
Secure Return of Ballots, Election Day Supplies, and Electronic Poll Books

Section 1.02... List of Registered Voters

Section 1.03... Signature Poll Books – Paper or Electronic

Contents
Special Notations in the Poll Book

Section 1.04... Procedure

Identifying Voter in Signature Poll Book — Paper or Electronic
Identification
Determining Voter Ballot Type
Signing Signature Poll Book — Paper or Electronic
Issuing Regular Ballot / Authority to Vote
Curbside Voting

Section 1.05... Marking the Ballot

Time to mark ballot
Replacement ballots
“Fleeting Voters”
List of Write-In Candidates Available Upon Request

Section 1.06... Assisting Voters

Section 1.07... Challenge of Elector by Precinct Election Official

Section 1.08... Observers

General Rules
Who May Appoint Observers
Forms
Types of Observers
International Observers

Section 1.09... Closing the Polls
Announcement of Close of Polls ......................................................................................................................... 7-28
Court Order ................................................................................................................................................................. 7-28
Closing the polling location .................................................................................................................................. 7-28
Secure Return of Ballots and Election Day Supplies .................................................................................... 7-30
Section 1.10... Partisan Primary Elections ............................................................................................................. 7-30
Challenges Based on Party Affiliation ............................................................................................................... 7-30
Issuing a ballot during a primary election ....................................................................................................... 7-31
Section 1.11... Required Postings .......................................................................................................................... 7-31
Generally ...................................................................................................................................................................... 7-31
Signs Outside ............................................................................................................................................................. 7-32
Signs Inside ................................................................................................................................................................. 7-32
Section 1.12... Prohibitions ...................................................................................................................................... 7-33
Congregating, Campaigning, Distributing Food, or Soliciting Inside a Polling Location .......................... 7-33
Collecting Signatures at a Polling Location ....................................................................................................... 7-34
Problems with Conduct at a Polling Location ................................................................................................ 7-34
Unlawful Possession of Ballots ............................................................................................................................. 7-34
Section 1.13... Media Access to Polling Locations ............................................................................................. 7-34
Media Access inside the Polls .............................................................................................................................. 7-34
Exit Polling at a Polling Location .......................................................................................................................... 7-35
Chapter 8: Canvassing the Vote ............................................................................................................................ 8-1
Section 1.01... Permitted Activities Prior to the Close of Polls ......................................................................... 8-1
Processing Absentee Ballots ............................................................................................................................... 8-1
Counting Absentee Ballots .................................................................................................................................... 8-1
Determining Which Ballots May Be Remade ..................................................................................................... 8-3
Public Testing of Automatic Tabulating Equipment ....................................................................................... 8-6
Duties of Precinct Election Officials at Close of Polls ..................................................................................... 8-7
Secure Return of Ballots and Election Day Supplies .................................................................................... 8-10
Section 1.02... Unofficial Canvass .......................................................................................................................... 8-10
Processes and Procedures .................................................................................................................................... 8-11
Unofficial Canvass of Write-In Candidates ...................................................................................................... 8-13
Final Reports ............................................................................................................................................................... 8-14
Section 1.03... Required Activities Prior to the Official Canvass ................................................................. 8-16
  Provisional Ballot Review ............................................................................................................................... 8-16
  Document Review ........................................................................................................................................ 8-19
Section 1.04... Official Canvass ..................................................................................................................... 8-19
  Timeline ....................................................................................................................................................... 8-19
  Process and Procedures ............................................................................................................................... 8-20
  Resolving Ties ........................................................................................................................................... 8-22
  Reports ......................................................................................................................................................... 8-22
  Voter History .............................................................................................................................................. 8-25
  Timeline for Reports .................................................................................................................................. 8-26
  Certificates of Nomination / Election .......................................................................................................... 8-26
Section 1.05... Records Retention .................................................................................................................. 8-28
  Generally ..................................................................................................................................................... 8-28
  Ballots, Poll books, and Provisional Envelopes Sealed Following an Election ................................................... 8-29
  Ballots – Paper and Electronic .................................................................................................................... 8-30

Chapter 9: Post-Election Activities ............................................................................................................... 9-1
Section 1.01... Definitions ............................................................................................................................... 9-1
Section 1.02... Recounts .................................................................................................................................. 9-1
  When a Recount Must Be Conducted ........................................................................................................... 9-1
  Automatic Recounts .................................................................................................................................... 9-4
  Requested Recounts .................................................................................................................................... 9-5
  Preparing For the Recount ........................................................................................................................... 9-7
  Stopping an Automatic Recount ................................................................................................................... 9-9
  Procedures for Recount ............................................................................................................................... 9-9
  Post-Recount Considerations ...................................................................................................................... 9-19
  Conclusion ................................................................................................................................................... 9-20
Section 1.03 Post-Election Audit Procedures .................................................................................................. 9-20
  Timeline ....................................................................................................................................................... 9-21
  Observers ...................................................................................................................................................... 9-21
  Preparations for the Post-Election Audit ...................................................................................................... 9-22
  Conducting the Post-Election Audit ............................................................................................................ 9-24
Chapter 12: Candidates

Section 1.01... Definitions

Partisan Candidate - Declaration of Candidacy

Independent Candidate - Nominating Petition

Nonpartisan Candidate - Nominating Petition

Write-In Candidates - Declaration of Intent to Be a Write-In Candidate

Section 1.02... Primaries and Nominations

Certificate of nomination issued when no primary is held R.C. 3513.02

Duties of Election Officials When Primary Election Eliminated

Section 1.03... Candidate Requirements

Generally

Qualification for Candidacy

Section 1.04... Protest of Certified Candidates

Procedure

Re-consideration of a Candidate Not-Certified

Section 1.05... Death of Candidate Prior to Primary Election

Partisan Candidate Dies Before the Primary Election

Section 1.06... Death of Candidate Prior to General Election

Major Political Party Nominee Dies After the Day of the Primary Election

Minor Political Party Nominee Dies After the Day of the Primary Election

Section 1.07... Withdrawal

Deadlines

Valid Notice: Written Statement Filed with Appropriate Election Officials

Selection of Person to Fill Vacancy on General Election Ballot
Section 1.08... Special Circumstances (Death or Withdrawal of Candidate for Governor / Lieutenant Governor or Representative to Congress) .......................................................................................................... 12-17

Candidate for Governor / Lieutenant Governor .......................................................................................................... 12-17
Candidate for Representative to U.S. Congress .......................................................................................................... 12-18

Chapter 13: Political Parties ............................................................................................................................................. 13-1

Section 1.01... Party Affiliation ............................................................................................................................................. 13-1
Primary Election ............................................................................................................................................. 13-1
Determining Party Affiliation ............................................................................................................................................. 13-1
Elected Official May Change Party Affiliation ........................................................................................................... 13-2

Section 1.02... Major v. Minor Political Parties .............................................................................................................. 13-2
Major Parties ........................................................................................................................................... 13-2
Minor Parties ........................................................................................................................................... 13-2

Section 1.03... Minor Political Parties .......................................................................................................................... 13-3
Establishing a Minor Political Party ........................................................................................................................................... 13-3
Nomination of Candidates ........................................................................................................................................... 13-4
Presidential and Vice Presidential Candidates of Recognized Party ........................................................................... 13-6
Participation in New Political Party’s Primary Election ......................................................................................... 13-6
Controlling Committee of a Minor Political Party ........................................................................................................... 13-7
Bylaws of Minor Political Parties ........................................................................................................................................... 13-7

Section 1.04... Major Political Parties .......................................................................................................................... 13-7
Controlling Committee of a Major Political Party ........................................................................................................... 13-7
County Central Committee may Determine No Need for Petition ............................................................................. 13-8
Write-In Candidates ........................................................................................................................................... 13-9
Elected and not Nominated ........................................................................................................................................... 13-9
Organizational Meetings of Major Political Parties ........................................................................................................... 13-10
Party Constitution and By-Laws ........................................................................................................................................... 13-11
Filling Vacancies in Controlling Committee ........................................................................................................... 13-11
Filling Vacancies in Elective Office ........................................................................................................................................... 13-11

Chapter 14: Statewide Initiative & Referendum ........................................................................................................... 14-1

Section 1.01... Definitions ........................................................................................................................................... 14-1
Referendum ........................................................................................................................................... 14-1
Initiative ........................................................................................................................................... 14-1
Section 1.02... Submission of Referendum or Initiative Petition.................................................. 14-2
Section 1.03... Examining and Verifying State Issue Petitions.................................................. 14-2
  Circulators........................................................................................................................................ 14-2
  Processing Voter Registrations ........................................................................................................ 14-5
  Signers ............................................................................................................................................. 14-5
  Marking Signatures .......................................................................................................................... 14-9
  Code Symbols for Validating Signatures on Petitions ................................................................. 14-9
  Certification ................................................................................................................................. 14-10
  Additional Signatures .................................................................................................................. 14-11
  Challenges/Protests ..................................................................................................................... 14-12

Chapter 15: Miscellaneous Duties............................................................................................... 15-1

SECTION 1.01 Security.................................................................................................................. 15-1
  The Election Infrastructure Information Sharing and Analysis Center (EI-ISAC) & DHS Resources ......................................................................................................................... 15-1
  Center for Internet Security (CIS) Elections Infrastructure Playbook ......................................... 15-2
  Securing Online Capabilities – TLS/SSL, CloudFlare, and Google Project Shield .................. 15-2
  Additional Services From DHS & Tabletop Exercise (TTX) ....................................................... 15-3
  Use of .Gov Domain Name ......................................................................................................... 15-4
  Assessment and Annual Training on Cybersecurity and Physical Security ............................ 15-4
  Crimal Background Checks ......................................................................................................... 15-5
  Contract Requirements .............................................................................................................. 15-5
  Domain-Based Message Authentication, REPORTING & Conference (DMARC) ................... 15-5

SECTION 1.02 Security Reporting............................................................................................... 15-6
  Technical Point of Contact ......................................................................................................... 15-6
  Reporting ..................................................................................................................................... 15-6
  Types of Events ........................................................................................................................... 15-7

Section 1.03... Vacancy in Elective Office................................................................................ 15-8
  Appointing Authority’s Duty ...................................................................................................... 15-9
  Board of Elections Post-Appointment Duties ........................................................................... 15-9

Section 1.04... Recall or Removal from Office.......................................................................... 15-10
  Removal – All Public Offices ..................................................................................................... 15-11
Removal – Public Officials with Fiscal Duties ................................................................................................. 15-12
Removal – Municipal Officer .......................................................................................................................... 15-12
Section 1.05 Advisory Elections .................................................................................................................... 15-13
Section 1.06 Voter File for Commissioner of Juries .................................................................................... 15-13
Section 1.07 Precinct Election Official Evaluations .................................................................................... 15-14
  Opening and Closing of Polling Places ........................................................................................................ 15-14
  Self-Reporting of Problems ......................................................................................................................... 15-14
  Handling of Provisional Ballots .................................................................................................................. 15-14
  Reconciliation after Polls are Closed ............................................................................................................. 15-14
Section 1.08 Election Administration Plans ................................................................................................ 15-15
Section 1.09 Voter Access to Public Information .......................................................................................... 15-16
  Voter Registration Status ............................................................................................................................ 15-16
  Absentee Ballot Status ................................................................................................................................. 15-17
  Polling Place Lookup ................................................................................................................................ 15-17
  Sample Ballot .............................................................................................................................................. 15-17
  Additional Requirements ............................................................................................................................... 15-17

Chapter 16: Resources .................................................................................................................................... 16-1
Chapter 1: INTRODUCTION

Section 1.01 Definitions

Ohio election officials take an oath to support the United States Constitution, the Ohio Constitution, and the laws passed thereunder. In complying with these laws, elections officials are guided by a combination of local charters, administrative code, and directives from the Secretary of State.

Board of Elections

Oath of Office

State of Ohio

__________________________ County,) ss.

I, ________________, do solemnly swear that I will support the Constitutions of the United States and of the State of Ohio, that I will enforce the election laws, protect and preserve the records and property pertaining to elections, and perform my duties as a Member of the Board of Elections to the best of my ability.

Signed, _________________________

Sworn to and subscribed before me, this ____ day of ____________, in the year two thousand and nineteen.
THE UNITED STATES CONSTITUTION

The United States Constitution was ratified in 1789. It is the supreme law of our country, setting the framework for our federal government. The Constitution is comprised of a preamble, seven articles, and 27 amendments. The first 10 amendments are known as the Bill of Rights. Later amendments helped to shape civil and voting rights by extending the franchise to women, 18-year-olds, and prohibiting states from denying the right to vote based upon a citizen’s race or ability to pay a poll tax.

1. Federal Elections – Article I, Section 4

“The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but Congress may at any time make or alter such Regulations...”.

This constitutional provision authorizes each state to prescribe the time, place, and manner of holding elections, but it also grants Congress the authority to preempt such state laws. For example, Congress exercised its authority under this provision by establishing a uniform date for federal elections – the first Tuesday after the first Monday in November of every even-numbered year1.

2. The Right to Vote

1870 - 15th Amendment
1920 - 19th Amendment
1964 - 24th Amendment
1971 - 26th Amendment

THE OHIO CONSTITUTION

The Ohio Constitution was adopted in 1851 and amended extensively in 1912. It is the basic law of our state, setting the framework for our state government and establishing rights for the people of Ohio. The preamble states:

“We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our general welfare, do establish this Constitution.”

1 2 U.S.C. § 7
The Ohio Constitution contains several provisions that are relevant to administration of elections. The initiative and referendum process can be found in Article 2. Article 5, Elective Franchise, establishes the qualifications of an elector and term limits for Ohio legislators. Other articles contain provisions related to filling a vacancy in public office.

The Ohio Constitution is cited throughout this manual as “Ohio Const.” followed by the article and section. You may use the hyperlinks to access the section being cited. You also may access the full text of the Ohio Constitution on the Secretary of State’s website, OhioSoS.gov.

FEDERAL LAWS

In addition to state law, there are several federal laws that also govern the administration of elections, including the Voting Rights Act, the Uniformed and Overseas Citizens Absentee Voting Act\(^2\), the Military and Overseas Voter Empowerment Act\(^3\), the Americans with Disabilities Act\(^4\), the National Voter Registration Act\(^5\), and the Help America Vote Act\(^6\).

- 1965 - Voting Rights Act – 1965
- 1986 - Uniformed & Overseas Citizens Absentee Voting Act (UOCAVA)
- 1990 - Americans With Disabilities Act (ADA)
- 1993 - National Voter Registration Act (NVRA)
- 2002 - Help American Vote Act (HAVA)
- 2009 - Military & Overseas Voter Empowerment Act (MOVE)

Federal laws are cited throughout this manual as “U.S.C.A.” followed by the section number.

STATE LAW

1. Ohio Revised Code

The Ohio Revised Code is a compilation of all of the statutes of Ohio. It is organized by subject matter into titles and then broken down into chapters within each title. Statutes pertaining to elections can be found in Title 35, which contains 15 chapters. However, there are statutes located in other titles of the Revised Code that are relevant to elections. For example, Title 57 contains statutes prescribing ballot language for tax levies, and Title 43 contains statutes pertaining to local liquor options.

\(^2\) 52 U.S.C.A. § 10301.
\(^3\) 52 U.S.C.A. § 20301.
\(^4\) 52 U.S.C.A. § 20101.
\(^5\) 52 U.S.C.A. § 20503.
\(^6\) 52 U.S.C.A § 20901.
Sections of the Ohio Revised Code are cited throughout this manual as “R.C.” followed by the section number. You may use the hyperlinks to access the statute being cited. You also may search the entire Ohio Revised Code via LAWriter at codes.ohio.gov/orc/.

2. **Ohio Administrative Code**

The Ohio General Assembly often charges an office or agency with implementing the details of a law through administrative rule. Administrative rules generally contain details considered too complex to be included in statute. The process for adopting an administrative rule is prescribed by statute, and each administrative rule is reviewed by the Joint Committee on Agency Rule Review (JCARR) to ensure that an office or agency has not exceeded its authority in enacting the rule.

The Secretary of State has adopted several administrative rules, which are contained in chapter 111 of the Ohio Administrative Code. Administrative rules are cited throughout this manual as “O.A.C.” followed by the chapter and rule number. You may use the hyperlinks to access the rule being cited. You also may search the entire Administrative Code via LAWriter at codes.ohio.gov/oac/.

3. **Municipal & County Charters**

Article XVIII of the Ohio Constitution provides that any municipality – which either is a city or a village (R.C. 703.01) – may frame, adopt and subsequently amend a charter that provides a limited form of home rule government. Additionally, Article X of the Ohio Constitution provides that the electors of any county also may frame and adopt or amend a charter detailing its government. For details on the process for framing a municipal or county charter, please refer to the Ohio Ballot Questions and Issues Handbook.

A county board of elections is encouraged to consult with the legal counsel for the chartered municipality or county whenever a question arises on a charter provision.
4. **Opinions of the Ohio Attorney General**

The Ohio Attorney General provides written opinions to public officials on legal issues arising in the course of their duties. Though these opinions are not binding law, they provide advice and are useful in guiding public officials.\(^7\)

Occasionally, local election officials are asked to provide guidance to public officials or employees regarding the compatibility of public offices or positions. The Ohio Attorney General has provided numerous opinions on these matters. A county board of elections or local election official with questions regarding whether certain offices or positions are compatible is encouraged to consult the Attorney General’s opinions and private legal counsel for advice.

Attorney General opinions are cited throughout this manual as “(the year the opinion was issued) Op. Att’y. Gen. No.” followed by the opinion number. You may use the hyperlinks to access the opinion being cited. You also may search the opinions by accessing the Ohio Attorney General’s website, [OhioAttorneyGeneral.gov](http://www.ohioattorneygeneral.gov).

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\(^7\) [https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions](https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions)
Chapter 2: ELECTION ADMINISTRATION

Directive 2019-26

Section 1.01  Types of Elections

GENERAL ELECTIONS

General elections are held on the first Tuesday after the first Monday in November. General election voters determine who will be elected to represent the people at a given level of government. Federal, state, and county candidate elections are held in even-numbered years (regular state elections), while city, village, township, and board of education candidate elections are held in odd-numbered years (regular municipal elections). State, county, district, or local issues may be on the ballot at any general election.1

PRIMARY ELECTIONS

A primary election occurs on the first Tuesday after the first Monday in May of each year, except in years in which a presidential primary election is held. Presidential primaries are held on the second Tuesday after the first Monday in March of presidential election years, an even-numbered year every four years. In charter municipalities, primary elections for cities or villages sometimes are held on a different date because of the requirements of the charter that governs that city or village.

Primary election voters determine who will be nominated as candidates for political parties to compete for particular offices at the general election. Primary election voters also elect members of the controlling committees of political parties, and delegates and alternates to the conventions of political parties.2

Some issues might be on the ballot at a primary election. Under Ohio law, voters affiliate with a political party by requesting that political party’s ballot in a primary election. If a voter does not want to affiliate with a political party, the voter may request an issues only ballot.

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1 R.C. 3501.01(A)-(C).
2 R.C. 3501.01(E)(1)-(2).
SPECIAL ELECTIONS

A special election may be held on the first Tuesday after the first Monday in May, August, or November, or on the day authorized by a particular municipal or county charter for the holding of an election. A special election can be held on the same day as a primary or general election. However, during a presidential primary year, no special election is held in May, except as may be authorized by a municipal or county charter. A special election may be held on the second Tuesday after the first Monday in March during a presidential primary year.3

Sometimes, the law calls for a special election when there is a vacancy in an office. In that event, a primary or general election for the election of a candidate to the vacant office may fall on a different date than the election date for other candidates.

ADVISORY ELECTIONS

An advisory election is a non-binding election on a question that municipal officials submit to the electorate to gauge voter attitudes on a particular topic. An advisory election is not intended as a substitute for the election on a municipal ordinance, resolution, charter amendment or other measure. Rather, the advisory election only tests the appeal of the proposed legislation, with a second election on the legislation itself to follow, if municipal officials so choose. The Supreme Court of Ohio recognized the right of a municipality to hold an advisory election in State ex rel. Bedford v. Cuyahoga Co. Board of Elections, 62 Ohio St.3d 17 (1991). The Court held that Article XVIII, Section 3 of the Ohio Constitution (commonly referred to as the “home rule” provision) grants a municipality the authority to hold an advisory election, absent a specific prohibition against holding such an election in the municipality’s charter, the Ohio Revised Code, or the Ohio Constitution. Please note that only a municipality may conduct an advisory election; an advisory election may not be held by any other political subdivision (e.g., state, county, township, school district, etc.).

When municipal officials certify an advisory question to the board of elections, the board should review the municipality’s charter, if it has one, to determine whether the charter prohibits an advisory election. If the charter does not specifically prohibit an advisory election, the board should proceed with the election. If the charter appears to prohibit the advisory election, the board should consult with its legal counsel, the county prosecuting attorney. The heading “Advisory Election” must be placed on the ballot for an advisory election.

The board should conduct the election and report the results as in any other election.

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3 R.C. 3501.01(D).
Section 1.02 The Board of Elections

The members of county boards of elections are appointed by the Secretary of State. Each county’s board of elections has four board members, two members representing each of the two major political parties. Boards of elections carry out state and federal law as instructed by the Secretary of State and by board policies adopted by the board’s members. Board members serve for staggered terms of four years.

The board members must appoint a director, who is responsible for the day-to-day operations of the board of elections office. The board members also may appoint a deputy director and other employees, as the board members deem necessary for the board to fulfill its statutory duties. The director and deputy director are appointed to two-year terms. However, the director, deputy director and employees serve at the pleasure of the board.

State law prohibits collective bargaining or other forms of collective negotiations between a board of elections and its employees.

The board members, director, deputy director and other board employees must conduct themselves at all times in a professional and courteous manner. They must assist any person, without regard to that person’s political affiliation, who asks the board office for information that is within the scope of the board’s jurisdiction.

BOARD MEMBERSHIP

1. Appointment

The Secretary of State is required to appoint two members – one from each major political party – to each county board of elections for four-year terms commencing on March 1 in odd-numbered years.

The county executive committees of the two major political parties must each meet not more than 60 nor less than 15 days before the expiration date of the term of board members to make and file a recommendation with the Secretary of State for the appointment of a qualified elector to serve as a board member.

Electors recommended for appointment, including current board members seeking appointment for subsequent terms, must undergo a background check. To facilitate the background check, each person recommended for appointment to a board of elections must complete Secretary of State Form 307, including information related to any misdemeanor or felony conviction.
The information about criminal convictions bears a direct and substantial relationship to the position of member of a board of elections because of the need for public confidence in the integrity of election officials. Any criminal conviction under a state or federal statute involving elections or ethics laws may disqualify an individual from serving as a member of a board of elections.

County party executive committees must submit the following properly completed documents:

- Executive Committee Recommendation for Full Term Appointment ([Form 306](#)), to be completed by the Chairman and Secretary of the Executive Committee and the prospective appointee;
- Background Check Disclosure, Authorization and Release for Prospective Appointment as a Member, Director or Deputy Director of the Board of Elections ([Form 307](#)), to be completed by the prospective appointee;
- Questionnaire for Prospective Appointment as a Member of the County Board of Elections ([Form 307](#)), to be completed by the prospective appointee.

The résumé of the elector recommended for appointment, setting forth the prospective appointee’s qualifications to be a member of a board of elections (i.e., education, employment history, etc.).

Each county party executive committee must submit the properly completed forms using one of the following methods:

**Email:**

email@OhioSoS.gov

**Mail:**

Ohio Secretary of State Elections Division
P.O. Box 2828
Columbus, OH 43216

Each elector appointed as a member of a board of elections will be notified by mail and will be provided a certificate of appointment and oath of office. The oath must be taken and subscribed to before a person authorized to administer oaths and filed with the clerk of the court of common pleas not later than 15 days after the date of appointment.8

8 R.C. 3501.08
2. **Vacancies**
   Within 15 days after a vacancy occurs on the board, the political party entitled to make a recommendation to fill the vacancy may make and file a recommendation with the Secretary of State. If no recommendation is filed by the 15th day after the vacancy occurred, the Secretary of State shall appoint a qualified person to serve for the remainder of the unexpired term.

3. **Compensation**
   The compensation of board members is based on the population of the county according to the most recent federal census. Questions regarding board member compensation or the impact of federal census results on board member compensation should be directed to the board’s legal counsel, the county prosecuting attorney.

**DIRECTOR & DEPUTY DIRECTOR**

1. **Minimum Qualifications**
   a. **Education**
      A candidate for director or deputy director of a board of elections must have a high school diploma or have attained the equivalency of a high school diploma (GED). College level education is desired.
   b. **Election related experience and skills**
      A candidate for director or deputy director of a board of elections must have a baseline understanding of the rules, processes, procedures, and equipment used in local election administration, including:
      i. Operating voting machines used in the county and other automated office equipment;
      ii. Managing a successful and efficient database;
      iii. Using, understanding and applying election law terminology;
      iv. Knowing the basics of Ohio’s “sunshine laws” governing open meetings and public records; and
      v. Receiving and implementing assignments and instructions from board members and Secretary of State’s office;

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9 R.C. 3501.12; Ohio Attorney General Opinion 1941-4042.
c. General managerial experience and skills

A candidate for director or deputy director of a board of elections must, to the satisfaction of a majority of the board, have the experience and capability to manage the day-to-day operations of that county’s board of elections (this requirement is scalable to the size and needs of the local operation). To this end, the candidate must possess:

i. Effective written and interpersonal communication abilities;

ii. Strong organizational skills and attention to detail;

iii. Familiarity with relevant state and federal human resources policies and practices;

iv. Familiarity with the handling of budgets and public appropriation of funds;

v. Ability to perform duties assigned by the law, the county board of elections, and/or the Secretary of State;

vi. Ability to convey or exchange information, including giving and managing assignments or direction to board personnel;

vii. Ability to adapt and to perform in a professional manner under stressful or emergency situations;

viii. Ability to comprehend a variety of informational documents; and

ix. Ability to conduct self at all times in a professional and courteous manner.

d. Successful completion of a criminal background check

Before being selected as director or deputy director by a county board of elections, the candidate must complete Form 307 (kept on file with the board of elections), and pass, to the satisfaction of a majority of the board members as described below, at minimum, a statewide criminal background check conducted at the expense of the board of elections.

NOTE: The Secretary of State does not perform background checks for directors and deputy directors. To conduct background checks prior to appointing directors, deputy directors, and other staff, the board should consult with its legal counsel, the county prosecuting attorney, and the county sheriff.

In addition, all candidates for director or deputy director (regardless of whether the person is currently the director or deputy director of the board of elections) must complete a questionnaire (Form 307) before
being appointed or reappointed to the position of director or deputy director. The completed questionnaire must be kept on file with the board of elections and a copy sent to the Secretary of State.

2. **Appointment**

   The director must be a resident elector of the county within 30 days of employment at the board, possess the necessary qualifications for the position, and be nominated for the position by a board member of the same political party. The director may not be a member of the board. An affirmative vote of three members is necessary for selection. A director is not considered to be a public officer.

3. **Vacancies**

   a. **Job Descriptions**

      County boards of elections must establish a written job description, incorporating the minimum qualifications and duties outlined above as well as local qualifications established by the board of elections, and the objective criteria by which candidates will be evaluated. Job descriptions of the duties of a director and deputy director of a board of elections shall contain at least the following minimum duties (or oversight thereof):

      i. Prepare and conduct all primary, general, and special elections held in the county;

      ii. Process, evaluate, and report election results;

      iii. Recruit and train precinct election officials;

      iv. Supervise the processing of voter records;

      v. Keep a full and true record of the proceedings of the board and all moneys received and expended;

      vi. File and preserve in the board office all orders, records, and reports pertaining to the administration of voter registrations and elections;

      vii. Prepare the minutes of board meetings;

      viii. Audit campaign finance reports;

      ix. Calculate charge backs to political subdivisions;

      x. Receive and have custody of all books, papers, and property belonging to the board;
xi. Perform such other duties in connection with the office of director and the proper conduct of elections as the Secretary of State and board determine;

xii. Review all Directives, Advisories, Memoranda, correspondence and materials issued by the Secretary of State and take action as required by those communications;

xiii. Supervise and instruct board employees, assign work, coordinate activities, make recommendations concerning hiring, responsibilities, compensation, discipline, and discharge of board employees; and

xiv. Develop a proposed annual budget to be submitted to the county commissioners, upon approval of the board of elections, and monitor the board’s budget and payroll relative to current year appropriations.

b. Advertising

When there is a vacancy in the position of director or deputy director of a board of elections, the board shall advertise the position for at least one week in the newspaper of largest general circulation in the county in which the board is located. Boards may also place the advertisement with national election trade publications such as ElectionCenter.org and/or ElectionLine.org.

All advertisements for appointment of a director or deputy director of a board of elections must include, at a minimum, the method by which interested parties may receive a copy of the job description and evaluation criteria and a notice that the applicant is subject to a criminal background check.

c. Application

Candidates for director or deputy director of a board of elections must submit a written application (in a form of the board’s choosing), current resume, and completed Form 307 prior to being considered by the board.

d. Evaluation Criteria

The objective evaluation criteria (a weighted scoring system) must be based on the job description and should be based upon an objective, pre-determined scoring system based on answers to standardized questions relating to such minimum qualifications.
Candidates for director or deputy director of a board of elections may be asked to complete a qualifications supplement at the discretion of the board of elections in order for the board of elections to consider all experience, education and skills related to the position.

All boards of elections, when appointing directors and deputy directors, shall give priority to candidates holding previous elections administration experience.

If no candidates for director or deputy director of a board of elections possess all the minimum qualifications for the position, the board of elections shall evaluate the candidates as if all minimum requirements had been met by the candidates under consideration.

**ORGANIZATION**

1. **Biennial Organizational Meeting**

   Boards of elections are required to organize every two years, within five days after the Secretary of State makes appointments to the board of elections.\(^{10}\)

   The organization meeting must be conducted following these steps, in order: \(^ {11}\)

   a. **Select a Temporary Chairperson**

      The current chairperson or member with the most seniority calls the meeting to order. A “temporary chairperson” is elected from among the members present to chair the meeting. A simple majority vote of the board is sufficient to select a temporary chairperson.

   b. **Appoint a Director**

      Nominations are made for director. The person nominated must be of the same political party as the board member making the nomination.

      A majority of three affirmative votes is necessary to select a director. After nominations have been made, ballots will be cast until either one nominee receives at least three affirmative votes, or five ballots have been cast.

      If, after five ballots have been cast, no person has received at least three affirmative votes for the office of director, the names of the persons nominated on the fifth ballot, and the names of the board members who

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\(^{10}\) R.C. 3501.09

\(^{11}\) R.C. 3501.09
nominated them, must be certified to the Secretary of State, who selects, from the list submitted, one person to serve as director.

However, if the Secretary of State has reason to believe that no person nominated is qualified, the Secretary must so state in writing to the board. The board shall then nominate other persons in the same manner as the original persons were nominated. If, after five ballots are cast, no person is agreed upon as director, the names are again certified to the Secretary of State, who shall select the director and deputy director from among the persons nominated.

If the board fails to nominate another person as director, the position shall be filled by the Secretary of State.12

c. Appoint a Deputy Director

Nominations are made for deputy director. The person nominated must be of the same political party as the board member making the nomination. The deputy director must be of a different major political party than the director.

A majority of three affirmative votes is necessary to select a deputy director.

If, after five ballots have been cast, no person has received at least three affirmative votes for the office of deputy director, the names of the persons nominated on the fifth ballot, and the names of the board members who nominated them, must be certified to the Secretary of State, who selects, from the list submitted, one person to serve as deputy director.

If the Board members do not wish to nominate a deputy director, they must, by a majority of three affirmative votes, agree that the position of deputy director is not necessary as of the date of the biennial reorganizational meeting. This decision can be revisited at any time after the reorganizational meeting, again, with a majority of three affirmative votes.

d. Appoint a Chairperson

After the selection of the director and deputy director, nominations are made for chairperson. The person nominated must be of the opposite political party of the director.

12 R.C. 3501.16.
If, upon the first ballot, no eligible member receives a simple majority vote, the board member affiliated with a different major political party than the director having the shortest term to serve on the board shall be the chair.

e. Report

Immediately after the reorganizational process, the completed report of the Board’s reorganization meeting must be forwarded to the Secretary of State’s office: Form 308 for all directors and deputy directors and all chairpersons, and Form 350 for any non-incumbent director, deputy director or board member. Send the reports by one of the following methods:

**Email:**
elections@OhioSoS.gov

**Mail:**
Ohio Secretary of State Elections Division
P.O. Box 2828
Columbus, OH 43216

f. Failure to Select a Director or Deputy Director

If, after five ballots for selection of a director or a deputy director, no person nominated has received the affirmative votes of at least three members, the board must immediately contact the Secretary of State’s elections counsel for instructions on submitting the tie vote to the Secretary of State.

2. **Re-Organization**

At any time after the organization of the board, the board, by three affirmative votes, may decide to replace the director or chairperson with a person belonging to the opposite political party of the present officer. If that occurs, the members of the board must reselect all officers of the board. The procedures outlined above must be followed for the reselection. The officers will serve out the remainder of the term of the outgoing officers. This reselection of officers does not increase or decrease the length of any person’s term as a board member.

The board may decide by the affirmative votes of at least three members to fill a vacancy in the office of chairperson or director with a person belonging to the
opposite political party of the outgoing officer.\textsuperscript{14} After such a vote, the vacancy shall be filled and all other officers selected as described above.\textsuperscript{15} The person filling the vacancy shall serve out the outgoing officer’s unexpired term. This reselection of officers does not increase or decrease the length of any person’s term as a member of the board.

3. **Clerks**

The board may hire other employees, prescribe their duties and, by a vote of not less than three of its members, fix their compensation.\textsuperscript{16} These board employees are election officials, but not public officers. They serve at the discretion of the board and take and subscribe the same oath as the director for the faithful performance of their duties. The board may remove any of these board employees by a majority vote of its membership. The board also may employ additional employees, when necessary.

All permanent board of elections employees are required to have a criminal background check conducted. Each board must adopt a policy that sets forth the procedures for reviewing background checks and determining whether any convictions should bar employment.

Employees work under the supervision of the director or deputy director, as authorized by the board, who must report all personnel matters to the board.

Nothing in law or any Secretary of State directive requires the board staff, other than director and deputy director, to be divided equally by political party affiliation. For example, there is no legal requirement that a board have an equal number of Democratic and Republican clerks. However, a board may have a policy of maintaining parity or near-parity among its clerical staff.

4. **Oath**

Before entering upon the duties of the office, the newly appointed director, deputy director, and board employees must subscribe to an oath to support the Constitution of the United States and the Ohio Constitution, to perform all the duties of their position to the best of their ability, to enforce the election laws, and to preserve all records, documents, and other property pertaining to the conduct of elections that are placed in their custody.\textsuperscript{17} The signed statement attesting to having taken the oath must be kept on record at the board of elections’ office.

\textsuperscript{14} R.C. 3501.161.
\textsuperscript{15} R.C. 3501.091.
\textsuperscript{16} R.C. 3501.01(U)(6); R.C. 3501.14.
\textsuperscript{17} R.C. 3501.13; R.C. 3501.14.
5. Ethics

All employees of the board must comply with the Ohio’s ethics law and the Secretary of State’s Ethics Policy. A copy of the Secretary of State’s Ethics Policy is available in Chapter 16 of this Manual. All current and future members and employees shall complete the Ethics Policy Acknowledgment Form (Form 350). A copy of the completed form shall be returned to the Secretary of State’s Election Division.

Violations of the Secretary of State’s ethics policy may be reported to the director of elections in the Secretary of State’s office, your regional liaison, or the Secretary of State’s elections counsel. Reports also may be made anonymously by mailing a written statement in a sealed envelope to the Secretary of State’s office to the attention of the director of elections. Violations of the ethics policy may result in disciplinary action in accordance with the Secretary of State’s statutory authority under Title 35 of the Ohio Revised Code, including removal of a board member or board employee.

Violations of Ohio ethics laws may be reported to the Ohio Ethics Commission: Ethics.Ohio.gov or 614.466.7090. Violations of Ohio ethics laws may be a criminal offense and may result in criminal sanctions.

6. Prohibition against Candidacy for Public Office

No person can serve as a member, director, deputy director or employee of the board of elections who is a candidate for elected office. The only exception is if the person is a candidate for delegate or alternate to a political party convention, member of the board of directors of a county agricultural society, presidential elector or a member of a political party committee. A board member or employee seeking elected office shall resign their position at the board of elections upon certification of their candidacy by a board of elections or the Secretary of State.

7. Board Members Holding Other Public Office

**Title 35** does not prohibit board members from holding other public offices. However, the two offices must be compatible.

The Attorney General has released a number of opinions on various offices and their compatibility with the office of member of the county board of elections. These opinions are available here: [https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions/Compatibility-of-Public-Offices-or-Positions](https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions/Compatibility-of-Public-Offices-or-Positions)

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18 R.C. 3501.15.
The board should direct questions about the compatibility of public offices and positions to its legal counsel, the county prosecuting attorney, or the office of the Ohio Attorney General.

**SUSPENSION & REMOVAL**

The Secretary of State may remove or suspend any member, director, deputy director or other employee of the board for neglect of duty, malfeasance, misfeasance or nonfeasance in office, willful violation of Title 35 of the Revised Code or for any other good and sufficient cause.

Vacancies in the office of chairperson, director or deputy director shall be filled in the same manner as the original selection from persons belonging to the same political party as the outgoing officer. If such vacancies cannot be filled in that manner, the Secretary of State shall fill such vacancies.19

**TRAINING REQUIREMENTS**

The Secretary of State has established a program for the instruction of members of boards of elections and employees of boards in the rules, procedures, and law relating to elections. Each member and employee shall complete the training program within six months after the member or employee’s original appointment or employment, and thereafter each member and employee shall complete a training program to update their knowledge once every four years or more often as determined by the Secretary of State.20

Failure to meet the training requirements listed below will be taken into consideration at the time of reappointment of board members.

1. **Definitions**
   a. Members of boards of elections
      A person appointed by the Secretary of State to the position of member of a county board of elections pursuant to R.C. 3501.07.
   b. Employees of boards of elections
      For purposes of R.C. 3501.27(D), “employees of boards of elections” is limited to those persons appointed director or deputy director of a county board of elections pursuant to R.C. 3501.09 or .091, hereinafter “Director or Deputy Director.” A board of elections may require its other

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20 R.C. 3501.27(D).
employees to participate in the same training required for the director and deputy director.

c. Newly appointed members, director or deputy director of boards of elections

A person appointed as a member, director or deputy director of a board of elections who: a) has never previously served as a board of elections member, director or deputy director; or b) who previously served as a member, director or deputy director of a board of elections but has had a break in service as a director or deputy director for at least four or more consecutive years.

d. Incumbent or reappointed members, director or deputy director of boards of elections

A person appointed as a member, director or deputy director of a board of elections who: a) has previously served in any of these positions and will continue in that role with no break in service as a member, director or deputy director; or b) had a break in service as a member, director or deputy director for less than four consecutive years.

2. Newly Appointed Members, Director or Deputy Director of Boards of Elections

Within six months of appointment, a newly appointed member, director or deputy director shall attend and complete a minimum of six hours of formal instruction, “New Election Official Training Program,” regarding the duties of a member, director or deputy director of a board of elections sponsored by the Secretary of State’s office. The New Election Official Training Program shall be conducted at locations designated by the Secretary of State, and the program shall be prepared, offered and approved by the Secretary. Virtual courses and participation in Secretary of State programs may also be required as part of this training program. Upon completion of the New Election Official Training Program, each new member, director or deputy director shall be issued a certificate of completion by the Secretary of State. A newly appointed member, director or deputy director shall be required to receive an additional eight credits of formal continuing education training within the first full year of their appointment.
3. **Incumbent and Reappointed Members, Directors or Deputy Directors of Boards of Elections**

Each incumbent or reappointed member, director or deputy director shall be required to attend and complete a minimum of eight credits of formal continuing education training annually, on a calendar year basis. For newly appointed members, directors or deputy directors, a calendar year for the purposes of this section begins the calendar year following the year they were appointed. If the additional six credits of formal continuing education training in (B) above are received during the first full calendar year of a newly appointed member, director or deputy director’s service, those six credits may be counted toward the minimum of eight hours of formal continuing education training annually for such member, director or deputy director.

In the event a member, director or deputy director exceeds the required minimum of eight credits of formal continuing education, no carryover hours apply to subsequent years. This requirement may be waived upon a showing of hardship in individual cases. The purpose of not carrying over hours is to ensure the highest level of instruction on changes in state and federal law that affect the administration of local, state and federal elections.

Incumbent and reappointed members, directors or deputy directors (and other employees of the board of elections) may attend the New Election Official Training Program to help meet their instructional requirements.

4. **Approved Formal Continuing Education Training Programs**

The following sponsored programs of instruction may be used to obtain credits for formal continuing education training (unless otherwise specified, in person attendance for the duration of the program or session is required to receive credit):

a. Secretary of State’s New Election Official Training Program (six credits) – This training will be offered at least twice per year.

b. Secretary of State’s Summer Conference and Ohio Association of Election Officials’ Winter Conference (approximately one credit per hour) – The Secretary of State’s office will provide a credit per presentation schedule once a final agenda is available.

c. In-Person Secretary of State regional training (ADA, SWVRD, Campaign Finance, etc.). These sessions will be awarded credit on an hour-by-hour basis.

d. Secretary of State’s Topical Webinars (one credit per hour, e.g., if the webinar is 30 minutes 0.5 credits will be granted, if 60 minutes one credit
will be granted, etc.) – The Secretary of State’s office will periodically host a webinar on a particular topic of elections administration. Credit requires individual registered participation for the duration of the live webinar.

e. Ohio Association of Election Officials’ (OAE0) Ohio Registered Election Official (OREO) Program and/or the Election Center Certified Election and Registration Administrator (CERA) Program (awarded credit on an hour-by-hour basis pending review of the agenda for each event) – OREO and CERA are multi-course formal training and certification programs sponsored by the OAE0 and Election Center, respectively. The Secretary of State’s office will provide a credit per presentation schedule once the course offerings are set.

f. Ohio Association of Election Officials’ Regional District Meetings (awarded credit on an hour-by-hour basis pending review of the agenda for each event) – The OAE0 may periodically host regional meetings at which relevant election administration information will be presented.

g. National Conferences, Workshops and/or Seminars sponsored by the Election Center and/or the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT) (one credit per conference event).

h. U.S. Election Assistance Commission Webinars and/or Workshops (0.5 credit per event).

i. Continuing Legal Education (one credit per CLE session/event) – Periodically a training program eligible for the award of CLEs may be offered by a Bar Association or other continuing legal education program provider may be eligible for credit towards formal continuing education program requirements. Such programs must be of substantial topical relevance to the duties of local election administrators, including Ohio public meetings, public records, and ethics laws. A request for credit must be submitted to the Secretary of State’s office along with documentation of program content and attendance.

j. Participation in Secretary of State programs or initiatives, such as New Election Official Mentorship program, working groups, or other events as determined by the office. Credit will be assigned per event or program.
5. **Exemption**

An exemption from all or any part of the member, director and deputy director training requirements may be granted by the Secretary of State based on the person’s physical inability to attend and participate in instructional programs (i.e., illness, weather emergency, etc.) or for other good and sufficient cause.

6. **Miscellaneous**

No registration fee will be charged to participants in the New Election Official Training Program sponsored by the Secretary of State’s office. Participants will be responsible for transportation, lodging and meal costs. *Attorney General’s Opinion No. 2046 (1930)* states that the actual expenses of county boards of elections that are incurred in the attendance of meetings, held upon the call of the Secretary of State, may be paid from the treasury of the county which they represent.

In addition to the hourly requirement listed above, all Board Members, Directors, and Deputy Directors must participate in annual cybersecurity training as prescribed in *Directive 2019-08*. Each board of elections must also train its staff annually on both cyber and physical security practices and policies, again in accordance with *Directive 2019-08*.

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### Section 1.03 Board Office

#### FACILITIES

The board of elections shall provide suitable rooms for its offices and records, as well as the necessary and proper furniture and supplies for such rooms. The board may lease offices and rooms necessary for its operation for the length of time and upon the terms as the board deems in the best interests of the public; however, the lease shall not exceed 15 years. At least 30 days before entering into a lease for offices or rooms, the board of elections must give the county commissioners written notice of its intent to enter into the lease. The notice must specify the terms and conditions of the lease. The county commissioners then have 30 days in which to decide whether to reject the proposed lease. A board of elections that timely receives written notice that the commissioners have rejected the lease cannot enter into the lease that was rejected, but may immediately enter into additional lease negotiations following the above procedures.\(^{21}\)

Additionally, the board of elections may adopt a resolution in accordance with *R.C. 133.18*, requesting that the board of county commissioners submit to the voters the

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\(^{21}\) *R.C. 3501.10(A)*
question of issuing bonds for the acquisition of real estate and the construction of a suitable building with necessary furniture and equipment for the proper administration of the board of elections’ duties.

The board of elections may maintain permanent or temporary branch offices at any place within the county, provided that, if the board of elections permits electors to vote at a branch office, electors shall not be permitted to vote at any other branch office or any other office of the board of elections.22

Requirements and recommendations for the security of the board office and its equipment and technology are outlined in the Security Section of this Chapter.

BOARD HOURS

The board of elections must establish regular office hours. The office must be kept open for the period of time that the board deems necessary for the performance of its duties.23 Please note that the board office must have extended hours for voter registration before a primary or general election and for in-person absentee voting.

1. **Extended Hours for Voter Registration**
   
   The board office or one or more of its permanent branch registration offices must be open for the performance of its duties until 9:00 p.m. on the last day of registration before a primary or general election.24

2. **Extended Hours for In-Person Absentee Voting**
   
   See Chapter 5, Section 1.04, for the required business hours for in-person absentee voting. In-person absentee voting begins the day after the close of registration for the election.

HUMAN RESOURCE MANAGEMENT

1. **Compensation**
   
   The board sets the salaries of the director and deputy director and other employees by a vote of not less than three of its members. A tie vote or disagreement concerning this matter is not to be submitted to the Secretary of State.25

   The board must adopt or establish a personnel policy to set the guidelines for wages, sick leave, vacation time, compensatory time and other related matters for employees. County employee policy manuals or guidelines can be obtained

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22 R.C. 3501.10(C).
23 R.C. 3501.10(B).
24 R.C. 3501.10(B).
from the county commissioners’ office or county auditor. Federally-mandated employment requirements should also be available from these offices. If not available, contact the state auditor’s office.

The board may also provide medical insurance, accident insurance, or a combination thereof, for the board members and their immediate dependents. This insurance may only be provided with the approval of the board of county commissioners.

Questions related to employment, personnel, or human resources issues should be directed to the county via the county prosecuting attorney or commissioners.26

Questions related to the Public Employees Retirement System and its benefits or regulations should be directed to that agency or to private legal counsel.

2. **Prohibition against hiring family members**

Under Ohio ethics law, a member or employee of the board of elections is prohibited from authorizing the employment of a family member and using the person’s authority or influence to secure employment of a family member.27

This means a board member may not take any part in the decision to hire their family member28 as a board employee.

Members of boards of elections are prohibited from hiring relatives of board of elections members, directors, and deputy directors, except for hiring precinct election officials (which includes rovers, scouts, and other similar, temporary election positions).29 In situations where a relative of a board member is under consideration for employment with the board and that member is properly recused from the employment decision, the remaining board of elections members may hire/appoint precinct election officials who are family members of an individual board member, director, deputy director, as long as the individual board member, director, deputy director, or board employee does not participate in the decision to hire their own family member or in any decision specifically concerning the terms and conditions of their own family member’s employment/appointment. The board’s hiring authority cannot be delegated to a subordinate employee so that a family member can be hired.

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26 R.C. 3501.141.
27 R.C. 2921.42(A)(1).
29 OEC Informal Opinion Letter 1992-INF-1009-1
Ohio’s ethics statutes apply after the family member is employed. R.C. 2921.42(A)(1) prohibits an official from participating in any decision, or using their position to secure any decision, that affects the continuation, implementation, or terms and conditions of a family member’s employment. R.C. 102.03(D) prohibits an official from participating, formally or informally, in any matter that directly affects a family member’s employment.

As stewards of public trust, boards should always be mindful about appearance of impropriety when hiring family members.

**BOARD PROCEDURE**

1. **Public Meetings**

   The Ohio Open Meetings Act requires public bodies in Ohio to take official action and conduct all deliberations on official business only in open meetings where the public may attend and observe. A county board of elections is a public body as defined by the Ohio Open Meetings Act. Because the board is a public body, all of its meetings — regular, special, and emergency — are subject to Ohio’s Open Meetings Act.

   The board must provide advance notice to the public indicating when and where each meeting will take place. The board must take full and accurate minutes of all meetings and make these minutes available to the public.

   The Open Meetings Act permits the board to adjourn into executive session to discuss certain limited topics specified in statute. Public bodies may do so only at regular or special meetings. For more information, see the section on Executive Session.

   The Secretary of State’s office does not have statutory authority to advise a board of elections on Open Meetings Act questions. For such questions, the board should contact its legal counsel, the county prosecuting attorney. The Sunshine Law Manual prepared by the Ohio Attorney General and the Ohio Auditor of State is a helpful reference and can be found at www.ohioattorneygeneral.gov/YellowBook.

   Basic parliamentary procedures should be used to conduct board meetings. The board of elections carries out its duties by majority vote (unless otherwise provided by law) in meetings at which a quorum of its members is present.
2. **Quorum**

A quorum refers to the number of members present at a meeting, not to the number actually voting on a particular question. Subject to certain statutory exceptions, a majority vote of the quorum is required in order for the board to take any action. The affirmative vote of at least three board members is required for certain actions to be taken, such as decisions involving the removal of the director or deputy director, fixing the compensation of the director, deputy director and employees, or appointing someone of a different political party affiliation as director or chairperson.31

**Example:** All four board members attend a meeting to vote on the removal of the deputy director, who is the child of one board member. For ethical reasons, the related board member must abstain from voting on the removal. Therefore, all three of the other board members must vote in favor of a motion to remove the deputy director in order for it to pass. By contrast, the board may remove an employee other than the director or deputy director by a simple majority vote of its membership. Thus, a clerk who is related to a board member may be removed if only two of the three eligible board members vote in favor of removal.

3. **Types of Public Meetings**

State law establishes three types of public meetings that a public body, such as the board of elections, may conduct. They are:

a. **Regular Meetings**

Meetings held at prescheduled intervals. A public body must establish a reasonable method that allows the public to determine the time and place of regular meetings. It is recommended that boards of elections establish a schedule of regular meetings to be held on at least a monthly basis.

b. **Special Meetings**

Any meeting of the board that is not one of the board’s prescheduled Regular Meetings. A public body must establish a reasonable method that allows the public to determine the time, place, and purpose of special meetings. The board must provide at least 24 hours advance notification of special meetings to all media outlets that have requested such notification and must prominently post the notice at the office of the board of elections. The statement of the meeting’s purpose must

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specifically indicate the particular matters the board intends to discuss. The board must limit its discussion to only the matters it specified in the special meeting notice.

c. Emergency Meetings

A type of Special Meeting that a public body convenes when a situation requires immediate official action. A board must immediately notify all media outlets that have specifically requested advance notice of the time, place, and purpose of the emergency meeting and must prominently post the notice at the office of the board of elections. The statement of the meeting’s purpose must specifically indicate the particular matters the board intends to discuss. The board must limit its discussion to only the matters it specified in the emergency meeting notice.

4. Executive Session

An executive session is a conference between members of a public body from which the public is excluded. Executive session is attended by only the members of the board and persons they choose to invite to attend. The Open Meetings Act strictly limits the use of executive sessions. The board of elections may hold an executive session only at a regular or special meeting, and a meeting that includes an executive session must always begin and end in open session. In order to begin an executive session, there must be a proper motion approved by a majority of the quorum of the board using a roll call vote. There are very limited topics that the members of a public body may consider in executive session:

a. Certain personnel matters;

b. Sale or purchase of property for public purposes at competitive bidding;

c. Discussion of pending or imminent court action involving the board of elections;

d. Collective bargaining matters;

e. Matters required to be kept confidential by federal law or rule or state statutes;

f. Specialized details of security arrangements;

g. Hospital trade secrets;

h. Confidential business information of an applicant for economic development assistance;
i. Veterans’ service commission applications.

The motion to go into executive session must specify the statutory provision(s) authorizing the executive session and the issue(s) to be discussed.

A public body may not take any formal action in an executive session.

Ohio’s Open Meetings Act provides that a resolution, rule or formal action of any kind is invalid unless adopted in a properly noticed public meeting. Further, a resolution, rule or formal action adopted in an open meeting that results from discussions held in a meeting not open to the public is invalid, unless the discussions were:

a. For a permissible executive session topic listed in R.C. 121.22(G) and
b. Conducted at an executive session held in compliance with the Open Meetings Act.

Finally, a resolution, rule or formal action adopted in an open meeting of the board of elections is invalid if the board fails to follow the notice requirements set forth in law.

5. Attendance

A board member must appear in person and remain at a board meeting to be considered present at the meeting, to determine whether a quorum is present at the meeting, and to be eligible to vote at the meeting. Consequently, although a board member who is not personally present at a meeting might send messages via another board member or attempt to participate in a meeting by telephone, email or other electronic media, the absent board member cannot be considered “present” for purposes of determining whether a quorum exists, for offering or seconding motions, or for voting on any motion then pending before the board.32

6. Minutes33

a. Minutes Must be Substantive

A public body must keep full and accurate minutes of its meetings. Minutes must be taken at every regular or special meeting of the board. A “barebones” summary of a meeting is insufficient for purposes of maintaining statutorily required minutes. The minutes must include sufficient facts and information so that anyone reading them will understand the issue(s) discussed, what action the board took, and the

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32 R.C. 121.22(C).
33 R.C. 3501.13 White v. Clinton Cty. Bd. Of Commrs., 77 Ohio St. 3d 1267
rationale behind the decisions reflected in the minutes. Because executive sessions are not open to the public, the meeting minutes need only reflect the general subject matter of the executive session as reflected in the motion to convene executive session for a permissible purpose. The minutes must be promptly prepared, filed, maintained and open to public inspection. The director must keep a full and true record of the proceedings of the board.

b. Approved Minutes Must be Sent to Secretary of State

Boards must email approved minutes of each meeting of the board of elections to the designated personnel of the Secretary of State’s office – currently, the Regional Liaison, Elections Counsel, and the Elections Division – as soon as possible, but not more than 10 days after, the board approved those minutes. Because it is an electronic transmission, it is sufficient that the board members’ names appear at the end of the approved minutes; the board members’ signatures are not required. Please do not send any minutes that have not been approved, unless specifically requested by the Secretary of State.

RULES OF ORDER

State law does not establish rules of order by which boards of elections must conduct public meetings. Boards of elections must adopt a method by which the public meetings of the board will be conducted. Many boards of elections elect to follow Roberts Rules of Order for the orderly conduct of the public meetings of the board of elections.

TIE VOTES

1. Generally

Sometimes the four members of a board of elections will vote 2-2 on a motion. In the case of a tie vote that invokes the Secretary of State’s statutory duty to break the tie (see “Limitations,” below), the director or chairperson must submit the matter in controversy to the Secretary of State not later than 14 days after the tie vote occurs. The Secretary of State shall summarily decide the question, and that decision is final.

34 R.C. 3501.11(X).
35 R.C. 3501.11(X).
2. **Limitations**

Several issues are not proper matters for submission to the Secretary of State as tie votes. Some motions statutorily require the consensus of at least three board members in order to pass; thus, a 2-2 tie on such a motion means that the motion fails by operation of law. Examples include:

a. Setting the compensation of the director, deputy director or board employees;\(^{36}\)

b. Eliminating the position of deputy director;\(^ {37}\)

c. Replacing the chairperson or director with someone affiliated with a different political party.\(^ {38}\)

Also, the tie vote procedure is inappropriate where the board is without authority to act, or for issues that relate to the internal operations of the board and do not involve issues of substantive election law.

3. **Procedure**

If the board ties on a motion that is proper for submission to the Secretary of State, the board must follow these steps:

a. Submit in writing the motion that resulted in the tie vote, exactly as it was voted upon. The written statement also must include which board member offered the motion, which board member offered the second to the motion, and how all the board members voted.

b. The two board members who voted in favor of the motion, and the two board members who voted against it, must commit their views to a single written statement for each side that sets forth a summary of the issue that resulted in the tie and the applicable law and the arguments that support their respective positions. This is the board members’ opportunity to communicate to the Secretary of State the legal matters they believe are in issue, their findings of fact and the legal conclusions that led them to vote as they did.

c. The motion, two position statements, minutes of the meeting at which the tie vote occurred and any exhibits that had been admitted into evidence must be submitted to the Secretary of State not later than 14 days after the tie vote occurs. Send all tie vote materials to:

\(^{36}\) R.C. 3501.14
\(^{37}\) R.C. 3501.09
\(^{38}\) R.C. 3501.091
Via email:
The Secretary of State's elections counsel.

By U.S. Mail:
Office of the Ohio Secretary of State
Attn: Director of Elections
P.O. Box 2828
Columbus, OH 43216

In person or other form of delivery:
Office of the Ohio Secretary of State
Attn: Director of Elections
22 North Fourth Street
Columbus, Ohio 43215

4. Decision

The Secretary of State may render a decision prior to receiving position statements from the board of elections. The Secretary of State will respond to the board with a written opinion stating the facts, applicable law and reasons for the Secretary’s decision.

DUTIES OF THE BOARD

1. Generally

Each county board of elections is responsible for the fair, orderly and efficient administration of public elections conducted in the county. To accomplish this, R.C. 3501.11 requires each board to exercise, by a majority vote, all powers granted to the board by Title 35 of the Revised Code (Ohio’s election laws), all the duties imposed by law, and all of the following:

a. Establish, define, provide, rearrange, and combine election precincts;

b. Fix and provide the places for registration and for holding primaries and elections;

c. Provide for the purchase, preservation, and maintenance of booths, ballot boxes, books, maps, flags, blanks, cards of instructions, and other forms, papers, and equipment used in registration, nominations, and elections;

d. Appoint and remove its director, deputy director, and employees and all registrars, precinct election officials, and other officers of elections, fill vacancies, and designate the ward or district and precinct in which each shall serve;
Chapter 2: Election Administration

2-28

e. Make and issue rules and instructions, not inconsistent with law or the rules, directives, or advisories issued by the Secretary of State, as it considers necessary for the guidance of election officers and voters;

f. Advertise and contract for the printing of all ballots and other supplies used in registrations and elections;

g. Provide for the issuance of all notices, advertisements, and publications concerning elections, except as otherwise provided in division (G) of section 3501.17 and divisions (F) and (G) of section 3505.062 of the Revised Code with regard to statewide issues, initiatives, and referendums;

h. Provide for the delivery of ballots, poll books, and other required papers and material to the polling locations;

i. Cause the polling locations to be suitably provided with voting machines, marking devices, automatic tabulating equipment, stalls, and other required supplies. In fulfilling this duty, each board of a county that uses voting machines, marking devices, or automatic tabulating equipment shall conduct a full vote of the board during a public session of the board on the allocation and distribution of voting machines, marking devices, and automatic tabulating equipment for each precinct in the county;

j. Investigate irregularities, nonperformance of duties, or violations of Title 35 of the Revised Code by election officers and other persons; administer oaths, issue subpoenas, summon witnesses, and compel the production of books, papers, records, and other evidence in connection with any such investigation; and report the facts to the prosecuting attorney or the Secretary of State;

k. Review, examine, and certify the sufficiency and validity of petitions and nomination papers, and, after certification, return to the Secretary of State all petitions and nomination papers that the Secretary of State forwarded to the board;

l. Receive the returns of elections, canvass the returns, make abstracts of them, and transmit those abstracts to the proper authorities;

m. Issue certificates of election on forms to be prescribed by the Secretary of State;

n. Make an annual report to the Secretary of State, on the form prescribed by the Secretary of State, containing a statement of the number of voters
registered, elections held, votes cast, appropriations received, expenditures made, and other data required by the Secretary of State;

o. Prepare and submit to the proper appropriating officer a budget estimating the cost of elections for the ensuing fiscal year;

p. Perform other duties as prescribed by law or the rules, directives, or advisories of the Secretary of State;

q. Investigate and determine the residence qualifications of electors;

r. Administer oaths in matters pertaining to the administration of the election laws;

s. Prepare and submit to the Secretary of State, whenever the Secretary of State requires, a report containing the names and residence addresses of all incumbent county, municipal, township, and board of education officials serving in their respective counties;

t. Establish and maintain a voter registration database of all qualified electors in the county who offer to register;

u. Maintain voter registration records, make reports concerning voter registration as required by the Secretary of State, and remove ineligible electors from voter registration lists in accordance with law and directives of the Secretary of State;

v. Give approval to ballot language for any local question or issue and transmit the language to the Secretary of State for the Secretary of State’s final approval;

w. Prepare and cause the following notice to be displayed in a prominent location in every polling location:

“NOTICE
Ohio law prohibits any person from voting or attempting to vote more than once at the same election. Violators are guilty of a felony of the fourth degree and shall be imprisoned and additionally may be fined in accordance with law.”

x. In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the director or chairperson shall submit the matter in controversy, not later than 14 days after the tie vote or the disagreement, to the Secretary of State, who shall summarily decide the question, and the Secretary of State’s decision shall be final;

y. Assist each designated agency, deputy registrar of motor vehicles, public high school and vocational school, public library, and office of a county
treasurer in the implementation of a program for registering voters at all
t voter registration locations as prescribed by the Secretary of State.
Under this program, each board of elections shall direct to the
appropriate board of elections any voter registration applications for
persons residing outside the county where the board is located within
five days after receiving the applications;

z. On any day on which an elector may vote in person at the office of the
board or at another site designated by the board, consider the board or
other designated site a polling location for that day. All requirements or
prohibitions of law that apply to a polling location shall apply to the
office of the board or other designated site on that day;

aa. Perform any duties with respect to voter registration and voting by
uniformed services and overseas voters that are delegated to the board
by law or by the rules, directives, or advisories of the Secretary of State.

**INVESTIGATORY RESPONSIBILITIES**

Each county board of elections has the duty to investigate irregularities,
nonperformance of duties, and alleged or apparent violations of Title 35 of the Ohio
Revised Code and to report the findings of any such investigation to the county
prosecuting attorney and the Secretary of State. Such violations include illegal
registration, illegal voting, and petition circulator misconduct. When such an instance
occurs, the board is responsible for reporting promptly to the Secretary of State’s office
the facts and circumstances of the alleged or apparent violation.

Please note that whenever allegations of voter fraud and/or suppression, supported by
factual evidence, are reported to a county board of elections, the board must hold a
public hearing at which qualified electors of the State of Ohio may provide sworn
testimony or submit affidavits in support of the allegations. Any testimony provided to
the board of elections must be given under oath and a transcript of such testimony
prepared by a certified court reporter. All sworn statements whether in writing or in
person before the board must be based upon first-hand knowledge of the allegation.39

At the conclusion of any hearing, the board must vote whether to forward the matter to
the county’s prosecuting attorney for review and possible legal action, or to resolve at
the board-level. The board must also notify the Secretary of State’s elections counsel
when matters are referred to the county prosecutor.

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39 R.C. 3501.11(I).
ACTING IN QUASI-JUDICIAL CAPACITY

When a board of elections conducts a hearing as part of an investigation or in resolving a protest, it is acting in a quasi-judicial capacity. "Quasi-judicial" means that the board’s actions have a “partly judicial character by possession of the right to hold hearings on and conduct investigations into disputed claims and alleged infractions of rules and regulations and to make decisions in the general manner of courts.” In a sense, when the board conducts a hearing, it is acting as the judge and jury in a trial court. While acting in a court-like manner, boards must ensure due process rights are observed. Accordingly, a board must inform its legal counsel, the county prosecuting attorney, to make sure that it is conducting the hearing appropriately.

Not every complaint a board receives should result in a quasi-judicial hearing. For example, a protest that does not specify its legal grounds is invalid. Likewise, there are many statutory deadlines for board actions. Before preparing for the hearing, a board should ensure that the hearing is appropriate and still within their ability to resolve. Again, the board should work with its legal counsel throughout the entire process.

DUE PROCESS OVERVIEW

Boards are government bodies that must abide by the state and federal constitutions. When acting in a quasi-judicial capacity, they are taking away, or defending, fundamental rights for Americans like the right to vote or run for office. Due process rights ensure that boards do this fairly and deliberately.

Before a board holds the hearing, it must provide notice to the parties for the matter. Notice does not need to fully flush out all the processes and possibilities for the matter, but it must be sufficient for a person to determine what is being proposed and what they must do to protect their interest. For example, for a protest hearing, the candidate must receive notice that (1) a qualified elector has asserted that the person cannot be a candidate; (2) the grounds for that assertion; and (3) the time and location for the hearing.

The board must hold a hearing before taking final action in a matter. The hearing must be granted at a reasonable time and in a reasonable manner.

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41 A board may be required to conduct a quasi-judicial hearing. See State ex rel. City of Upper Arlington v. Franklin County Bd. Of Elections, 119 Ohio St. 3d 478 (2008).
42 Due process and equal protection requirements apply to states. U.S. Const. Amend. XIV, §1.
The board, acting as judge and jury, must be impartial. They must strive to ignore anything heard or recalled outside of the hearing and pay attention to only the evidence before them. They are entrusted to oversee elections honestly, without bias. Board members are not exempt from ethics laws and may need to recuse themselves from hearings.

Any person who participates in the hearing may be represented by an attorney. This includes the person accused of something, the person making the accusation, and witnesses.

A person accused of something who will suffer a loss as a result of the hearing, has the right to confront the person making the accusation. For a board, this generally means the person accused gets to question the person making the accusation.

**QUASI-JUDICIAL HEARING CHECKLIST:**

- Inform the County Prosecutor.
- Promptly select a reasonable time and place for the hearing.
- Provide notice to the parties. If this will take place during a regular meeting, a board may need to provide public notice as well.
- Hire a court reporter to transcribe the hearing.
- Place anyone who will provide testimony under oath. 43
- Ensure that the board can make copies of evidence. This may involve verifying that a working photocopier is available during the hearing.
- At the hearing, make a copy of any evidence individuals provide, from both the accuser and defense.
- Ignore any reference to documents or recordings that are not from the board or provided in the hearing. Decisions are based on evidence provided to the board at the hearing and information the board may retain on its own, such as voter registration information.
- Fundamentally, the board will answer a specific question based on the evidence presented during the hearing. Take time to ensure the question the board is answering makes sense and is within the applicable legal framework.

The board is likely building a record for another person to review, be it the Secretary of State breaking a tie vote or a court reviewing the hearing.

43 R.C. 3501.13(C). Before testifying, a witness shall be sworn to testify the truth, the whole truth, and nothing but the truth R.C. 2317.30
DUTIES OF THE DIRECTOR & DEPUTY DIRECTOR\textsuperscript{44}

The director serves at the pleasure of the board for a term of two years, commencing in early March in each odd-numbered year. The director has dual functions, serving as the board’s chief administrator, as well as an election official. In these capacities, the director performs or oversees a variety of duties, including, but not limited to, the following:

1. Keeping a full and true record of board proceedings and of all moneys received and expended;
2. Filing and preserving in the board office all orders, records and reports pertaining to the administration of voter registrations and elections;
3. Receiving and having custody of all books, papers, and property belonging to the board;
4. Performing such other duties in connection with the office of director and the proper conduct of elections as the board determines;
5. Reviewing all directives, advisories, memoranda, correspondence and materials issued by the Secretary of State;
6. Disseminating to board members and staff the information, instructions and/or materials provided by the Secretary of State; and take action as required by those communications;
7. Assisting the board in drafting and implementing personnel policies and procedures;
8. Supervising and instructing board employees; assign work; coordinate activities; make recommendations concerning the hiring, responsibilities, compensation, discipline, and discharge of board employees;
9. Preparing for and conducting all primary, general and special elections held in the county;
10. Processing, evaluating, and reporting election results;
11. Recruiting, hiring, and training precinct election officials;
12. Supervising the processing of voter records;
13. Developing an annual budget and monitor the board’s budget and payroll;
14. Preparing the written agenda and minutes of board meetings;
15. Auditing campaign finance reports;

\textsuperscript{44} R.C. 3501.01(U)(3); R.C. 3501.13
16. Calculating chargebacks to political subdivisions;
17. Assisting local liquor option petitioners; and
18. Maintaining and submitting an annual report of consumable inventory.

Upon receipt of a written declaration of intent to retire as provided for in section 145.38 of the Revised Code, the director shall provide a copy to each member of the board of elections.

The deputy director must be able to assist the director in the performance of the director’s duties and responsibilities, to perform those duties and responsibilities when the director is absent from the board office, and to perform such other related duties as assigned or required by the board of elections, director or Secretary of State. The deputy director is not a public officer.\(^45\)

**INTERACTION OF DIRECTOR, DEPUTY DIRECTOR AND STAFF**

State law does not define different duties for the director and deputy director. As such, the board of elections must enact local policies and procedures outlining the interaction of the director and deputy director. Functionally, there are three different approaches that boards of elections have traditionally considered:

1. **Hierarchy** – under this approach, the deputy director reports to, and acts based on the instruction of the director.

2. **First-among-equals** – under this approach, the director and deputy director collaborate equally on every activity, but with operational deference to the opinion of the director in lieu of taking a disagreement to the full board for a public decision.

3. **Division-of-labor** – under this approach, the director and deputy director are assigned different duties and responsibilities by the board over which that person has exclusive operational control.

Regardless the approach taken by the board, one of the above or another, each officer must be prepared to act in the place of the other to fulfill statutory duties in the event of absence, vacancy, or incapacity.

In addition, the director and deputy director should exhibit teamwork skills in order for the office to function in an efficient, friendly and productive manner regardless of what approach the board members may choose. Preparing and conducting an election is a long process with many details, deadlines and unexpected changes that require a team effort to have an election that voters will have confidence has been conducted properly.

\(^{45}\) R.C. 3501.01(U)(4); R.C. 3501.09; R.C. 3501.14
BUDGET & EXPENDITURES

1. Appropriations for Elections Board
Each board of elections must prepare and submit to the proper appropriating officer a budget estimating the cost of elections for the next fiscal year. The proper appropriating officer for the board’s expenses is the board of county commissioners.46

   a. Expenses Paid by the County Commissioners
   Certain expenses are county costs and cannot be charged back to a subdivision. The costs of these expenses are paid from the county treasury in the same manner as other county expenses. Those expenses are listed in “Budget and Expenses” in this section.

   b. Form of Payments
   Payments must be made upon vouchers of the board certified by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor. The board must not incur any obligation involving the expenditure of money unless there are sufficient moneys in the funds appropriated to meet such obligations.

   At the time of submitting budget estimates in each year, the board must submit to the taxing authority of each subdivision, upon request of the subdivision, an estimate of the amount to be withheld during the next fiscal year.47

2. Court Action for Additional Funds
If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board, the board of elections may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and such amount shall be appropriated.48

3. Establish Elections Revenue Fund
At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. The purpose of the fund shall be to accumulate revenue withheld by or paid to the county under R.C 3501.17 for the payment of any expense.
related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board’s offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.49

**CHARGEBACKS AND PAYMENTS FOR AN AUGUST SPECIAL ELECTION**

1. **Chargebacks**

   The term “chargebacks” refers to the process of determining and apportioning the costs of conducting elections for political subdivisions which may lawfully be “charged back” to the appropriate subdivisions. The law provides what items may be charged back and which items may not be charged back to a subdivision.

2. **Payments for an August Special Election**

   A political subdivision is required to prepay a percentage of the estimated cost of conducting a special election in August.50

   For each special election, a board of elections must prepare an estimate of the cost of “preparing for and conducting an election on one question or issue, one nomination for office, or one election to office in each precinct in the county at that special election, and must divide that cost by the number of registered voters in the county.” This estimate must be completed and provided both to the Secretary of State’s office and the county commissioners not less than 15 business days before the filing deadline for that special election.51

49 R.C. 3501.17(I).
50 R.C. 3501.17(J).
51 R.C. 3501.17(J)(1).
The board must also provide an estimate to any political subdivision that seeks to submit a question or issue or nomination or election to office on the ballot at the special election. This estimate is calculated either by 1) multiplying the number of registered voters in the political subdivision and the cost estimate provided by the board to the Secretary of State’s office and county commissioners or 2) multiplying the number of precincts in the political subdivision and the cost estimate provided by the board to the Secretary of State’s office and county commissioners the estimated cost of preparing for and conducting the election. The political subdivision must pay 65 percent of this estimated cost not less than 10 business days after the filing deadline for that special election. The payment must be made to the county elections revenue fund.\textsuperscript{52}

Not later than 60 days after the date of a special election, the board must provide to each political subdivision the true and accurate cost for the question or issue or nomination for office or election to office that the political subdivision submitted to the voters at the special election. If the political subdivision prepaid less than the actual cost of the election, the political subdivision must remit the balance of the cost of the election to the county elections revenue fund within 30 days after being notified by the board of the final cost. If the political subdivision prepaid more than the actual cost of the election, the board of elections must promptly notify the board of county commissioners of that difference. The county commissioners then must remit the amount of the overpayment from the county elections revenue fund to the political subdivision within 30 days after receiving that notification.\textsuperscript{53}

The “true and accurate cost” of each question or issue or nomination for office or election to office at a special election is determined in the same manner as the cost is determined for a chargeback for that election.

\textbf{ITEMS THAT NEVER ARE CHARGED TO SUBDIVISIONS}

1. Compensation of the members of the board of elections and of the director, deputy director and regular employees in the board’s offices, other than compensation for overtime worked;
2. Cost of for the rental, furnishing and equipping of the office of the board;
3. Cost of necessary office supplies for the use of the board;
4. Cost of the acquisition, repair, care and custody of the polling locations;

\textsuperscript{52} R.C. 3517.01(0)(2).
\textsuperscript{53} R.C. 3517.01(0)(3).
5. Cost of booths, guardrail, and other equipment for polling locations;
6. Cost of tally sheets, maps, flags, ballot boxes;
7. Cost of all other permanent records and equipment;
8. Cost of all elections held in and for the state and county, and
9. All other expenses of the board which are not chargeable to a political subdivision. \(^{54}\)

**ITEMS THAT CAN BE CHARGED TO SUBDIVISIONS**

1. **Special Election Only (No Primary or General Election)**

   The entire cost of special elections held on a day other than the day of a primary or general election, both in odd- and even-numbered years, shall be charged to the subdivision:

   a. Compensation of precinct election officials;
   b. Compensation of intermittent employees in the board’s offices;
   c. Compensation of contractors engaged by the board to prepare, program, test, and operate voting machines, marking devices, and automatic tabulating equipment;
   d. Renting, moving, heating and lighting polling locations;
   e. Delivery, placing and removing ballot boxes and other fixtures and equipment, including voting machines, marking devices, and automatic tabulating equipment;
   f. Printing and delivering ballots;
   g. Cards of instructions, consumable supplies such as notices, supply envelopes, secrecy sleeves, pens, tape;
   h. Registration lists required under section 3503.23 of the Revised Code;
   i. Absentee voting supplies including envelopes and postage;
   j. Provisional voting supplies;
   k. Other election supplies, including the supplies required to comply with division (H) of section 3506.01 of the Revised Code;
   l. Advertising; and

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\(^{54}\) R.C. 3501.17(b)
m. All other expenses of conducting primaries and elections in the odd-numbered years.

The definition of “political subdivision” and “subdivision” for purposes of charging back expenses of an election means any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in R.C. 3501.17(A).

2. Special with Primary or General Election: Even-Numbered Year

If a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election is charged only for the cost of ballots and advertising.55

3. Special with Primary or General Election: Odd-Numbered Year

If a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election is charged for the cost of ballots and advertising for the special election, in addition to the charges prorated to the subdivision for the election or nomination of candidates in each precinct within the subdivision.56

4. State Constitutional Amendments

If a special election is held on the date of a primary election for the purpose of submitting to the voters constitutional amendments proposed by the General Assembly, the state bears the entire cost of printing of ballots and advertising necessary to conduct the special election, and must reimburse the counties for all expenses incurred in opening precincts that are open for the sole purpose of conducting the special election.

In precincts that are open for any primary or other special election, the cost must be borne as otherwise provided in R.C. 3501.17.

55 R.C. 3501.17(D).
56 R.C. 3501.17(D).
If a special election is held on the date of a primary election for the purpose of submitting to the voters constitutional amendments proposed by the General Assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election must be divided proportionally between the state and the subdivision, based upon a ratio determined by the number of issues placed on the ballot by each.

The proportional division of cost must be made only to the extent funds are available for such purpose from amounts appropriated by the General Assembly to the Secretary of State. If a primary election also is being conducted in the subdivision, the costs must be apportioned as otherwise provided in R.C. 3501.17.

However, when a precinct is open solely for an election on a statewide ballot issue, the state pays the entire cost of the election in that precinct.57

SUGGESTED CHARGEBACK PROCEDURES

It is a good practice to contact the county auditor for tax schedule deadlines in order to timely process chargebacks for the targeted tax duplicate. Most county auditors will provide a preferred submission date for reporting the chargeback costs.

We have listed below a suggested procedure for tracking and preparing chargebacks:

1. Beginning in January and for each month of the year, mark each paid invoice with PSC (Political Subdivision Charge) or CC (County Charge). At the end of each month, enter each PSC invoice in a chargeback book.

2. After each election, and after all invoices have been received, list each subdivision to be charged with the total number of precincts in the subdivision.

3. Calculate the cost of advertising for each subdivision separately. The division is charged the total cost of the advertising.

4. Calculate the cost of ballot cards/pages separately for each subdivision. The subdivision is charged the total cost of ballot cards and ballot pages in odd-numbered years and for all special elections.

5. Calculate the other chargeable expenses for each precinct, such as transportation of voting equipment, precinct election official compensation, polling location rental, postage and supplies.

57 R.C. 3501.17(E); R.C. 3501.17(F).
6. If a precinct has candidates or issues for two or more political entities, the charges must be pro-rated between or among the precincts. Following are some examples:

   - City and county 1/2 each
   - County, village and township 1/3 each
   - County, village, township and school district 1/4 each
   - County, city, township, school district A and school district B 1/5 each

7. After all charges have been determined the total amount for each subdivision should be certified to the county auditor, who will withhold the charges from moneys due at the next tax settlement.

**PREPARING AND ADVERTISING BIDS**

1. **Supplies Other Than Ballots**

   A contract involving a cost in excess of $25,000 for printing and furnishing the supplies, other than the official ballots, required in R.C. 3501.30, must not be awarded until the board of elections has published notice once in a newspaper of general circulation within the county or upon notice given by mail, addressed to the responsible suppliers within the state. The board may require that each bid be accompanied by a bond, with at least two individual sureties, or a surety company, satisfactory to the board, in a sum double the amount of the bid, conditioned upon faithful performance of the contract awarded and for the payment as damages by such bidder to the board of any excess of cost over the bid which it may be required to pay for such work by reason of the failure of the bidder to complete the contract. The contract must be awarded to the lowest and best bidder.\(^5^8\)

2. **Consult Legal Advisor**

   The board should consult with its legal counsel, the county prosecuting attorney, about the advisability of requiring written contracts with the successful bidder.

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\(^5^8\) R.C. 3501.301
PUBLICATION OF LEGAL ADVERTISEMENTS

1. **Form of Advertisement**

Legal advertising must be set up in a compact form, without unnecessary spaces, blanks, or headlines, and printed in not smaller than six-point type. The type used must be of such proportions that the body of the capital letter “M” is no wider than it is high, and all other letters and characters are in proportion.

All legal advertisements or notices regarding proposed amendments to the Ohio constitution, ballot language, and explanations and arguments both for and against proposed amendments, referenda, or laws proposed by initiative petitions must be printed in newspapers published in the English language only.59

2. **Place of Publication**

Advertising must be published in newspapers of general circulation. A newspaper of general circulation performs the functions of R.C. 2701.09, for a period of three years immediately preceding any such legal publication required to be made, bears a title or name, is regularly issued at least once a week and meets all the following requirements:

a. It is printed in the English language using standard printing methods, being not less than eight pages in the broadsheet format or 16 pages in the tabloid format.

b. It contains at least 25 percent editorial content, which includes, but is not limited to, local news, political information, and local sports.

c. It has been published continuously for at least three years immediately preceding legal publication by the state agency or political subdivision.

d. The publication has the ability to add subscribers to its distribution list.

e. The publication is circulated generally by United States mail or carrier delivery in the political subdivision responsible for legal publication or in the state, if legal publication is made by a state agency, by proof of the filing of a United States postal service “Statement of Ownership, Management, and Circulation” (USPS Form 3526) with the local postmaster, or by proof of an independent audit of the publication performed, within the 12 months immediately preceding legal publication.60

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59 R.C. 7.10; R.C. 7.101; R.C. 7.12
60 R.C. 7.12
3. Reducing Costs of Publication

Ohio Attorney General Opinion No. 91-059 addresses the question whether counties may share the costs of advertising by using large metropolitan newspapers that are circulated in two or more counties. The opinion states that a newspaper is published in a county when it is issued or circulated to the public therein, regardless of where the newspaper is actually printed. Please be advised, however, that this does not resolve the question of whether the newspaper is also one of general circulation. This issue must be addressed on a case-by-case basis under the guidelines set forth previously. You should also contact your county prosecuting attorney for assistance.

Another method to reduce costs of advertising is to print inserts containing the legal advertisements. The inserts would then be included in the local newspaper at a substantial cost savings.

4. Time of Publication
   a. Voter Registration

       Six weeks prior to the day of a special, primary or general election, notices must be published in one or more newspapers of general circulation advertising the places, dates, times, methods of registration and voter qualifications for registration.\(^{61}\)

   b. Election

       At least 10 days before the time of holding an election, the board must post a public notice by proclamation in a conspicuous place in the courthouse and city hall, or by one insertion in a newspaper published in the county. If no newspaper is published within the county, the insertion should be in a newspaper of general circulation in the county.\(^ {62}\)

   c. Other

       A notice of election must be published concerning tax levies and certain questions and issues. These notices vary as to the length of time they must be published. The Revised Code, the Ohio Constitution or a charter sets the number of times the notice must be published, and the board staff should consult these sources for the appropriate advertising requirement. Frequency may vary from a single notice requirement prior to the election to four consecutive weeks’ notice prior to the election. Please refer to the Ohio Ballot Questions and Issues Handbook as well as

\(^{61}\) R.C. 3503.12
\(^{62}\) R.C. 3501.03
the appropriate section(s) of the Revised Code, Ohio Constitution or charter for advertising requirements.

PUBLIC RECORDS

The Ohio Public Records Act allows any person to request to inspect or obtain copies of public records from a public office that keeps those records.\textsuperscript{63} A county board of elections is a public office for purposes of the Ohio Public Records Act.

A public record is a record kept by a public office.\textsuperscript{64} A record is “any document, device, or item, regardless of physical form or characteristic, including an electronic record, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.”\textsuperscript{65}

A public office is required to organize and maintain its public records in a manner that they can be made available in response to public records requests. Public offices are also required to create and adopt a policy for responding to public records requests.

The Secretary of State’s office does not have statutory authority to advise a board of elections on Ohio Public Records Act questions. For such questions, the board should contact its legal counsel, the county prosecuting attorney. The Sunshine Law Manual prepared by the Ohio Attorney General and Ohio Auditor of State is a good reference and can be found at www.ohioattorneygeneral.gov/YellowBook.

The Ohio Secretary of State’s Office has developed a records retention schedule that sets forth the minimum amount of time that boards must retain particular types of election records. The records retention schedule can be found at https://www.ohiosos.gov/globalassets/elections/eoresources/general/retentionschedule.pdf. For any record the board maintains that is not included among the election records on the Secretary of State’s retention schedule, the board should work with its legal counsel, the county prosecutor, to create a retention schedule for those items. In addition, for guidance regarding the proper disposal in accordance with the records retention schedule of any record the board keeps, the board should contact its county prosecutor.

A public office is required to maintain a copy of its current records retention schedule in a location that is readily available to the public.

\textsuperscript{63} R.C. 149.011; Ohio Sunshine Laws 2018; an Open Government Resource Manual

\textsuperscript{64} R.C. 149.43(A)(1).

\textsuperscript{65} R.C. 149.011(G).
Section 1.04 Precincts & Polling Places

DEFINITIONS

1. Precinct
   Means a district within a county established by the board of elections of such county within which all qualified electors having a voting residence therein may vote at the same polling location.

2. Polling Place
   Means that place provided for each precinct at which the electors having a voting residence in such precinct may vote.

A precinct is the district the board creates while the polling location is the building where the voter travels to in order to cast their ballot.

PRECINCTS

1. Generally
   The board must provide a polling location for each precinct and provide adequate facilities at each polling location for conducting elections.66

2. Size of Precinct
   Each precinct must contain a number of electors, not to exceed 1,400, that the board of elections determines to be a reasonable number after taking into consideration the type and amount of available equipment, prior voter turnout, the size and location of each selected polling location, available parking, availability of an adequate number of precinct election officials and handicap accessibility and other accessibility to the polling location.67

3. Drawing Precinct Lines
   The board of elections may divide any portion of a political subdivision located within its county into precincts and may establish, define, divide, rearrange, and combine the several election precincts within its county. Precincts must be drawn along census block lines.68

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66 R.C. 3501.29.
67 R.C. 3501.18.
68 R.C. 3501.18.
4. **Waiver of Census Block Restrictions**

However, the board of elections may apply in writing to the Secretary of State for a waiver of the census block requirement if drawing precinct boundaries by census blocks is not feasible because:

a. Physical boundaries or residential development practices exist that would cause unusual hardship for voters, or  
b. A precinct would contain more than 1,400 voters.,  
c. Any waiver request must explain in the fullest detail possible why the waiver is needed for a particular block. Additionally, the board’s waiver request must include the appropriate map showing the relevant, existing (and proposed, if changed) precinct and census block boundaries.69

5. **Separate Precinct Required for Disabled Soldiers**

The lands used for a state or national home for disabled soldiers must constitute a separate election precinct and, if necessary, may be divided and rearranged within such limits as other precincts are arranged and divided.70

6. **Combining/Moving Precincts**

a. **Generally**

The board of elections may change the location of the polling location for each precinct when it is necessary to maintain the requirements as to the number of voters in a precinct and to provide for the convenience of the voters and the proper conduct of elections.71

b. **Exceptions**

A board cannot change the number of precincts or the precinct boundaries during the 25 days immediately preceding a primary or general election, nor between January 1 and the day on which the members of a county central committee of a political party are elected.72

c. **Written Notice to Electors and the Secretary of State**

When the board of elections deems it necessary to change, divide, or combine any precinct, or to relocate a polling location, it must, prior to

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69 R.C. 3501.18, R.C. 3501.29.  
70 R.C. 3501.20.  
71 R.C. 3501.18.  
72 R.C. 3501.18.
the next election, notify each of the registrants in the precinct of such change by mail.\textsuperscript{73}

When the board changes the boundaries of any precinct, it shall notify the Secretary of State of the change not later than 45 days after making the change.

d. Restrictions on Changes

If the board changes the boundaries of a precinct after the filing of a local option election petition pursuant to sections \textsuperscript{4301.32} to \textsuperscript{4301.41}, \textsuperscript{4303.29}, or \textsuperscript{4305.14} of the Revised Code that calls for a local option election to be held in that precinct, the local option election shall be held in the area that constituted the precinct at the time the local option petition was filed, regardless of the change in the boundaries. If the board moves forward with the changes then the result is a split precinct. The Secretary of State’s office discourages boards from making changes until after the elections when this situation occurs.

POLLING PLACES

1. Public Buildings

The board must utilize for polling locations, in so far as practicable, rooms in public schools and other buildings supported by tax dollars. Upon the board’s application, the authority that has the control of any building or grounds supported by taxation under the laws of Ohio must make available the necessary space for the purpose of holding elections and adequate space for the storage of voting machines, without charge. A reasonable amount of money may be paid for necessary janitorial service.\textsuperscript{74}

2. Private Buildings; Rental; Insurance

When polling locations are established in private buildings, the board may pay a reasonable rental therefore. It also may pay the cost of liability insurance covering the premises when used for election purposes, or the board may purchase a single liability policy covering the board and the owners of the premises when used for election purposes.\textsuperscript{75}

\textsuperscript{73} R.C. 3501.21.
\textsuperscript{74} R.C. 3501.29.
\textsuperscript{75} R.C. 3501.29.
3. **Removable Buildings**

When removable buildings are supplied by the board, they shall be constructed under the contract awarded to the lowest and best bidder, and the board must observe all ordinances and regulations in effect regarding accessibility and safety. The board shall remove all such buildings from streets and other public places within 30 days after an election, unless another election is to be held there within 90 days.\(^76\)

**ACCESSIBILITY**

All county boards of elections are required by both state and federal law to provide polling locations that are accessible to people with disabilities. People with disabilities must have the opportunity to vote privately and independently just as any other voter in the state of Ohio. All county boards of elections must verify before each election that their polling locations are accessible, including having the appropriate accessible parking for voters with disabilities.

The Americans with Disabilities Act (ADA) was enacted by Congress on July 26, 1990, creating standards for accessibility, including voting locations. The Help America Vote Act of 2002 authorized federal appropriations to the states to ensure that “polling locations, including the path of travel, entrances, exits, and voting areas of each polling facility, [are] accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.”\(^77\)

Additionally, Ohio law requires county boards of elections to ensure that polling locations:

- Are free from barriers that would interfere with a handicapped person entering or exiting;
- Have sufficient handicapped parking spaces;
- Have level entrances or non-skid ramps that meet state law and ADA requirements; and
- Have doorways that are a minimum of 32 inches wide.\(^78\)

To determine if a polling location is free of barriers to access by people with disabilities and in compliance with federal and state law, county boards of elections must always use the most recent version of the Secretary of State’s Polling Place Accessibility Checklist and Accessible Parking Guide to evaluate every polling location in its county.

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\(^76\) R.C. 3501.29(A).
\(^77\) Help America Vote Act (2002), Sec. 261.
\(^78\) R.C. 3501.29(B).
upon selection of that location as a polling location. Whenever a revised checklist is published by the Secretary of State’s office, all polling locations should be re-evaluated using that checklist prior to the next regular general election.

All county boards of elections must maintain a file of its completed checklists and must develop an internal procedure for periodic review of all voting locations to confirm accessibility or the necessity for appropriate remediation strategies. All polling locations should be reviewed for accessibility at least once every two calendar years if not more frequently. In developing its file of completed checklists, boards of elections are encouraged to consider the Presidential Commission on Elections Administration’s recommendation that local election officials also “maintain a diagram of every polling location to include at a minimum: room dimensions, location of power outlets, the proposed positioning of voting and voter processing equipment, the entry and exit routs, and signage required by the Americans with Disabilities Act.” 79

The Secretary of State’s ADA Coordinator and Regional Liaisons are available to assist county boards of elections with developing polling location assessment strategies. The United States Election Assistance Commission has also published a Quick Start Management Guide for Accessibility that many boards of elections may find helpful.

A board can use the Automated Accessibility Checklist Program to conduct its assessment. The Program is a software application that can be loaded onto a tablet device. It allows a user to complete the survey onsite using a tablet device to enter results and measurements and upload photographs. The Secretary of State’s office has a couple of tablets available to loan to counties that want to utilize the Program. For details on the Program and the tablets available for loan, please contact the Secretary of State’s ADA Coordinator.

If a county finds that a polling location is not accessible, action must be taken to ensure compliance. Such action may include:

1. Notifying the owners of the facility of the problem(s) causing the inaccessibility of that facility in an effort to coordinate a permanent remediation of the accessibility challenge;
2. Purchasing equipment to temporarily mitigate the inaccessibility of that facility for voters with disabilities and ensure that this equipment is in place and achieving its purpose on Election Day; or
3. Finding another facility, as may be permitted by law,80 that meets the requirements of accessibility for use as a voting location.

80 When a board of elections considers if necessary to relocate a polling location, it must notify by mail prior to the next election, each of the registered voters in the precinct. R.C. 3501.21.
Accessibility of a polling location to voters with disabilities applies equally to “offices and rooms” established pursuant to R.C. 3501.10, including the office of the board of elections.

**VERIFICATION OF ACCESSIBLE POLLING LOCATIONS**

Before the day of an election, the director of the board of elections of each county must sign a statement verifying that each polling location that will be used in that county at that election meets the requirements of R.C. 3501.29(B)(1)(b). Secretary of State Form 16 must be signed by the director and the deputy director or, if a board of elections does not have a deputy director, by the chairperson of the board.

Additionally, the director and deputy director (or chairperson when the board of elections does not have a deputy director) of a board of elections must file a signed statement (Form 17) before each election to verify that each polling location is in compliance with federal and state laws governing general polling location accessibility.

**OUTSIDE THE POLLING LOCATION**

Travel the route from the accessible parking space(s), through the accessible entrance, and all the way inside the polling location to make sure there are no barriers for people with disabilities.

Specifically, check for the following issues:

1. Directional signs are posted guiding voters to the nearest accessible entrance to the polling location;
2. If equipment is provided by the board of elections to temporarily mitigate any barrier (e.g. temporary parking sign(s), cones for designated parking space(s), ramp(s), etc.) check that it is properly set it up, if required by your board of elections; and
3. If an alternate/separate entrance is being used specifically for accessibility, ensure that it is unlocked.

If the precinct election official finds that accessibility is lacking, they should notify the board of elections and be alert that voters with disabilities may need additional assistance in accessing the polling location. To ensure proper accessibility for voters, the board should provide accessibility equipment/supplies if the items are not already located at the polling location.

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81 R.C. 3501.29(E)
INSIDE THE POLLING LOCATION

Once the precinct election official has checked the route from the parking area to the polling location entrance, they should make sure the route to the voting area inside the polling location and the voting area itself is also accessible. If an elevator or vertical lift is needed to access the voting area, ensure that it is in working order and can be used independently by voters with disabilities if needed. Voters with disabilities should be able to easily move from the entrance to the voting area, throughout the voting process and to all the voting stations. Make sure there is a 36-inch wide path through the voting area, accessible tables, accessible voting machines, and adequate privacy provided.

Be prepared to provide reasonable accommodations to voters with disabilities or voters who need assistance. For example, make sure chairs are available for voters with mobility-type disabilities and/or voters who are elderly, have a serious illness, or are pregnant and cannot stand for a long period of time.

ACCESSIBILITY ISSUES IN GENERAL

Common barriers to accessibility:

- Lack of designated accessible parking spaces;
- Lack of vertical signage or access aisles at accessible parking spaces;
- Sidewalks without curb-cuts;
- Steps at polling location entrances;
- Thresholds or steps that have an extreme change in height;
- Gravel, grates, or cracks in the sidewalk;
- Heavy interior doors;
- Doors not operable with a closed fist (i.e., round door knobs, thumb operated handles, etc.);
- Tripping hazards, such as loose mats or unsecured electrical cords; and
- Obstructions that protrude from the wall and are undetectable by a cane or are sitting in a walkway that make maneuvering difficult.

SIMPLE SOLUTIONS TO ACCESSIBILITY ISSUES

Often there are simple ways to modify a polling location to allow people with disabilities equal access to the polling location and the voting equipment. Below are some simple solutions to accommodate persons with a disability (i.e., using a wheelchair, walker, crutches, cane, scooter, service animal, a friend’s arm, other mobility aids, etc.) so that they can easily move through the polling location:
• Use temporary signs to designate accessible parking spaces;
• Use directional signs to designate accessible entrances;
• Post directional signage inside the building designating the specific room being used for voting;
• Use temporary ramps to mitigate the lack of curb-cuts;
• Prop open doors that are heavy, or not operable with a closed fist;
• Leave a 36-inch passageway throughout the room being used for voting;
• Place chairs, trash cans, or cones underneath protruding objects attached to a wall above the floor (objects protruding more than four inches from the wall) to make them cane-detectable;
• Set up voting machine(s) to be used by voters with a disability in an accessible and private location within the room being used for voting;
• Tape down or remove loose mats, electrical cords, or wires;
• Remove obstacles in the route of travel; and
• Place chairs along the walking route or in the voting location where a person can rest if necessary.

POLLING LOCATION SUPPLIES

On Election Day, before the polls open at 6:30 a.m., the precinct election official team will need to work quickly, efficiently, and in teams to accomplish the many tasks necessary before voters arrive to vote.

Working in teams of two while setting up the polling location can make the work go more quickly and help prevent errors. For example, one person can read off items from a checklist or supply list while another person checks to see if the item has been included in the supplies. A thorough review at this point will save time and lessen concerns later in the day.

CHECKING THE SUPPLIES AND FORMS

The precinct election official team should locate the Polling Place Supplies Checklist and review to make sure the following necessary supplies are available to the polling location:

☐ Quick Reference Guide (flip chart) for Precinct Election Officials from the Secretary of State;
☐ Other official precinct election official manuals, instructions or guides from the board of elections;
Directive 2008-80: Voter Identification Requirements;
- Chain of Custody forms for voting materials;
- Reference guides for voting equipment;
- Emergency contact list for the county board of elections;
- Stickers to give to voters when they have voted;
- Precinct election officials’ name tags;
- Locks and seals;
- Precinct election officials’ oath and payroll sheet; and
- Miscellaneous supplies (e.g., extension cords, tape, paper clips, pens, rubber bands, three-prong adapter or any other needed items).

Check the list of forms, supplies and instructions to make sure the following necessary items are available at the polling location, and check that they are designated for the applicable precinct:
- Encoders/Access Cards (if applicable);
- Poll Book;
- Signature Poll Book;
- Official Precinct Voter Registration Lists;
- Absentee Voter List;
- Ballot Stub Containers;
- Precinct Voting Location Guide;
- Identification Envelope - Provisional Ballot Affirmation
- (Secretary of State Form 12-B, have with optical scan paper ballots on the correct table);
- Provisional Voter Precinct Verification Form (Form 12-D);
- Provisional Ballot Notices (includes hotline number) (Form 12-H);
- The official ballot bag or box for voted provisional ballots (have in an accessible but secure location);
- Voter Registration and Change of Address Forms;
- Forms and envelopes;
- List of write-in candidates (if applicable);
Soiled/Defaced Ballot Envelope;
Accounting chart for the purpose of recording the number of paper ballots, when applicable;
Precinct identifier sign (place above the table so it is in plain view of voters entering the polling location);
Signature Poll Book and Official Precinct Voter Registration List (place next to each other so both can be checked by two precinct election officials);
Precinct referral cards (have on table, if available);
Quick Reference Guide (flip chart) for Precinct Election Officials from the Secretary of State, which contains uniform provisional ballot and voter identification requirements (make sure Guide is on the table); and
Any other official precinct election official manuals, instructions, or guides created by the county board of elections to accompany the Quick Reference Guide.

Make sure the precinct election officials responsible for provisional voting have the necessary materials close at hand, including the following:
Un-voted paper ballots that are correct for the precinct;
Identification Envelopes - Provisional Ballot Affirmation (Form 12-B);
Provisional Voter Precinct Verification Form (Form 12-D);
Provisional Ballot Notices (includes hotline number) (Form 12-H);
Provisional Ballot Tally Sheet; and
Precinct Voting Location Guide.

PREPARING FOR SPECIAL SITUATIONS
Make sure all necessary forms and materials are available, including the following:
Voter Registration Forms;
Notice of Name Change Forms (Form 10-L);
Challenge Forms (Form 10-U), used only by precinct election officials and not by observers; and
Alternative language materials, if applicable.
ASSIGNMENT OF ELECTORS TO ANOTHER PRECINCT OR COUNTY

1. **Another Precinct**

   When only a portion of a precinct is included within the boundaries of an election district, the board of elections may assign the electors residing in such portion of a precinct to the nearest precinct or portion of a precinct within the boundaries of such election district for the purpose of voting at any special election held in such district. The statute defines “election district” as “a school district, municipal corporation, township, or other political subdivision that includes territory in more than one precinct or any other district or authority that includes territory in more than one precinct and that is authorized by law to place an issue on the ballot at a special election.”

   The board must notify the electors who have been assigned of the location of the polling location where they can vote at least 10 days prior to the election.

2. **Another County**

   In any election in which only a part of the electors in a precinct is qualified to vote, the board may assign voters in such part to an adjoining precinct. Such assignment may be made to an adjoining precinct in another county with the consent and approval of the board of elections of such other county if the number of voters assigned to vote in a precinct in another county is 200 or less.

   The board of elections of the home county must notify its electors who have been assigned, at least 10 days prior to the holding of any such election, of the location of the polling location where they are entitled to vote at such election.

   When a county agrees to host voters from another county for a special election, the host county is responsible for preparing, issuing, and tabulating all ballots for that election. The host county also must provide paper ballots to the home county for any voter who needs to cast a provisional at the home county board of elections.

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82 R.C. 3503.01(B).
83 R.C. 3503.01(B).
84 R.C. 3503.01(B).
85 R.C. 3503.01(B).
The home county for these voters is responsible for providing the host county with the voter registration information necessary to prepare a supplemental record of the voters for the poll list or poll book.

VOTING EQUIPMENT

A county that utilizes direct recording electronic voting machines (DRE) as its primary voting system is required to arrange for a sufficient number of these devices to accommodate the number of electors in each precinct. The county should deploy at least one DRE voting machine for every 175 registered voters in a precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine in the location. In determining the number of registered voters, a board does not have to count electors who did not respond within 30 days to any confirmation notice. It may also exclude from the count any registered voter who has requested an absent voter ballot (by mail or in person) as of the date the allocation decision is made by the board. There must never be fewer than two DRE voting machines in any precinct or voting location. Except that in a presidential primary or a regular state election, there must never be fewer than three DRE voting machines in any precinct voting location.

Boards of elections should take note of the contests on the ballot in each political subdivision to determine whether or not the board should exceed the minimum requirements of state law as it relates to the board’s provision of voting equipment and ballots for the election.

When allocating voting equipment, the county should also take into consideration the size and location of each polling location, available parking, accessibility to the polling location, and the number of candidates and issues appearing on the ballot.86

SET-UP FOR MULTIPLE PRECINCT POLLING PLACES

A multi-precinct voting location is a voting location at which voters from more than one precinct are assigned to vote.

If the board of elections, by a vote of at least three members of the board, opts to have a single voting location serve more than one precinct, the board must do both of the following:87

- Designate a single voting location manager for the voting location, who shall be a member of the political party whose candidate received the highest number of votes for governor at the most recent general election for that office in the

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86 R.C. 3506.12(A).
87 R.C. 3501.22.
precincts whose polling locations are located at the applicable voting location, when tallying the combined vote for governor in all such precincts.

- Combine the poll books for those precincts to create a single poll book for the voting location.

Multi-precinct voting locations increase the efficiency by which voters check in, reduce the possibility of voter confusion, including questions around “wrong precinct, right polling location” and provisional ballots, and adapt easily to an electronic poll book environment. As such, all boards of elections are instructed to designate a single voting location manager for each multi-precinct polling location and to combine the poll books for those precincts in a multi-precinct polling location to create a single poll book for the voting location, as authorized by law.

BEST PRACTICES FOR IMPLEMENTING MULTI-PRECINCT POLLING LOCATIONS

Two essential components of a multi-precinct polling location regardless of voting system (Precinct-Count Optical Scan (PCOS), DRE, or Hybrid) are: a sign in station and a provisional ballot station.

1. **Sign In Station**

   Instead of having a separate table or station and book for each precinct, the voting location must have tables or stations, identified for voters to check in using the first letter of the voter’s last name (unless the county has deployed electronic poll books at the polling location, in which case voters may check in at any electronic poll book station).

   a. Voters will show identification and sign the signature poll book at a table, or station, based upon the first letter of the voter’s last name instead of at a table based upon the voter’s precinct.

   b. The board must vote to determine the alphabetical break-down in its county.

   c. Using the alphabetical division set by the board based on the number of precincts in the voting location the one book is then separated into individual books.

   d. All of the information normally printed in your signature poll book will remain (voter’s name and address, precinct, ballot style, signature image, notice to voter provisionally due to absentee request, etc.).

   e. The PEO must be able to check off the voter’s name on the Precinct Voter Registration Lists at the same time the voter signs the signature poll book.
f. The same alpha-division approach will be taken with the Precinct Voter Registration List (the 6:30 a.m., 11 a.m., and 4 p.m. lists).

g. Each table must have signs posted notifying voters of the alphabetical division for each table or station.

h. Counties still using clerk books in addition to the signature poll book may find it necessary to have only one alpha division per precinct.
   o While some counties find clerk books to be a helpful reconciliation tool because it creates a duplicate record of voters as they check in, the use of clerk books is not required by state law.

2. Suggested Alphabetical Break-Down

   Without Clerk Books
   - 2 precincts > 3 stations > A-G, H-P, Q-Z
   - 3 precincts > 4 stations > A-E, F-K, L-R, S-Z
   - 4 precincts > 5 stations > A-C, D-H, I-N, O-S, T-Z

   With Clerk Books
   - 2 precincts > 2 stations > A-K, L-Z
   - 3 precincts > 3 stations > A-G, H-P, Q-Z
   - 4 precincts > 4 stations > A-E, F-K, L-R, S-Z

3. Provisional Ballot Station

   The voting location must have one specific station dedicated for voters who may cast a ballot provisionally. The station must be staffed by precinct election officials who have been trained specifically for this task on the following:
   a. Rules and procedures for provisional voting;
   b. Proper use of the Precinct Voting Location Guide and precinct maps (used to determine if the voter is in the correct voting location);
   c. Correctly completing Form 12-D (when necessary); and
   d. How to find and issue the proper provisional ballot and ballot style to the voter based on the voter’s residential address and precinct.

4. Voting Machines

   In general:
   a. Should be programmed such that a voter can cast a ballot using any voting device in the location;
   b. Voter must still vote the proper ballot style (both precinct and precinct split) for the voter’s residential address.
5. **Precinct Count Optical Scanner**

If more than one optical scanner is deployed to provide sufficient ballot box capacity or when the number of ballot styles exceeds the capability of a precinct count optical scanner to accept ballots from any ballot style in the location:

a. The optical scanner programmed to accept the voter’s particular ballot style must be clearly marked, easily identifiable to voters, and

b. The PEOs must be appropriately trained to direct voters to the correct scanner.

6. **Issuing Ballots: DRE and Hybrid Counties**

For DRE counties or TOUCH SCREEN counties:

In some DRE counties, the programming of the smartcard for each individual voter is the necessary “authority to vote” step to ensure the voter receives the correct ballot style after signing the signature poll book.

When a smartcard is not used, Boards should use an “authority to vote,” or similar form, on which precinct election officials at the voter sign-in table will write down the voter’s correct precinct, precinct split, or ballot style (or party for a partisan primary election) for the voter to take to the next step in the process. Alternatively, precinct election officials may print the “authority to vote” slip containing this information from the electronic poll book.

7. **Issuing Ballots: Optical Scan Counties**

Establish a ballot station between the signature check-in station and the voting booths. This will ensure that the voter is issued the correct ballot.

Use an “authority to vote,” or similar form to be completed by the PEO and given to the voter after signing the signature poll book.

**POLLING LOCATIONS ARE NEUTRAL ZONES**

A polling location is a “neutral zone.” Accordingly, Ohio law imposes specific limitations on who may enter a polling location and what conduct is permissible therein. Only an election official, an observer, a police officer, a person reviewing the 11:00 a.m. or 4:00 p.m. list of registered electors, a voter (including the voter’s children who are of

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as R.C. 3501.01(U). An “election official” includes the following individuals: (1) Secretary of State; (2) Employees of the Secretary of State serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor; (3) Director of a board of elections; (4) Deputy director of a board of elections; (5) Member of a board of elections; (6) Employees of a board of elections; (7) Precinct election officials; (8) Employees appointed by the boards of elections on a temporary or part-time basis.

as Chapter 4 of this manual.
non-voting age when accompanied by the voter), or a person assisting another person to vote shall be allowed to enter the polling location during the election.90

Two small United States flags must be placed 100 feet from the entrance to each polling location on the thoroughfares or walkways leading to the polling location (or as near to 100 feet as possible). No one, other than an election official, observer, police officer, or an elector waiting to mark, marking, or casting their ballot, may loiter or congregate within this “neutral zone” or within 10 feet of any elector waiting in line to vote if the line of voters extends beyond the flags.91 Ohio law prohibits anyone from soliciting or attempting to influence any elector’s vote at a polling location and from preventing or delaying an elector from entering or leaving a polling location.92

MEDIA ACCESS TO A POLLING LOCATION

Elections officials must grant members of the media reasonable access to polling locations. This mandate stems from a United States Court of Appeals decision, which held that the media must be granted “reasonable access” for the purpose of news-gathering and reporting so long as [the members of the media] do not interfere with precinct election officials and voters as voters exercise their right to vote.”93

In its decision, the court did not define “reasonable access.” Therefore, a board of elections must consider the following factors to ensure that the voting process is not disrupted:

1. Whether the media representative is credentialed (i.e., is the person from an accredited media source);94

2. The length of time the media is present at a polling location;

3. The length of voter lines at the polling location;

4. The size and layout of the polling location;

5. Protecting voter secrecy during the media’s presence;

6. The conduct of the media representative; and

7. The effect of the presence of the media on voters and election officials.

No person – including a representative of the media – may disrupt the voting process, interfere with the election, intimidate voters, or jeopardize the secrecy of any ballot. If a member of the media interferes with the administration of the election, intimidates a

90 R.C. 3501.35(B); R.C. 3503.23(C).
91 R.C. 3501.30(A)(4).
92 R.C. 3501.35(A); R.C. 3599.24; R.C. 3599.26.
94 A board of elections does not issue credentials to a member of the media. A member of the media already should possess press credentials. These credentials are sufficient to grant the member access to a polling location.
voter, or jeopardizes the secrecy of a ballot, they may be removed from the polling location. The media must respect a voter’s right to privacy by requesting the voter’s permission prior to recording the voter or the voter’s actions while in or about the polling location.

No person may attempt to subvert the statutory observer process by attempting to gain access to a polling location as member of the media.

Precinct election officials should inform the director and deputy director if the media visits a polling location.

**EXIT POLLING AT A POLLING LOCATION**

Exit polling is not electioneering and is therefore permissible within 100 feet of the entrance to a polling location (i.e., within the area marked by the placement of two small U.S. flags). Persons conducting exit polls may not enter a polling location, interfere with or disrupt the election, or otherwise violate the law. Further, persons conducting exit polls at a polling location may not wear anything that may be construed as campaigning for or against any candidate or issue on the ballot.

**COLLECTING SIGNATURES AT A POLLING LOCATION**

Occasionally, groups may station persons outside of a polling location to gather signatures on a petition. Persons are not permitted to collect signatures inside of a polling location or within the neutral zone outside of the polling location (i.e., within the area marked by the placement of two small U.S. flags). However, there is no prohibition against collecting signatures outside the neutral zone.

**DISTRIBUTING FOOD AND CAMPAIGNING AT A POLLING LOCATION**

Campaigning, displaying campaign material or distributing food inside of the neutral zone of a polling location is prohibited. However, nothing in Ohio’s election laws prohibit a person or entity from campaigning, displaying campaign material, or distributing food outside of the neutral zone of a polling location (i.e., outside of the flags marking the 100 foot barrier or beyond 10 feet from any elector waiting in line to vote, if the line to vote extends beyond the flags).

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96 R.C. 3501.35(A); United Food & Commercial Workers Local 1099 v. City of Sidney (6th Cir. 2004), 364 F.3d 738 (circulators were not deprived of their free speech rights when they were prohibited from collecting signatures within the “campaign-free zone”).
97 R.C. 3501.35(A).
Ohio law prohibits anyone from procuring or offering "money or other valuable thing to or for the use of another, with the intent that it or part thereof shall be used to induce such person to vote or to refrain from voting."\(^98\) Food, discounts, and other such inducements are “things of value” for purposes of the election law statutes on bribery.\(^99\)

**PROBLEMS WITH CONDUCT AT A POLLING LOCATION**

Boards of elections must instruct precinct election officials to contact the board office or the appropriate law enforcement official immediately if they experience a problem with the conduct of any person at a polling location.

### Section 1.05 Precinct Election Officials

Precinct election officials ensure the election is conducted lawfully and assist voters in a courteous and respectful manner. Ohio law provides that the county board of elections selects, generally, four residents of the county in which the precinct is located to serve as precinct election officials. Counties are permitted to assign more than four precinct election officials to a precinct, and often they do when they expect a high voter turnout.

One precinct election official will be selected to act as the voting location manager with overall responsibility for overseeing the election process, including overseeing opening and closing of the polling location and transporting of ballots and voting materials to the board of elections after the polls close. The law requires that the voting location manager have the same political affiliation as the party whose candidate for governor received the most votes in that precinct at the last state election for governor.

Precinct election officials work as a team to conduct an election at their assigned precinct.\(^100\) All precinct election officials must enforce the peace and good order in and about the polling location. They must keep the entrance to the polling location open and unobstructed. They also must prevent and stop any actions or attempts to obstruct, intimidate or interfere with any elector (registered voter) when checking in or voting. They must protect official observers against being bothered or harmed while observing election processes. Ohio law requires that precinct election officials must act in such a way as to prevent riots, violence, tumult or disorder.\(^101\)

In addition to these general expectations, the voting location manager and precinct election officials have certain duties to perform before and on Election Day. See the Secretary of State Precinct Election Official Training Manual for more details.

\(^98\) R.C. 3599.01(A)(3); See also the prohibitions contained in R.C. 3599.02.
\(^99\) Even a professor's award of extra credit to a student who votes in an election has been considered to be a "thing of value." [Ohio Attorney General Opinion No. 96-033](https://www.ohioattorneygeneral.gov/opinion/96-033).
\(^100\) R.C. 3501.22.
\(^101\) R.C. 3501.33.
QUALIFICATIONS

Precinct election officials must be qualified electors registered to vote in the county where they serve. They need not reside in the precinct where they serve as precinct election officials.

RESTRICTIONS 102

An elector cannot serve as a precinct election official if that elector:

1. Has been convicted of a felony or any violation of the election laws,
2. Is unable to read and write the English language readily,
3. Is a candidate for an office to be voted for by the voters of the precinct in which the person is to serve, other than a candidate for county central committee who is not opposed by any other candidate in that precinct,
4. An individual may not serve as a precinct election official in any precinct or polling location where a family member or business associate will appear on a ballot for election or nomination to any public or party office at that same election.

APPOINTMENT & TERM

On or before September 15 in each year, the board of elections, by a majority vote, appoints for each precinct, four competent and qualified electors, who are residents of the county in which the precinct is located, as precinct election officials. The term of a precinct election official is for one year.

Not more than one-half of the total number of precinct election officials assigned to a precinct may be members of the same political party. This provision permits the board to hire electors unaffiliated with a political party to serve as precinct election officials. The board may, at any time, designate any number of precinct election officials, not more than one-half of who may be members of the same political party, to perform their duties at any precinct in any election.

Note: If the board of elections determines that four precinct election officials are not required in a precinct for a special election, the board of elections may select two of the precinct’s election officers, who are not members of the same political party, to serve as the precinct election officials for that precinct in that special election. 103

102 R.C. 3501.15; R.C. 3501.27
103 R.C. 3501.22
CERTIFICATE OF APPOINTMENT

The board must issue to each precinct election official a certificate of appointment. The precinct election official must present their certificate to the voting location manager at the time the polls are opened. The board of elections may revoke the certificate at any time for good and sufficient reasons. The certificate shall be in the form the board prescribes and shall specify the precinct, ward, or district in and for which the person to whom it is issued is appointed to serve, the date of appointment, and the expiration of the person’s term of service.\textsuperscript{104}

REMOVAL FROM OFFICE

The board may summarily remove any precinct election official from office at any time for neglect of duty, malfeasance, misconduct in office, or any other good and sufficient reason.\textsuperscript{105}

VACANCIES

The board of elections must fill vacancies for unexpired terms. When new precincts have been created, the board must appoint precinct election officials for those precincts for the unexpired term.\textsuperscript{106}

COMPENSATION

Every precinct election official in a county must be paid at the same hourly rate, which cannot be less than the minimum hourly rate ($7.25 per hour) established by the Fair Labor Standards Act (FLSA) and not more than $133.72 per day.

In accordance with R.C. 3501.28(D), the Secretary of State establishes by rule the maximum amount of per diem compensation that may be paid to precinct election officials under R.C. 3501.28 each time the FLSA is amended to increase the minimum hourly rate. Upon learning of an increase, the Secretary of State must determine by what percentage the minimum hourly rate has been increased under the FLSA and establish a new maximum amount of per diem compensation that precinct election officials may be paid under R.C. 3501.28 that is increased by the same percentage that the minimum hourly rate has been increased under the FLSA.

\textsuperscript{104} R.C. 3501.22(A); R.C. 3501.27(A).
\textsuperscript{105} R.C. 3501.22; R.C. 3501.27.
\textsuperscript{106} R.C. 3501.22; R.C. 3501.27(C).
No board of elections may increase a precinct election official’s pay during a calendar year unless the board has given written notice of the proposed increase to the board of county commissioners not later than October 1st of the preceding calendar year.

A board of elections may increase the pay of a precinct election official during a calendar year by up to, but not exceeding, 9 percent over the compensation paid during the previous calendar year to a precinct election official in the county where the board is located if the compensation so paid during the previous calendar year was less than $85 per diem.

A board of elections may increase the pay of a precinct election official during a calendar year by up to, but not exceeding, 4.5 percent over the compensation paid during the previous calendar year to a precinct election official in the county where the board is located if the compensation so paid during the previous calendar year was more than $85 but less than $95 per diem.

The board of county commissioners may review and comment upon a proposed increase and may enter into a written agreement with a board of elections to permit an increase in the compensation paid to precinct election officials for their services during a calendar year that is greater than these applicable percentage limitations.

No precinct election official who works less than a “full Election Day” will be paid the maximum amount allowed by law or as set by the board of elections, whichever is less. “Full Election Day” means the period of time between the opening of the polls and the completion of the procedures when the polls are closed.107

VOTING LOCATION MANAGERS

In return for the performance of their statutory duties, voting location managers receive additional compensation in an amount, consistent with R.C. 3501.28, determined by the board of elections.108

Voting location managers who deliver and return election supplies may receive additional compensation of not more than $5 for each trip to the polling location and $5 for each trip from the polling location to the board office, plus mileage for each trip at the rate provided by rules governing travel adopted by the Office of Budget and Management.109
WITHHOLDING COMPENSATION

The board of elections may withhold any precinct election official’s compensation for failure to obey the instructions of the board or to comply with the law relating to the duties of a precinct election official.110

PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Precinct election officials paid less than $600 per calendar year are excluded from PERS participation.

SOCIAL SECURITY AND MEDICARE

The compensation of all elections officials who earn less than $1,600 per calendar year is exempt from Social Security and Medicare deductions.

PUBLIC EMPLOYEES

State law permits a public employee (e.g., employee of the State of Ohio, a county, township, city, village, school district, etc.) to receive paid leave from the employee’s employment for the purpose of being a precinct election official. In these instances, the public employee receives both the employee’s regular compensation plus the compensation given for service as a precinct election official. The employee must receive authorization from their employer prior to confirming their service as a precinct election official. Local work rules and collective bargaining agreements may limit an employee’s ability to serve as a precinct election official.

SEVENTEEN-YEAR-OLD PEOS111

If the board of elections determines that not enough qualified electors in a precinct are available to serve as precinct election officials for any election, it may appoint as precinct election officials persons who are at least 17 years of age and are registered to vote in accordance with sections 3503.011 and 3503.07 of the Revised Code.

In addition, a board of elections, in conjunction with the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314 of the Revised Code, or the chief administrator of a nonpublic school may establish a program permitting certain high school students to apply and, if appointed by the board of elections, to serve as precinct election officials at a primary, special, or general election.

110 R.C. 3501.28
111 R.C. 3501.22(B); R.C. 3501.22(C); R.C. 3501.22(D).
A board of education, governing authority, or chief administrator that establishes a program under this division in conjunction with a board of elections may establish additional criteria that students shall meet to be eligible to participate in that program, in addition to the requirements established by R.C. 3501.22 (C)(2).

To be eligible to participate in this program the student must be a resident of the county, at least 17 years of age, and enrolled in the senior year of high school. Any student applying to participate in this program as part of the student’s application process shall declare the student’s political party affiliation with the board of elections. No student appointed as a precinct election official pursuant to this program shall be designated as a voting location manager. Any student participating in this program shall be excused for that student’s absence from school on the day of an election at which the student is serving as a precinct election official.

In any precinct with six or more precinct election officials, up to two students participating in this program who are under eighteen years of age may serve as precinct election officials. Not more than one precinct election official in any given precinct with fewer than six precinct election officials shall be under 18 years of age.

TRAINING

Only qualified electors who have completed a program of instruction as prescribed by the Secretary of State in the rules, procedures, and law relating to elections may serve as election officials. The board should use training materials prepared by the Secretary of State. The board may also use additional materials prepared by or on behalf of the board. Unpaid volunteers may be used in conducting the training. The board may reimburse the volunteers for actual and necessary expenses incurred in participating in the program.

**Note:** The board may reimburse precinct election officials, at a rate determined by the board, for attending training sessions.\(^\text{112}\)

**NEW PRECINCT ELECTION OFFICIALS**

Each new precinct election official must be trained before participating in the person’s first election as a precinct election official. Any program of instruction must be scheduled within 60 days before the election in which the precinct election official will participate.\(^\text{113}\)

\(^\text{112}\) R.C. 3501.27
\(^\text{113}\) R.C. 3501.27(B)
PREVIOUSLY TRAINED PRECINCT ELECTION OFFICIALS

Precinct election officials, other than voting location managers, who have been previously trained, need only receive instruction once every three years or when the board or Secretary of State considers the instruction necessary. Voting location managers must be re instructed before the primary election in even-numbered years. Any program of instruction must be scheduled within 60 days before the election in which the precinct election official to be trained will participate.114

CONDUCT

The way a precinct election official conducts themselves at the polling location sets the tone for the voting location and serves as an example for voters. Treating voters and other elections officials with courtesy and respect is the foundation for a smooth process. If a precinct election official has patience with voter, the voter will have patience with the precinct official if problems arise.

DESIRED PRECINCT ELECTION OFFICIAL CONDUCT:

Precinct election officials should treat voters in a professional manner, work efficiently with each other and resolve problems so that voters can vote with ease and privacy. Precinct election official activity should not distract voters from their business at the polls.

UNACCEPTABLE PRECINCT ELECTION OFFICIAL CONDUCT:

1. Precinct election officials may not campaign at the polling location or attempt to influence voters or other precinct election officials regarding their vote for or against a candidate or issue;

2. Precinct election officials may not wear or disseminate any campaign literature or paraphernalia, including, but not limited to literature, sample ballots, slate cards, campaign badges, campaign clothing or campaign buttons;

3. Precinct election officials may not introduce into the polling location, or use during their working time, items that might distract them from managing the polls (i.e., laptops not provided by the board of elections, newspapers, iPods or other music players, cell phones for personal use, radios, televisions, etc.);

4. Precinct election officials may not solicit contributions for raffle tickets or sell anything at the polling location, such as baked goods, candy, crafts, etc.;

114 R.C. 3501.27(B)
5. Precinct election officials may not place any food or drink on the check-in table, or on or near voting equipment or supplies;

6. Precinct election officials may not engage in any other activities identified as illegal or unacceptable according to the board of elections, the Secretary of State, or state or federal law; and

Precinct election officials may not refuse to enforce election laws, especially the laws that apply to precinct polling locations.¹¹⁵

**ETHICS**

All precinct election officials (including rovers, scouts, and other similar, temporary election day positions) appointed by the boards of elections must comply with Ohio ethics laws and the provisions of the Secretary of State’s Ethics Policy applicable to them. All current and future precinct election officials shall complete the Ethics Policy Acknowledgment Form (*Form 351*). The board of elections shall keep the completed form for the precinct election official on file at the board office.

As outlined in the Secretary of State’s Ethics Policy:

1. **R.C. 3501.15** prohibits precinct election officials from serving in any precinct where the precinct election official is a candidate on the ballot, except for unopposed candidates for a political party county central committee.

2. Precinct election officials (including rovers, scouts, or similar, temporary election workers) may not serve in any precinct in which a family member or business associate is a candidate for elected office.

3. Precinct election officials (including rovers, scouts, or similar, temporary election workers) shall not wear or distribute shirts, buttons, stickers, or other campaign paraphernalia for or against any candidate or issue at the office of the Secretary of State, at the office of the board of elections, or at any polling location.

4. Precinct election officials (including rovers, scouts, or similar, temporary election workers) shall not engage in any political activity while on board of elections time.

5. Precinct election officials (including rovers, scouts, or other similar, temporary election workers) should avoid actions and associations that create an appearance of impropriety, that undermine public confidence in Ohio elections officials, or that interfere with the performance of duties by Ohio elections officials.

¹¹⁵ *R.C. 3501.33; R.C. 3501.35*
For precinct election officials (including rovers, scouts, or other similar, temporary election workers), violations of this policy may be reported to the director or deputy director of the board of elections. Reports also may be made anonymously by mailing a written statement in a sealed envelope to the board of elections to the attention of the director or deputy director.

Violations of this ethics policy by a precinct election official (including rovers, scouts, or other similar, temporary election workers) may result in dismissal from service and no opportunities for further service as a precinct election official.

**VOTING LOCATION MANAGER (VLM)**

The voting location manager is the manager for the precinct polling location and is responsible for the overall conduct of the election at the precinct polling location.

**THE VOTING LOCATION MANAGER WILL DO THE FOLLOWING PRIOR TO ELECTION DAY:**

- Pick up any election supplies, following the board of elections’ instructions;
- Check any supply container labels to make sure they are for the correct precinct, assuring not to break any seals in the process;
- Go to the polling location so that the VLM knows how to get there, can easily locate parking, and be familiar with where the voting equipment can be found;
- Contact the polling location facility about getting in to set up for the election, if this is required by the board of elections; and
- Contact the precinct election officials assigned to the precinct to confirm their commitment for Election Day and to arrange a time to set up the polling location, if this is required by the board of elections.

**THE VOTING LOCATION MANAGER WILL CARRY OUT THE FOLLOWING DUTIES ON ELECTION DAY:**

- Arrive at the polling location not later than 6:00 a.m., or by the time required by the county board of elections, if earlier;
- Administer the oath of office to other precinct election officials and ensure they take and sign the oath statement, and personally sign the oath statement;¹¹⁶
- Formulate a work plan for Election Day, including work assignments, lunch schedules, and break schedules (if the county board of elections has not already done this);

¹¹⁶ R.C. 3501.31
☐ Arrange the polling location and set up voting machines as directed by the board of elections;

☐ Review with precinct election officials any special instructions or recent changes to instructions;

☐ Break the seal on the election supply container and confirm that the supplies, including ballots, are the correct supplies for the precinct or polling location;

☐ Before the polls open on Election Day, on the Official Precinct Voter Registration List to be posted at the precinct polling location, check off all absentee and early provisional ballot voters listed on the Supplemental Absentee List. Copies of the Official Precinct Voter Registration List are updated and posted throughout the day so that the public can see which registered voters in the precinct have voted;

☐ Post the Official Precinct Voter Registration List at 6:30 a.m. and post updates at 11:00 a.m. and 4:00 p.m. showing who has voted in the precinct. The general public is permitted to be in the polling location to read and take notes from these lists while the polls are open;

☐ Officially open and close the polls;

☐ Administer the oath to any duly appointed poll observers;

☐ Ensure that all campaigners and campaign materials are situated 100 feet beyond the entrance to the polling location, as marked by the U.S. flags posted outside the entrance to the polling location (even if the flags cannot be placed at 100 feet, the boundary extends to 100 feet);¹¹⁷

☐ Complete any necessary chain of custody procedures for voting materials;

☐ Return the ballots and required voting materials and supplies to the board of elections with a precinct election official, employee, or appointee of the board to whom an oath was given and who is a member of a different political party; and

☐ Perform any other duties assigned by the county board of elections.

¹¹⁷ R.C. 3501.30
BIPARTISAN RETURN OF ELECTION MATERIALS

The ballots and required voting materials and supplies must be transported to the board of elections by a voting location manager with a precinct election official, employee, or appointee of the board to whom an oath was given and who is a member of a different political party than the voting location manager. Please also refer to specific transport instructions provided by your board of elections for more details.

Each board of elections must arrange for the delivery of voting equipment to polling locations prior to or on Election Day. If voting equipment will be delivered to a polling location prior to Election Day, the board must arrange for the security of the equipment at the polling location. The storage of voting equipment at a precinct election official’s home, vehicle, or place of employment is prohibited, and a precinct election official must never retain custody of voting equipment overnight.

At a polling location, voting equipment must be stored in the manner recommended by the voting equipment manufacturer and in a clean and climate-controlled environment. The equipment must not be stored on the ground in an area prone to flooding or where liquids accumulate.

If memory cards are inserted into the voting machines when they are delivered to a polling location or transferred to a precinct election official, the board is required to use tamper evident seals to allow detection if the memory card is tampered with while in the machine. The seal must be unique to each machine with a documented, unique identifier that corresponds to the particular voting machine. Documentation of the unique identifier for the tamper evident seal as it corresponds to a particular voting machine should be maintained on three lists. Two lists must be retained in a secure location at the board office, with one kept by the director and the other by the deputy director.

Upon set up and closing, precinct election officials must inspect all pieces of voting equipment that are assigned to their precinct for any physical damage. Precinct election officials must document the inspections on a maintenance/event log provided by the board of elections and must specifically note any signs of damage or tampering discovered on the equipment or cases used to house the equipment.

Additionally, boards of elections must use a Chain of Custody Log (Form 400 or local equivalent) to document the exchange of custody of voting equipment, election supplies, and/or ballots. Boards of elections should train precinct election officials on inspection of tamper evident seals so they know what to look for when inspecting the equipment.
POLLING PLACE SECURITY AND EMERGENCY RESPONSE

Precinct election officials must maintain control over all voting equipment, keys, memory cards, ballots, and all other election supplies at all times. Any suspicious activity or damage to the equipment must be reported to the board immediately. The board must provide each voting location manager with a list of persons to contact in the event of an emergency.

Precinct election officials must be instructed that, in the event of an emergency, their first priority is the safety of the electors and other election officials. Precinct election officials should remove voting equipment, election supplies, and ballots only if it may be done safely. If any voting equipment, election supplies, and ballots are removed from a polling location, at least one (preferably two, one of each major political party) must remain with the equipment and supplies at all times.

SECURE RETURN OF BALLOTS AND ELECTION DAY SUPPLIES

At the close of polls, all ballots and election supplies (i.e., poll books, poll lists, tally sheets, election reports, and other materials) must be returned by a bipartisan team to the board of elections office or other location designated and staffed by the board. The bipartisan team must consist of the voting location manager, precinct official, employee or appointee of the board who is a member of a different political party than the voting location manager and “has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties [of promptly and securely transporting and delivering ballots and election supplies to the board of elections].” 118

When transporting ballots and election supplies, the bipartisan team must travel in the same vehicle. The board is permitted to have one or more additional persons, such as a law enforcement official, accompany the bipartisan team. One bipartisan team may transport the ballots and election supplies for an entire multi-precinct polling location.

OTHER PRECINCT ELECTION OFFICIAL GENERAL DUTIES

A precinct election official must perform the following duties:

☐ Prior to Election Day, go to the polling location to know how to get there, can easily locate parking, and be familiar with where the voting equipment can be found;

☐ On Election Day, arrive at the polling location not later than 6:00 a.m., or by the time required by the county board of elections, if earlier;

118 R.C. 3505.31
☐ Take the precinct election officials’ oath of office, administered by the voting location manager and sign the oath statement;\textsuperscript{119}

☐ Sign the payroll sheet; and

☐ Conduct the election properly and lawfully.

**Precinct election officials must also perform tasks assigned by the voting location manager such as:**

- Assist in arranging the precinct polling location;
- Assist in opening and closing the precinct polling location;
- Assist voters, as necessary, and in a courteous and respectful manner;
- Know how to properly use the voting machines;
- Ensure the security of the voting machine(s) and all associated materials and supplies;
- Verify and sign forms as needed;
- Ensure that all campaigners and campaign materials are situated 100 feet beyond the entrance to the polling location, as marked by the U.S. flags posted outside the entrance to the polling location (even if the flags cannot be placed at 100 feet, the boundary extends to 100 feet);\textsuperscript{120}
- Record important information as necessary;
- Post the Official Precinct Voter Registration List for the precinct at 6:30 a.m., 11:00 a.m. and 4:00 p.m.;
- Check voter ID;
- Supervise the use of Paper or Electronic Signature Poll Book(s) and check-in voters;
- Make sure voters are correctly issued regular or provisional ballots; and
- Perform any other duties as assigned by the county board of elections.

\textsuperscript{119} R.C. 3501.31

\textsuperscript{120} R.C. 3501.30
OATH

On or before Election Day, each precinct election official must execute the following oath of office:

State of Ohio, County of __________________________, ss: I do solemnly swear that under the penalty of perjury that I will support the Constitution of the United States of America and the Constitution of the State of Ohio and its laws; that I have not been convicted a felony or any violation of election laws; that I will discharge to the best of my ability the duties of PRECINCT ELECTION OFFICIAL in and for Precinct ____________________________ in the County of (Township) or (Ward and City or Village) _____________________________, in the election to be held on the __________________________ as required by law and the rules and instructions of the Board of Elections of said county; and that I will endeavor to prevent fraud in such election, and will report immediately to said Board any violation of the election laws which come to my attention, and will not disclose any information as to how any elector voted which is gained by me in the discharge of my official duties.

Section 1.06  Election Administration Planning

ELECTION ADMINISTRATION PLANS

Each board of elections must submit an Election Administration Plan (EAP) to the Secretary of State’s office 60 days before each statewide presidential primary election and 120 days before each statewide general election in even-numbered years.

An EAP template for use by each board of elections is provided in Chapter 15 of this Manual. To promote consistency in plan content and format among all 88 county boards of elections, each board must use this template when drafting its plan. Additional information beyond the categories in the template is acceptable, so long as the additional information is provided as an addendum and not comingled with the response to the template categories.

Detailed election administration planning is something that each board of elections should do prior to any election, not just federal or statewide elections. The EAP template pinpoints the most important election administration action-items for consideration in building the EAP to execute each election. Look at the EAP process not just as a critical planning exercise, but also as an opportunity for continuous process improvements.

In order to assist this office with the processing of public records requests, each county must submit its EAP electronically, as one unrestricted PDF. Additionally, each county must submit a second electronic file of the same document, also as an unrestricted PDF, with specified portions redacted as may be permitted under Ohio’s public records laws. Each redaction must cite to the relevant legal authority and be reviewed and approved.
by your prosecuting attorney. This office will use the second, redacted electronic file to respond to public records requests for copies of an EAP.

Additional information is included in Chapter 15.

CONTINGENCY PLANS

Experience teaches that a variety of problems, natural and man-made, may occur on an Election Day. There is no constitutional or statutory provision to postpone or suspend an election in the event of severe weather (flood, blizzard, tornado).

The only provision for postponing an election is set forth in R.C. 161.09, which states as follows:

In the event of an emergency resulting from enemy attack, the governor, their successor, or interim successor, shall, when in their judgment the public interest requires, postpone any state or local election for a period not exceeding six months. When, because of conditions resulting from an enemy attack, a scheduled election is not held or scheduled appointments cannot be made, the elected or appointed incumbents of affected offices, or their emergency interim successors, shall continue to hold office until their successors are elected or appointed and duly qualified.

The board should consult with appropriate public officials and agencies to coordinate contingency plans appropriate to a given situation and adopt plans that comply with the Homeland Security Act so that election officials will be prepared to act in the face of a disturbance at any polling location in the county.

Contingency planning is part of a board’s Election Administration Plan. For elections in which an EAP is not required, each board needs to have a contingency plan in place.
Section 1.07 Security

SECURITY OF THE BOARD OFFICE

Each board of elections is required to adopt a policy regarding the overall security of its office. When adopting its security policy, a board must consider, at minimum, the following:

1. How it can best prevent unauthorized access to the board office;
2. How board staff will register and supervise visitors;
3. How the board can restrict access to those areas of its office that house voting equipment, election materials, and its tabulation and voter registration servers, networks, and computers;
4. How will the board regularly audit its records and procedures to ensure they are being followed; and
5. If there is a violation of the security policy, what is the reporting process?

SECURE AND PROPER STORAGE OF VOTING EQUIPMENT

In addition to adopting a policy to address the overall security of the board office, each board of elections must adhere to the following guidelines in storing voting equipment at its office or other designated site whenever the equipment is not in use.

1. To prevent damage and maintain the integrity of the equipment, each board of elections must store its voting equipment properly in a secure, clean, and climate-controlled area.
2. Physical security of voting equipment in the storage area must be maintained at all times. Access to the equipment should be limited to the least number of board personnel as possible.
3. If the board office is not equipped with a monitored security system, the room(s) used to store the voting equipment, tabulation and voter registration servers and networking equipment must have a monitored security system that will detect and alarm on unauthorized access.
4. When an alarm is signaled by the security system at the board office or room(s) used to store the voting equipment, tabulation and voter registration servers, and networking equipment, at a minimum the director and deputy director must be notified. The director or deputy director must notify the Secretary of State office as described in Directive 2019-07 (Reporting of Security Events)
5. All equipment, along with the cases, cabinets, and/or shelving units that house the equipment, must be locked under a dual-control lock system, such that any
access to the equipment requires a bipartisan team. The director or designee of the same political affiliation must hold one key or lock combination and the deputy director or designee of the same political affiliation must hold the other key or lock combination.

6. The identification of any visitor, vendor, or maintenance personnel must be verified before they may be granted access to the equipment storage area. The board must keep a log of the name of each visitor, vendor, or maintenance person who enters the area, along with the date and time of their entry and exit. Visitors should be monitored at all times. The best method for access control is one that uniquely identifies the person, authorizes entry, and logs the date and time of access (i.e., badges, door entry access devices, and video monitoring system).

7. The storage area must be equipped with a monitored, alarmed smoke detection system and the proper fire extinguisher(s) or suppression system, so, if a fire occurs, it may be detected, extinguished, or suppressed as quickly as possible. Board personnel must be trained on how to respond to a fire in the storage area.

8. All voting equipment must be stored properly. Each board must contact the manufacturer of its voting equipment and request and review the voting equipment or system manual for instruction on the proper storage of the equipment. Please note that improper storage of the equipment may affect the voting system maintenance agreement and/or the equipment’s warranty.

9. The storage area must be clean and free of excess dust, debris, and pests. The board should routinely inspect and clean the area. Voting equipment must not be stored on the ground in an area prone to flooding or in any area where liquid accumulates.

**TAKING OF VOTING EQUIPMENT OFF-SITE**

A board of elections may on occasion take voting equipment offsite for demonstrations, to raise public awareness of the voting process, or in case of relocation due to an emergency situation. Such events encourage civic engagement and build public trust in the election process. To maintain that public trust, the board must always ensure the security of voting equipment.

Bipartisan control of the voting equipment must be maintained at all times including during transportation and the demonstration. The only exception to this requirement is when a private company is contracted by the board to deliver equipment. In either case, to ensure the security of the voting equipment, the board must follow all procedures outlined in Chapter 7, section 1.01 of this document including the use of tamper evident
seals. If a member of the bipartisan team must leave the area for an extended period of
time such as for a lunch break, a person of the same party who meets the requirements
established in section 1.05 of this chapter must relieve the team member. Usage and
custody of the voting equipment must be recorded according to the board’s inventory
control process.

INVENTORY OF VOTING EQUIPMENT

The board must inventory all of its voting equipment and maintain a list of each item of
equipment and its corresponding serial number. Additionally, for each piece of
equipment, the board must retain the following:

1. Invoice, purchase order, or other documentation of the purchase of the
equipment;
2. Chain of Custody Log for at least 90 days following every election;
3. Record of the equipment’s usage (i.e., the date and location of use and the
   individual(s) using the equipment);
4. A report of any damage to or unauthorized handling of the equipment; and
5. Any repair history (when, where, by whom, for what purpose, and the outcome)
   and documentation of the repair.

The inventory list must be maintained and reviewed on a regular basis by the board’s
director and deputy director.

SECURE AND PROPER STORAGE OF BALLOTS AND
ELECTION DATA MEDIA

For purposes of this section, ballots and election data media includes, but is not limited
to the following:

1. Optical scan ballots prepared by a vendor or printed in house by the board for
   use in an upcoming or previous election;
2. Blank ballot stock for a ballot printer;
3. All memory cards;
4. CDs or USB drives that house election results;
5. VVPATs; and
6. Ballot initiation or access devices (e.g., Personal Electronic Ballot cartridges,
   access cards, eCM tokens).

When not in use, all ballots and election data media also must be stored properly in a
clean and climate-controlled environment that is equipped with a secured, monitored,
alarmed smoke detection system, and the proper fire extinguisher(s) or suppression system following the guidance provided above for the storage voting equipment. These items must not be stored on the ground in an area prone to flooding or in any area where liquid accumulates. Food and beverages should never be stored or consumed within the storage area.

Access to ballots and election data media must be restricted to authorized personnel only. These items should be segregated and stored in a separate, locked room or storage unit (e.g., cabinet) designated for that purpose. As with voting equipment, ballots and election data media must be locked under a dual-control lock system. An explanation of a dual-control lock system is provided under “Secure and Proper Storage of Voting Equipment.”

Ballots must be stored as recommended by the printer (or, if storing blank ballot stock, as recommended by the manufacturer of the blank ballot stock). They must be stored in protective cases, containers, or if recommended by the printer or manufacturer, in their original packaging.

Election data media should be stored in a sleeve or case and should be marked so that each item is easily identifiable.

INVENTORY OF BALLOTS

The board must inventory all ballots by implementing the following procedures:

1. If optical scan ballots are printed by an outside source, the board must maintain a list of the ballot styles and the number of ballots for each style that are delivered to the board by the printer. The board must document any discrepancy between what was ordered and what was received and the steps taken to rectify the discrepancy. The board must also maintain a list of the sequence numbers of the ballots received, the number and sequence number range of the ballots that will be provided to each precinct, and number and sequence number range of the ballots for absentee and provisional voting. The board must document the disposition of each ballot (i.e., voted, unvoted, or spoiled).

2. If optical scan ballots are printed in house via a BOD printer, the board must document the use of each sheet of blank ballot stock.\(^\text{121}\)

A Chain of Custody Log must be used to document the delivery of optical scan ballots to each precinct.

\(^\text{121}\) No board of elections shall use a ballot-on-demand system unless each ballot printed by the system includes a tracking number. R.C. 3506.20(B).
SECURITY OF VOTING SYSTEM AND TABULATION PROGRAMS/SOFTWARE

No voting machine or component of a voting system may be connected to the internet. A voting system includes the total combination of mechanical, electromechanical, and electric equipment, including software or firmware required to program, control, and support the equipment that is used to: set up elections, define ballots cast, receive voting data from polling locations, count votes, report or display election results, and maintain and produce any audit trail information. The board’s voter registration server is not considered a voting machine or component of a voting system for purposes of this section.

Voting machines or components of a voting system may only be connected via a local computer network cable to the central tabulating system (a closed local network) for the purpose of creating or uploading memory cards, ballots definitions, precinct results, and other required tasks. Additionally, voting machines in a polling location may be connected to a closed local network.

Election results, ballot definitions, or other similar information must never be transferred to a voting system via the internet (except that blank ballots may be transmitted to a UOCAVA voter via the internet or facsimile).

No one may download or install software or firmware on a voting machine or components of a voting system without prior approval from the Secretary of State’s office.

PASSWORDS

In order to maintain the proper security of the voting equipment and central tabulating system the following password protocols must be used:

A BIOS password shall be required for all vote tabulation server systems, forcing users to enter a correct BIOS password in order to boot the machine.

All central tabulating systems must be password protected. At a minimum the passwords must be composed as follows:

- The password must be split with authorized Republican personnel possessing half of the password and authorized Democratic personnel possessing the other half of the password;
- The entire password must be at least 15 characters or the minimum number that the system will accommodate, whichever is greater;

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122 R.C. 3506.22

Chapter 2: Election Administration 2-81
Each half of the password must have a number included in it;
Each half of the password must include one non-alphanumeric character;
Each half of the password must include mixed-case letters; and
The entire password must have no more than two consecutively repeating characters.
Simple letter substitution is NOT considered acceptable. (Example – D1ct10n4ry is NOT a secure password.)

Both the BIOS and central tabulating system software passwords must be changed prior to every election.
Both the BIOS and central tabulating system software passwords must require 10 unique passwords prior to reuse of a prior password.
Both the BIOS and central tabulating system passwords shall be distributed to only authorized users. This means that the posting of the either half of a password on a monitor or keyboard is strictly prohibited.
The system shall log out users after five minutes of inactivity.

USER ACCOUNT MANAGEMENT

For all IT systems containing voter information and central tabulating systems, boards of election must require every user to have a single unique user ID and a personal password unique to that user. This ID and password must be required for multi-user access to computers and networks.

All users of boards of elections systems, email, and official social media accounts must utilize the following controls:

- Each user must have a unique username and password/passphrase.
- Users are strictly prohibited from sharing passwords/passphrases or multi-factor authentication devices.
- Passwords/passphrases must be complex and comply with the following complexity requirements:
  - Be at least 15 characters in length.
  - Contain three out of the following four items:
    - Number
    - Lower-case letter
    - Upper-case letter
Symbol

- Not contain the user’s name or username.
- Avoid using simple dictionary words without proper lengths or complexity. Passwords/passphrases should be generated from pass phrases or uncommon word associations.
  - Example: Buckeyes79!AreBlah
- Simple letter substitution is NOT considered acceptable. (Example – D1ct10n4ry is NOT a secure password.)

Passwords/passphrases shall not be re-used across different applications. For example, your personal email account and your board of elections email account passwords cannot match. Your LinkedIn password/passphrase should not match your Twitter password/passphrase. This reduces the effectiveness of a popular threat called “credential stuffing.”

Passwords/Passphrases must be encrypted while stored in a format prescribed under NIST 800-53.

Multifactor authentication must be used for all accounts accessing or modifying voter registration data and election systems, email, system administrator access and remote access sessions. Any multifactor solution must follow NIST 800-63b standards, and can be achieved by using smart cards, certificates, one-time use password tokens, or biometrics. Boards of elections that utilize social media are strongly encouraged to ensure that accounts are secured using multi-factor authentication.

ACCESS LOG

Directors and deputy directors shall regularly monitor the access logs maintained by their election management systems voting system servers, voter registration servers, computers, firewall, and networking devices. When checking these logs, directors and deputy directors should look for any unusual or suspicious access or activity on the system. Examples of this kind of activity would be accessing the systems at unusual hours and with unusual frequency.

These logs must be stored, where possible, on a dedicated system to ensure that the logs can be securely maintained. All access logs and events collected must be kept for 90 days.

Electronic logs must not be disabled.
THIRD PARTY ACCESS TO VOTING SYSTEM

Board policies on voting system server security must prohibit individuals who are not employees, contractors, or consultants of the board of elections or Secretary of State’s office from being granted a user ID or otherwise be given privileges to access any network or component of the election system within the board offices or at a satellite location, unless the written approval of both the board’s chairman and director have been obtained.

Any remote access to board of election systems or networks must use secure remote access technologies such as Transport Layer Security (TLS v1.2 or higher) or IPSEC. Multifactor is required and must comply with the User Account Management section of this chapter. Any remote access solution being utilized must:

- All remote access solutions must use Virtual Private Network (VPN) with Multifactor Authentication (MFA)
- All remote access traffic must be encrypted pursuant to the state of Ohio’s data encryption standards and policies. These policies can be found at: https://das.ohio.gov/Divisions/Information-Technology/State-of-Ohio-IT-Policies
- All encryption systems must comply with NIST Federal Information Processing Standard (FIPS) 140-2.
- All remote access sessions must be logged and stored as described in the access log section of this chapter.

Before providing to any third party access to any network or component of the election system within the board’s offices or at a satellite location, written documentation defining the following shall be executed: the scope of work and authorization for access to any network or component of the election system within the board offices or at a satellite location; relevant terms, including the name of a responsible manager at the third party organization; and the timeframe, with starting and ending dates and times, if applicable, for access.

Section 1.08  Legal Counsel

COUNTY PROSECUTING ATTORNEY

Under Ohio law, the county prosecuting attorney is legal counsel to the board of elections. The board may solicit written opinions or instructions from the prosecutor in matters connected with the board’s official duties, and the prosecutor must prosecute all actions the board directs and defend all suits to which the board is a party. The board

123 R.C. 309.09
may not employ any other legal counsel or attorney at the expense of the county, except with approval of the county commissioners and the court of common pleas. 124

MUNICIPAL LEGAL COUNSEL

Municipalities (cities and villages) have their own legal counsel, such as a city attorney, law director, or village solicitor. In a charter municipality, the legal counsel of the charter city or village is the primary authority for interpreting the provisions of the municipality’s charter.

Generally, the board will defer to a charter municipality’s interpretation of its charter’s provisions. However, the board has an independent duty to fulfill its responsibilities under the election laws, and should consult its legal counsel, the county prosecuting attorney.

SECRETARY OF STATE

As the state’s chief election officer, the Secretary of State is vested with duties and powers relating to election administration, including voter registration and the conduct of elections. 125 Consequently, the Secretary issues instructions to the board on the proper methods of election administration, including but not limited to, registering voters, maintaining, correcting and updating voter registration records, and conducting and canvassing elections.

The elections attorneys on the Secretary of State’s staff are legal counsel to the Secretary. At the Secretary’s request, the elections attorneys are available to clarify the guidance the Secretary provides to county boards of elections through Directives, Advisories, and other communications. However, the elections attorneys cannot offer legal advice on a board’s fact-specific situation since the board’s statutory legal counsel is the county prosecutor.

CONFLICTING OPINIONS

The board often consults the Secretary of State’s office for guidance at the same time it consults the prosecuting attorney for legal advice on a particular issue facing the board. The Ohio Supreme Court has held that, “when an election statute is subject to two different, but equally reasonable interpretations, the interpretation of the Secretary of State, the state’s chief election officer, is entitled to more weight.” 126

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124 R.C. 305.14
125 R.C. 3501.04; R.C. 3501.05
ELECTION-RELATED LAW ENFORCEMENT DUTIES OF SHERIFF

The members and employees of the board of elections are essential personnel for the conduct of every election. They must be allowed to perform their legally prescribed duties in a timely fashion to ensure the fair, orderly, efficient, and transparent administration of the election.

Election officials are charged with preventing violence and disorder at the polls and may call upon the sheriff or other peace officers to aid them in enforcing the law, including the arrest of violators.127 The sheriff has a statutory duty to respond immediately to such a request.128

Further, Ohio Revised Code Section 3501.34 provides as follows:

The officer or authority having command of the police force of any municipal corporation or the sheriff of any county, on requisition of the board of elections or the Secretary of State, shall promptly detail for service at the polling location in any precinct of such municipal corporation or county such force as the board or Secretary of State considers necessary. On every day of election such officer or authority shall have a special force in readiness for any emergency and for assignment to duty in the precinct polling locations. At least one policeman shall be assigned to duty in each precinct on each day of an election, when requested by the board or the Secretary of State. Such police officer shall have access at all times to the polling location, and he shall promptly place under arrest any person found violating any provisions of Title XXXV of the Revised Code.

No officer of the law shall fail to obey an order of a voting location manager of a polling location requesting aid in the enforcement of election laws.129

Ohio’s election laws prohibit a person from hindering or delaying a voter as they attempt to enter or leave a polling location. The statutes that prohibit interfering with the conduct of elections are Ohio Revised Code Sections 3501.35, 3599.24 and 3599.26. Additionally, no one may loiter or solicit voters within the designated area outside of a polling location.130

127 R.C. 3501.33
128 R.C. 3501.33; R.C. 3501.34
129 R.C. 3599.31
130 R.C. 3501.30; R.C. 3501.35
On Election Day, a board of elections may call upon the Sheriff to keep the polls open, to transport ballots, or to assist voting location managers. On Election Night, the Sheriff may be contacted by election authorities, including representatives of the Secretary of State’s office, to secure ballots and other elections-related records, equipment, and supplies.131

In the event that the Sheriff is requested to help secure ballots, the Sheriff and their deputies should assist the board of elections in making sure that all ballots and election materials are locked in a safe place with double locks securing the door of the place in which they are stored. One key should be left in the possession of the director of the board of elections or a board member of the same political party as the director. The key to a second lock should be left in the possession of the deputy director or a board member of the opposite political party as the director. Any additional or duplicate keys should remain in the possession of the persons with control of the original keys. This double lock system will ensure that access to the ballots and other election materials is not controlled by any particular political party.

Section 1.09 Information Technology Security

All network connected systems, including but limited to, voter registration server(s), workstations, networking and firewall devices must follow all items outlined in Directive 2019-08.

VULNERABILITY MANAGEMENT

Each board of election must continue to utilize the following Department of Homeland Security services:

- **Phishing Campaign Assessment (PCA).** This assessment is a “no cost six-week engagement ... that evaluates an organization’s susceptibility and reaction to phishing emails of varying complexity.” This service must be utilized annually by each county board of elections.

- **Vulnerability Scanning.** This service provides “vulnerability scanning of Internet accessible systems for known vulnerabilities on a continual basis as a no-cost service. As potential issues are identified, DHS notifies impacted customers so they may proactively mitigate risks to their systems prior to exploitation. The service incentivizes modern security practices and enables participants to reduce their exposure to exploitable vulnerabilities.” This service must be utilized weekly by each county board of elections.

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131 If the office of Sheriff is on the ballot, to avoid appearance of impropriety, the Sheriff should send a deputy or another representative who is not a candidate on the ballot.
On a weekly basis, all board of elections systems must be scanned on the internal network using a SCAP compliant vulnerability scanner. A list of critical and high vulnerabilities must be provided to the system administrators, technical point-of-contact, or providers for remediation.

Critical and high vulnerabilities in internet-accessible systems must be remediated in a timely manner:

- Critical vulnerabilities must be remediated within 15 calendar days of initial detection.
- High vulnerabilities must be remediated within 31 calendar days of initial detection.

Evidence that these scans were completed and acted upon must be kept in accordance with a retention schedule and for at least one year.

**EMAIL AND WEBSITE SECURITY**

Each board of election email address and website must end in .gov domain names. Board of elections with a .us address may continue to use that address as long as they have secured a .gov similar address, or the .us is part of a larger county organization.

Board of election email messages cannot be forwarded to personal email accounts such as Gmail.com, Hotmail.com and Yahoo.com.

All county boards of elections email accounts must utilize Domain-based Message Authentication, Reporting and Conformance (DMARC) services. DMARC gives email owners the ability to protect their email from unauthorized use by verifying authenticity. A key component of DMARC is Domain Keys Identified Mail (DKIM). The purpose of implementing DMARC and DKIM is to protect a domain from being used in business email compromise attacks, phishing emails, email scams and other cyber threat activities. Additional information regarding DMARC can be found at:

[https://cyber.dhs.gov/bod/18-01/#introduction-to-email-authentication](https://cyber.dhs.gov/bod/18-01/#introduction-to-email-authentication)

Boards of elections email must utilize Sender Policy Framework (SPF). SPF has the ability to tell mail servers to reject mail not coming from the correct source.

All county board of elections email accounts must be using multifactor authentication (MFA).

Each permanent employee and board of election member who need email access must have an individual email address that meets these requirements.
NETWORK SECURITY

All boards of elections must ensure that the network being used is configured in a secure method as described in the Technical Security Document attached as part of Directive 2019-08, specifically covering topics of network protection, network scanning, segmentation, device whitelisting, wireless, and access control.

VOTER REGISTRATION AND ELECTION MANAGEMENT SYSTEM DATA

The board of elections voter registration server and any data processed by the board of election must be backed up on a daily basis. These backups must be encrypted following NIST Federal Processing Standard (FIPS) 140-2. Additional details on encryption requirements can be found in the Technical Security Document attached as part of Directive 2019-08.

A copy of this backup must be stored in a secure offsite location at least once per week. This backup will need to be used should anything happen to the backup stored locally at the board of election.

At a minimum, the board of election must annually test the backup ensure that the voter registration server can be fully restored using the offsite backup.
Chapter 3: VOTER REGISTRATION

Directive 2019-13

Section 1.01 Definitions

VOTER STATUS CODES

Election officials apply uniformly defined data codes to assist the board of elections in maintaining its voter registration records. The two primary codes are “Active” (or, “active-active” and “Inactive” (or, “active-confirmation”).

1. **Active**

   The “active” status code is assigned to any voter not assigned an “inactive” or “cancelled” voter status code. Because the voter is not in “active-confirmation” status, the “active” status is also known as “active-active” status; it is represented by the capital letter “A” when appearing as a single alphanumeric digit in an electronic database.

2. **Inactive or “Active-Confirmation”**

   The “inactive” or “active-confirmation” voter status code is assigned to a voter whenever the board has issued a confirmation card to that voter, and the voter has not responded to the board of elections either to confirm the information on file with the board or to provide to the board of elections with updated information. Like a vote with an “active” status code, a voter with an “inactive” or “active-confirmation” voter status code is a fully qualified elector and eligible to engage in the activities of a registered voter (i.e., sign a petition, request an absentee ballot, etc.) and appears in the Signature Poll Book on Election Day. The “inactive” or “active-confirmation” status is represented by the capital letter “I” when appearing as a single alphanumeric digit in an electronic database.

ACKNOWLEDGEMENT NOTICE

Whenever a board of elections receives a new voter registration or updated voter registration (e.g., change of name or address) and the information is entered into the county’s voter registration system, the board of elections must issue an
Acknowledgement Notice to that voter. All Acknowledgement Notices must be sent by non-forwardable mail using the United States Postal Service. The Notice must advise the voter that 1) they have been registered to vote, 2) the voter’s assigned precinct and polling location, and 3) the voter identification requirements for voting on Election Day. The form of the Acknowledgment Notice is prescribed by the Secretary of State (Form 10-J) and satisfies these requirements.

Whenever an Acknowledgement Notice is returned to the board as undeliverable, the board must investigate and, if the notice was sent to an incorrect address, it must send the notice to the correct address. If the board is unable to verify the voter’s correct address, it must change the assigned voter status for that voter from “Active” to “Inactive” (or “Active-Confirmation”) and issue a confirmation card by forwardable mail.

Whenever a board of elections changes a voter’s precinct or otherwise makes a change to a voter’s polling location, the board must provide that voter with written notice of the change.

A board of elections may not issue an Acknowledgement Notice to a voter upon request to be used as proof of identity for purpose of obtaining an Ohio driver license or state identification card.

**CONFIRMATION CARD**

A confirmation card is issued under any of the following four circumstances:

1. The National Change Of Address (NCOA) process of the state’s general voter records list maintenance program;

2. The supplemental process of the state’s general voter records list maintenance program;

3. The voter’s acknowledgement notice was returned as undeliverable;

4. Certain information in the voter’s record does not match BMV/SSA records (see Section 1.07 of this Chapter for additional information on the BMV/SSA matching process).

The confirmation card must be sent by forwardable mail using the United States Postal Service on a form prescribed by the Secretary of State. Secretary of State Form 10-S-1 is the confirmation notice prescribed by the Secretary of State.

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1 R.C. 3503.16(E); R.C. 3503.19(C).
2 R.C. 3503.19(C).
3 R.C. 3501.01(W).
4 R.C. 3503.19(C).
5 R.C. 3503.19(C).
6 R.C. 3503.19(C); R.C. 3501.01(W).
IN-PERSON REGISTRATION

Whenever a person registers to vote in person, the voter must provide their current and valid driver license number as identification on the registration card. If the voter does not have, or does not know, their current and valid driver license number, the voter must provide the last four digits of the voter’s Social Security number as identification on the registration card. If the voter does not have either a driver license number or Social Security number, the voter must write “None” on the line provided for identification on the voter registration card.

BY-MAIL REGISTRATION

“By-mail registration” is a term of art used in the Help America Vote Act (HAVA). Whenever a person registers to vote by mail, the person must provide the voter’s current and valid driver license number or the last four digits of the voter’s Social Security number as identification on the registration card, or the voter must enclose with the registration card a copy of a current and valid photo identification, a copy of a military identification, or a current (within the last 12 months) utility bill, bank statement, paycheck, government check or government document (other than a notice of voter registration mailed by a board of elections) that shows the voter’s name and current address.

7 52 U.S.C.A §21083(A)(5).
8 R.C. 3503.14.

Chapter 3: Voter Registration 3-3
Section 1.02 Eligibility

QUALIFICATIONS

To be qualified to register as an elector, a person must:

1. Be a citizen of the United States;
2. Be at least 18 years of age on or before the day of the next general election;
3. Be a resident of Ohio for at least 30 days immediately before the election at which the person wants to vote;
4. Not be incarcerated (in jail or prison) for a felony conviction under the laws of Ohio, any other state, or the United States;
5. Not have been declared incompetent for voting purposes by a probate court; and
6. Not have been permanently disenfranchised for violations of election laws.

Once registered, a person does not have to register again unless the person’s registration is canceled.

However, if a person already registered to vote moves within Ohio and/or changes their name, the person must update their voter registration record with the appropriate county board of elections.9

RESIDENCY

A person’s voting residence is the location that person considers to be a permanent, not a temporary, residence. That person’s voting residence is the place in which the voter’s habitation is fixed and to which, whenever the voter is absent, the voter intends to return. If the voter does not have a fixed place of habitation, but is a consistent or regular inhabitant of a shelter or other location to which the voter intend to return, that voter may use that shelter or other location as the voter’s residence for purposes of registering to vote.10

DETERMINING VOTING RESIDENCY

Whether a person qualifies as a “resident” of Ohio for voting purposes is a decision made by the board of elections of the county where the person offers to register or vote. In making its determination, the board must apply the rules set forth in section 3503.02 of the Revised Code:

9 Ohio Const. Art. V §1; R.C. 3503.01; R.C. 3503.02; R.C. 3503.07; R.C. 3503.011; R.C. 3503.18; R.C. 3503.21.
10 R.C. 3503.02(1).

Chapter 3: Voter Registration
• That place shall be considered the residence of a person in which the person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

• A person shall not be considered to have lost the person’s residence who leaves the person’s home and goes into another state or county of this state, for temporary purposes only, with the intention of returning.

• A person shall not be considered to have gained a residence in any county of this state into which the person comes for temporary purposes only, without the intention of making such county the permanent place of abode.

• The place where the family of a married man or woman resides shall be considered to be their place of residence; except that when the husband and wife have separated and live apart, the place where they reside the length of time required to entitle a person to vote shall be considered to be their place of residence.

• If a person removes from this state to engage in the services of the United States government, the person shall not be considered to have lost the person’s residence in this state during the period of such service, and likewise, should the person enter the employment of the state, the place where such person resided at the time of the person’s removal shall be considered to be the person’s place of residence.

• If a person does not have a fixed place of habitation, but has a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, that shelter or other location shall be deemed the person’s residence for the purpose of registering to vote.

**HOMELESS PERSON**

If a person is homeless, their residence is that place in which their habitation is fixed and to which, whenever the person is absent, the person has the intention of returning. A residence does not have to be a house or apartment. If a person does not have a fixed place of habitation, but has a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, that shelter or other location shall be deemed the person’s residence for the purpose of registering to vote.11

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11 R.C. 3503.020.
LOSS OF RESIDENCY FOR VOTING PURPOSES

Section 3503.02 of the Revised Code also addresses situations in which an Ohio elector is considered to have lost their residency for voting purposes:

- If a person moves to another state with the intention of making that state the person’s residence, the person shall be considered to have lost the person’s residence in Ohio.

- Generally, if a person leaves Ohio and continuously resides outside Ohio for a period of four years or more, the person shall be considered to have lost the person’s residence in Ohio, notwithstanding the fact that the person may entertain an intention to return at some future period. However, this rule does not apply to persons who reside outside of Ohio because of federal or state employment, including military service.

- If a person goes into another state, and, while there exercises the right of a citizen by voting, the person shall be considered to have lost the person’s residence in Ohio.\(^\text{12}\)

NO POST OFFICE BOX OR MAIL STORE AS VOTING RESIDENCE ADDRESS

A person cannot list a post office box or a commercial mail store as their residence for voting purposes. A voter can provide the board of elections with an additional address that is a post office box for mailing purposes.

Each board must regularly review the eligibility of any elector whose voter registration address is an address at which the individual rents a postal box to obtain mail, such as an address for a branch of the United States Postal Service (USPS) or a commercial entity such as Mail Boxes Etc® or the UPS Store®. Additionally, each board must program its county voter registration system to flag the usage of any such address by an elector in the future or regularly examine its county voter file to determine the eligibility of any individual registering to vote using such an address, prospectively. To accomplish these tasks, each board must compile a list of the addresses for all USPS and commercial mailbox entities in its county at which patrons may rent postal boxes and compare the resulting list to the county’s voter registration system to determine if any voters are registered at these addresses. The board of elections then must determine the residence qualifications of these voters\(^\text{13}\) using the guidelines established by Ohio law.

\(^{12}\) Ohio Const. Art. V §1; R.C. 3501.11(Q); R.C. 3503.01; R.C. 3503.011; R.C. 3503.02; R.C. 3503.07; R.C. 3503.18

\(^{13}\) R.C. 3501.11(Q)
SHIELDING RESIDENCE ADDRESSES OF DESIGNATED PUBLIC SERVICE WORKERS

Occasionally, a designated public service worker (defined below) will provide a business address as their voting residence address. Ohio law does not allow for a designated public service worker to register to vote from their business address; however, it does allow a designated public service worker’s voting residence address to be shielded from disclosure upon request from the worker. Accordingly, a board of elections may receive a request from a designated public service worker to redact that worker’s address from the voter registration records appearing on the board’s website.

Under Ohio law, “a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, judge, magistrate, or federal law enforcement officer” may request that a public office redact their address from any record made available to the public on the internet. This request must be made on the “Request to Redact Address” form that is prescribed by the Ohio Attorney General. The Secretary of State’s office makes this form – and instructions for completing it – available on its website.

If a board receives a completed “Request to Redact Address” form, it is required to act on it within five business days and either make the requested redaction or explain to the requester why the redaction is impracticable. Any questions about processing a completed form or verifying a requester’s employment or eligibility should be directed to the board’s legal counsel, the county prosecuting attorney.

Once a board has received a “Request to Redact Address” form and has determined that the redaction needs to be made, election officials must 1) flag the voter’s address in the county’s VRS as “private” and 2) send an update via the bridge to the voter’s record in the SWVRD to show as private. This prevents the address from appearing on the board’s website or on the Secretary of State’s website.

14 R.C. 149.45(D)(1).
16 R.C. 149.45(D)(2).
The requester’s address still appears in voter query, but shows the following statement: "THIS VOTER’S ADDRESS HAS BEEN FLAGGED AS PRIVATE." This allows election officials to access the voter’s address as necessary, but alerts all election officials to the fact that the address is private. Any questions regarding how to flag a voter’s file as “private” should be directed to the Elections Division of the Secretary of State’s office.

**SOLDIERS’ HOME**

Infirm or disabled soldiers who are inmates of a national home for such soldiers, who are citizens of the United States and have resided in this state 30 days immediately preceding any election, and who are otherwise qualified as to age and residence within the county and township shall have their lawful residence in the county and township in which such home is located.17

**PUBLIC OR PRIVATE INSTITUTIONS**

Persons who are inmates of a public or private institution who are citizens of the United States and have resided in this state thirty days immediately preceding the election, and who are otherwise qualified as to age and residence within the county shall have their lawful residence in the county, city, village and township in which said institution is located.18 The lawful residence of a qualified elector who is an inmate in such an institution for temporary treatment only shall be the residence from which he entered such institution.19

Persons who are 18 years of age or older and residents of a facility operated by the Ohio Department of Youth Services (DYS) may use the address of the facility for voter registration purposes. A person may be in the custody of, and therefore a resident of, a DYS facility until they reach the age of 21. A board that receives a voter registration form that lists the address of a DYS facility as the applicant’s residence address should review the applicant’s qualifications, and, if the board determines that the applicant is qualified to vote in the county, it should register the applicant.

**SAFE AT HOME PARTICIPANTS**

Safe at Home is an address confidentiality program established by Ohio law. It assists victims of domestic violence, stalking, human trafficking, rape, or sexual battery by shielding their personal information from public record and provides them with a safe and secure way to register and vote. In order to register to vote and protect the confidentiality of their personal information, a participant in the Safe at Home program must contact the Safe at Home Office to obtain a voter registration form designed

17 R.C. 3503.03
18 R.C. 3503.04
19 R.C. 3503.04
specifically for Safe at Home participants. A Safe at Home participant must not complete and submit a regular voter registration form, as doing so compromises the confidentiality of the participant’s address.

**Section 1.03 Forms for Voter Registration**

**FORMS**

Two types of voter registration forms may be used by anyone registering to vote in Ohio: the state form prescribed by the Secretary of State, and the form prescribed by the United States Election Assistance Commission (EAC) at [www.eac.gov](http://www.eac.gov).

A third application is the Federal Postcard Application (FPCA), another federal form that may be used by military personnel and civilians living outside the United States to register to vote and to request the appropriate Ohio absentee ballots. An applicant using the FPCA may use either the cardstock version or the online form that can be accessed on the website of the Federal Voting Assistance Program: [www.fvap.gov](http://www.fvap.gov).

In addition, the declaration accompanying a Federal Write-In Absentee Ballot (FWAB) may be used to register the person to vote for an election if it is received no later than 30 days before the election.

**STATE FORM**

The Secretary of State is required to prescribe the form and content of the registration, change of residence, and change of name forms used in Ohio. The form must meet the requirements of the National Voter Registration Act of 1993 and include spaces for all of the following:

- The voter’s name;
- The voter’s address;
- The current date;
- The voter’s date of birth;
- The voter to provide one or more of the following:
  - The voter’s driver license number, if any;
  - The last four digits of the voter’s Social Security number, if any;
  - A copy of a current and valid photo identification, a copy of a military identification, or a copy of a current (within the last 12 months) utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under [section 3501.19](http://section.3501.19) of the Revised Code or a notice of voter registration...
mailed by a board of elections under section 3503.19 of the Revised Code, that shows the voter’s name and address.

- The voter’s signature; and
- A statement that applicant is a U.S. citizen and will be 18 years or older by the date of the general election.20

**FEDERAL FORMS**

The federal voter registration form, also called the National Mail Voter Registration Form, is prescribed by the United States Election Assistance Commission (EAC). The form is designed to be used in each state for voter registration and change of name and address purposes. The form and state-specific instructions for completing the form are available on the EAC’s website.

*Please note* that the federal form contains fields that are not required to be completed by a person registering to vote in Ohio. For example, an individual registering to vote in Ohio using the federal form does not need to complete the “Choice of Party” and “Race or Ethnic Group” boxes on the form. An individual registering to vote in Ohio using the federal form must complete only those fields that are required to register an individual to vote in Ohio.

A UOCAVA voter is eligible to use a Federal Postcard Application (FPCA) to register to vote in Ohio. An applicant using the FPCA may use either the cardstock version or the online form that can be accessed on the website of the Federal Voting Assistance Program at [www.fvap.gov](http://www.fvap.gov).

In addition, the declaration accompanying a Federal Write-In Absentee Ballot (FWAB) may be used to register the person to vote for an election if it is received no later than 30 days before the election. If the FWAB is received by the board of elections after the registration deadline, the declaration on the FWAB will serve to register the individual to vote in future elections.21

For additional information on who is eligible to use the FPCA and FWAB and what information is required on each form, *see the Chapter on Absentee Voting in this Manual.*

**WHERE TO OBTAIN AND RETURN FORMS**

Any person qualified to register to vote in Ohio may request – in person, by telephone, by mail, by internet or through another person – a voter registration form from the Secretary of State or a county board of elections. A registration form also may be

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20 R.C. 3503.14
21 R.C. 3511.14(B)
obtained in person from a designated agency (see below), a public high school or vocational school, a public library, a county treasurer’s office, or a Bureau of Motor Vehicles office. Completed registration forms may be returned in person to the Secretary of State, the county boards of elections, a designated agency (see below), a public high school or vocational school, a public library, a county treasurer’s office, or a Bureau of Motor Vehicles office. Additionally, completed forms may be returned by mail or through another person to the Secretary of State or a county board of elections.

If a person returns a completed voter registration form on behalf of another, the form must be returned within a specified period of time. Ohio law requires that a third party return any completed voter registration form to the Ohio Secretary of State’s office or the appropriate county board of elections within 10 days. This requirement is set forth in Ohio Revised Code 3599.11(B)(2)(a), which states as follows:

\[
\text{[n]o person who helps another person register outside an official voter registration place shall knowingly fail to return any registration form entrusted to that person to any board of elections or the office of the Secretary of State within ten days after that registration form is completed, or on or before the thirtieth day before the election, whichever day is earlier, unless the registration form is received by the person within twenty-four hours of the thirtieth day before the election, in which case the person shall return the registration form to any board of elections or the office of the Secretary of State within ten days of its receipt.}
\]

Failure to comply with this requirement may constitute a felony or misdemeanor, depending upon the circumstances and the number of completed voter registrations that have been returned untimely. If a third party returns to a board of elections completed voter registration forms outside of the timeframe mandated by statute, the board might want to consult with its county prosecuting attorney on the matter.
DESIGNATED AGENCIES AND OTHER ENTITIES PROVIDING VOTER REGISTRATION SERVICES

Ohio law requires that every designated agency, public high school and vocational school, public library, and office of a county treasurer provide “in each of its offices or locations voter registration applications and assistance in the registration of persons qualified to register to vote.” Additionally, each registrar and deputy registrar of the Bureau of Motor Vehicles must offer each individual who applies for or renews a driver license the opportunity to register to vote or update their voter registration address. These requirements stem from the National Voter Registration Act of 1993 (NVRA).

Designated agencies include the following state or local public offices that provide public assistance or state-funded programs primarily engaged in providing services to persons with disabilities:

- Department of Job and Family Services;
- Department of Health;
- Department of Human Services;
- Department of Mental Health and Addiction Services;
- Department of Developmental Disabilities;
- Opportunities for Ohioans with Disabilities; and
- Ohio’s four-year state-supported colleges and universities.

As with third parties who return a completed voter registration form on behalf of another, a designated agency or other entity charged with providing voter registration services must return a completed voter registration form to the board of elections within a specified time period. Ohio law requires a designated agency or other entity to return a completed voter registration form to the appropriate county board of elections within five days. Ohio Revised Code 3503.19(A) states as follows:

* * *[a]ny state or local office of a designated agency, the office of the registrar or any deputy registrar of motor vehicles, a public high school or vocational school, a public library, or the office of a county treasurer shall transmit any voter registration application or change of registration form that it receives to the board of elections of the county in which the state or local office is located, within five days after receiving the voter registration application or change of registration form. * * *

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22 R.C. 3503.10(B).
23 R.C. 3503.11.
24 R.C. 3501.01(B).
REQUESTS FOR VOTER REGISTRATION FORMS

Each board must provide voter registration forms as are necessary to carry out voter registration. Upon request, the board must supply registration forms to any person who resides in the county and is qualified to vote.

If any person requests three or more registrations at one time, the board shall provide a copy of the Secretary of State's Voter Registration Instructions brochure to that person.

Section 1.04 Processing Voter Registration Forms

GENERALLY

Each completed registration form must be checked carefully. If any person is found to have submitted more than one registration form, the additional registration forms should not be processed by the board.

A voter registration form does not need to be completed in ink in order to be valid. There is no statutory requirement that the form be completed or signed in ink.

Additional markings on the form (i.e., markings outside of the required fields or information added by the person completing or returning the form) do not invalidate the form.

There is no limitation on the number of completed voter registration forms that an individual or entity can submit at one time. It is not unusual for an interest group or political party to conduct a voter registration drive whereby the group or party collects and returns a large number of completed voter registration forms.

REQUIRED INFORMATION

An applicant must provide several pieces of information in order for the voter registration form to be considered valid and a board to register the applicant as an elector.

1. Question 1 in Box

The first question in the box asks the applicant to affirm that they are a U.S. citizen. This question is specifically required by Federal law via the Help America Vote Act. If the applicant checks “No,” then that voter registration form cannot be processed as valid, even if the applicant has signed the registration form, because of the contradiction of eligibility inherent in the fact that the
applicant has indicted that they are not eligible. The voter must check “Yes” in order for the registration form to be considered complete in this respect.

2. **Question 2 in Box**
   
The second question in the box also is specifically required by Federal law via the Help America Vote Act. It requires the applicant to affirm that they will “be at least 18 years of age on or before the next general election.” If the applicant checks “No,” then that voter registration form cannot be processed as valid, even if the applicant has signed the registration form, because of the contradiction of eligibility inherent in the fact that the applicant has indicated they are not eligible. The voter must check “Yes” in order for the registration form to be considered complete in this respect.

3. **Identification**
   
The identification requirement for a voter registration application is as follows:
   
a. **In-Person Registration**
   
The applicant must provide their current and valid Ohio driver license number, or if the applicant does not have or cannot remember their Ohio driver license number, the application must provide the last four digits of their Social Security number. If the voter does not have a Social Security number, the voter must write “None.”

b. **Mail Registration:**
   
The applicant must provide their current and valid Ohio driver license number or the last four digits of their Social Security number. If the applicant does not include one of those numbers on the application, they must enclose a copy of one of the following: the applicant’s current and valid photo identification, military identification, or a current (within the last 12 months) utility bill, bank statement, paycheck, government check or government document (other than a notice of voter registration mailed by a board of elections) that shows the applicant’s name and current address.

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29 52 U.S.C.A. §21083(a)(5); R.C. 3503.14
30 52 U.S.C.A. §21083(a)(5); R.C. 3503.14

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Chapter 3: Voter Registration
If the applicant does not provide identification or writes “None” in the driver license or Social Security number box, the board must register the applicant and provide the applicant with a number which serves to identify the applicant for voter registration purposes.31

4. **Residence Address**

An applicant must provide their voting residence address in order for the board to register the applicant and place them within a precinct. Guidance on what constitutes a voter’s residence address is provided in Section 1.02 of this Chapter.

5. **Date of Birth**

An applicant must provide their date of birth on the application.

6. **Signature**

The applicant must provide their signature or legal mark on the voter registration form. Ohio law defines a signature or legal mark as a “person’s written, cursive-style legal mark written in that person’s own hand” or a person’s “other legal mark that the person uses during the course of that person’s regular business and legal affairs that is written in the person’s own hand.”32

If an applicant physically is unable to sign a voter registration application, the applicant can make an “X” in the signature box of the form. The individual assisting the applicant with completing the form must sign their name below the applicant’s “X.”33

If an applicant is unable to make an “X,” the applicant must indicate in some manner that they desire to register to vote or to change the applicant’s name or residence. The individual assisting the applicant must sign the form and attest that the applicant indicated that they desired to register to vote or to change the applicant’s name or residence.34

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32 R.C. 3501.011
33 R.C. 3503.14(C)
34 R.C. 3503.14(C)
ADDITIONAL FIELDS

1. **Mailing Address**
   An applicant may provide a different address at which the applicant receives mail. This address can be a post office box or commercial mail facility.

2. **Phone Number**
   An applicant may provide a phone number that the board can use to contact the applicant.

3. **Previous Address and Former Legal Name**
   If the applicant is updating their voting residence address or legal name, the applicant should provide their former address and/or legal name.

4. **Date**
   The applicant may provide the date on which they completed and signed the application. This date is not required. In entering a registration date into the voter registration system, a person is not considered to be registered until the valid voter registration form has been received, which may or may not be the same as the date the applicant completed or signed the form.

INCOMPLETE, INVALID, OR INELIGIBLE REGISTRATIONS

INCOMPLETE FORM

If a board of elections receives a voter registration application that is incomplete because it does not contain the required information (listed above) or it does not contain sufficient information to determine whether the applicant is eligible to register to vote in the county, the board must contact the applicant and request that the applicant submit a new voter registration application.

The board may send a letter to the applicant at the address listed on the voter registration form or use the Secretary of State’s Acknowledgement Form (Form 10-J). The board must explain the reason that the application was incomplete. The board may provide a copy of the voter registration application that was submitted by the applicant with the missing information highlighted. However, the board may not return the original, incomplete voter registration application to the applicant because the original application is a public record and must be kept at the board of elections. The board should include a blank voter registration application for the applicant to complete and submit.
INVALID FORM

If an applicant submits a voter registration form (whether complete or incomplete) that is invalid because the form does not meet the requirements of Ohio and federal law (listed above), the board must contact the applicant and request that the applicant submit a new voter registration form. The board may send the applicant a letter explaining that the form was invalid and provide a new voter registration application for the applicant to complete, sign, and return to the board of elections. A board may not return an original, invalid voter registration form to an applicant, because the original application is a public record and must be kept at the board of elections.

APPLICANT IS INELIGIBLE

If a board of elections receives a voter registration form for an applicant who appears from the information submitted to be ineligible to register to vote in Ohio, then the board must contact the applicant to explain that their voter registration application was rejected and the reason why the application was determined to be invalid.

Examples of ineligible applicants include persons who will not be 18 years old on or before the date of the general election, persons who do not appear to be Ohio residents, and persons who are not U.S. citizens.

In some instances, the board of elections may choose to hold a hearing in the matter to provide the applicant with due process of law.

Again, a board may not return an original, invalid voter registration form to an applicant because the original application is a public record and must be kept at the board of elections.

SUSPICIOUS APPLICATIONS

A board of elections may receive a voter registration application that appears suspicious on the face of the application.

In these instances, the board of elections has a duty to investigate irregularities and the qualifications of applicants under sections 3501.11 (J) & (Q) of the Revised Code. When a board of elections conducts an investigation, it should consult with its legal counsel, the county prosecuting attorney.
ACKNOWLEDGEMENT CARD FOR VALID REGISTRATION

Within 20 business days after receiving a properly completed voter registration application or a change of name or address form, unless the application is received during the 30 days immediately preceding an election, the county board of elections must register the applicant to vote.

The board then must promptly mail the applicant an acknowledgment notice, as defined and described in Section 1.01 of this Chapter.

Whenever an Acknowledgement Notice is returned to the board as undeliverable, the board must investigate and, if the notice was sent to an incorrect address, it must send the notice to the correct address. If the board is unable to verify the voter’s correct address, it must change the assigned voter status for that voter from “Active” to “Inactive” (or “Active-Confirmation”) and issue a confirmation card by forwardable mail.35

At the first election at which a voter whose name has been so marked appears to vote, the voter shall be required to provide identification to the election officials and to vote by provisional ballot under section 3505.181 of the Revised Code. If the provisional ballot is counted pursuant to section 3505.183(B)(3) of the Revised Code, the board shall correct that voter’s registration, if needed; remove the indication that the voter’s notification was returned from that voter’s name on the official registration list and on the poll list or signature poll book; and change the voter’s status from “Inactive” (or “Active-Confirmation”) to “Active.” If the provisional ballot is not counted pursuant to sections 3505.183(B)(4)(a)(i), (v), or (vi) of the Revised Code, the voter’s registration must be canceled. The board must notify the voter of the cancellation via U.S. Mail.

If the person fails to respond to the confirmation notice, update the person’s registration, or vote by provisional ballot as provided in the paragraph above in any election during the period of two federal elections subsequent to the mailing of the confirmation notice, the person’s registration shall be canceled after four years from the date of the confirmation notice mailing.

35 R.C. 3503.19(C)

Chapter 3: Voter Registration 3-18
Section 1.05 Deadline for Receipt of Voter Registration and Change of Name and/or Address Forms

BOARDS MUST PUBLISH NOTICE OF DEADLINE

Six weeks before the day of an election, each board of elections must publish notice in one or more newspapers of general circulation of the places, dates, times, methods, and voter qualifications for registration.36

REGISTRATION DEADLINE

Registration to vote may be made at any time. However, to be eligible to vote in an election, an individual must be registered to vote in Ohio for the 30 days immediately prior to the election.37

Note that the 30th day before an election always is a Sunday. Consequently, the voter registration deadline carries over to the next business day, Monday, which is the 29th day before the election. If that Monday is a legal holiday (e.g., Columbus Day), the deadline carries over to Tuesday, which is the 28th day before the election.38

A properly completed and signed registration form that is mailed to a county board of elections or the Secretary of State’s office is valid for the upcoming election if it is postmarked no later than the 30th day before the election, or, if the postmark is illegible or missing, if the registration is received by a board or the Secretary of State not later than the 25th day before the election.39 Otherwise, a properly completed and signed form is valid for the upcoming election if it is received by the Secretary of State, any county board of elections, public library, public high school or vocational school, county treasurer’s office, or designated agency not later than the voter registration deadline.40

Any voter registration made after the voter registration deadline is not valid for that election, but is valid for any subsequent election for which the registrant qualifies as an elector.41

36 R.C. 3503.12
37 R.C. 3503.19; Article 5, §1 of the Ohio Constitution
38 R.C. 1.14
39 R.C. 3503.19(A)
40 R.C. 3503.19(A)
41 R.C. 3503.19(A)
OFFICE HOURS ON VOTER REGISTRATION DEADLINE

The board of elections in each county must keep its office open for the performance of its duties until 9 p.m. on the last day of voter registration before a general or primary election.42

Section 1.06 Entering Registrations into the Statewide Voter Registration Database

ENTERING INCOMPLETE VOTER REGISTRATION APPLICATION AS PENDING FILE

To assist in the processing of notices to registrants who have submitted an incomplete or invalid voter registration application, a board may enter the applicant’s preliminary information into the county’s voter registration system. In such instances, the county’s voter registration system must assign a locally defined “PENDING” voter status code to that applicant’s record. A prospective applicant record with a locally defined “PENDING” voter status code MUST NOT be included in any data packet sent by the county’s voter registration system to the Statewide Voter Registration Database, which would have the effect of assigning a valid voter status code and state voter number. Once the board receives a completed and valid registration record from the prospective applicant, the board may complete the applicant’s profile in the county’s voter registration system and initiate the packet exchange with the SWVRD.

An incomplete voter registration form must be retained for four years. However, a board may choose to delete any electronic voter record from the county’s voter registration system to which it has assigned a locally defined “PENDING” voter status as long as the record is kept at least through the 30th day after the date of election that followed receipt by the board of elections of the voter registration record. If the board chooses to enter any such incomplete voter registration records into its county voter registration system under a locally defined “PENDING” voter status and subsequently deletes those electronic records, it must do so consistent with an established records retention schedule and following proper notice.

42 R.C. 3501.10(B)
**TRACKING THE SOURCE OF REGISTRATION FORMS**

Boards of election must code each registration or change of name or address, so the source of the registration or change can be identified for tracking and reporting purposes. The survey issued by the Election Assistance Commission (or the “EAC Survey”) requires that each board provide the exact number of voter registrations or changes of address/name requests received by the following entities:

- Bureau of motor vehicles,
- Public assistance offices mandated by the National Voter Registration Act (NVRA),
- State funded agencies primarily serving persons with disabilities,
- Armed forces recruitment offices,
- Other agencies not mandated by the NVRA but by Ohio law to offer voter registration services (e.g., public high schools, vocational schools, and public libraries), and
- Voter registration drives from advocacy groups or political parties.

If a board has questions regarding coding, it should consult with its voter registration system vendor and/or the Elections Division of the Secretary of State’s office.

**DATA ENTRY STANDARDS**

County boards of elections must adhere to the data entry standards contained in this Section when entering information into the Statewide Voter Registration Database. Additionally, each board of elections must review its existing records in the SWVRD and make any and all changes necessary to comply with the data entry standards outlined in this Section. By having data in a standardized format, boards will be able to identify additional duplicate records and obtain more accurate results when searching for a voter’s information in the SWVRD.

**ENTERING A VOTER’S NAME**

General guidelines for entering a voter’s name:

- Accuracy is more important than speed – compare the spelling of the voter’s name on the voter registration form to what has been entered into the database.
- All data in the name fields must be in UPPERCASE letters.
- A title or prefix (e.g., Mr., Mrs., Dr., Ph. D, Rev.) must never be entered into any name field.
The following characters must never be entered into any name field:

- Accent Symbol: `  Colon: :  Parenthesis: ( ) Question Mark: ?
- Apostrophe: ’  Comma: ,  Percent Sign: % Quote Marks: ”
- Bracket: [ ]  Hyphen/Dash: -  Pound Sign: # Slash: / \ 

Please note that the only exception to this rule is when an individual does not have a first name. If an individual does not have a first name, enter a period (.) in the field for the voter’s first name.

1. **First Name Field**

   *If a voter does not have a first name, enter a period (.) to satisfy the required field entry.* This is the only time a period may be entered into a name field.

   If a voter has a double first name (e.g., MARY ANN, BOBBIE JO), enter both names in the first name field with a space between the two names.

   If a voter has a single character as their first name that is followed by a middle name, enter the single character in the first name field and enter the middle name in the middle name field.

   If a voter has a single character as their first name that is followed by a longer first name (e.g., J ROBERT), enter the single character and the longer name in the first name field with a space between them.

   If a voter has a multi-syllable first name with a space or spaces between the syllables, enter the name and omit the space(s) between syllables. For example, the names: LA DONNA, D’LINDA, and LA KEYSHA should be entered into the first name field as: LADONNA, DLINDA, and LAKEYSHA.

2. **Middle Name Field**

   Enter the voter’s middle name or middle initial, if one is provided. A voter is not required to provide a middle name. If no middle name has been provided, leave the field blank.

   If a voter has two middle names, enter both of the names in the middle name field with a space between the two names. For example, the names: EVA-MARIE, JOHN-PAUL, and C.M., should be entered into the middle name field as: EVA MARIE, JOHN PAUL, and C M.
3. **Last Name Field**

If a voter has a multi-syllable last name with a space or spaces between the syllables, enter the name and omit the space(s) between syllables. For example, the names: MC DONALD, DE LA ROSA, and VAN HUSEN should be entered into the last name field as: MCDONALD, DELAROSA, and VANHUSEN.

If a voter has a hyphen in their last name, do not enter the name using a hyphen into the last name field. Instead, use a space to separate two last names.

A suffix (e.g., Jr, Sr, II, VI) must never be entered into the last name field. Instead, enter a suffix into the suffix field, in the manner explained below.

4. **Suffix Field**

Below is a list of valid suffixes. You should enter only the abbreviation for the suffix. When entering: ‘The Second’, ‘The Third’, etc., you should use a capital “I” and not the number “1”.

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<th>Suffixes</th>
<th>Abbreviation</th>
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<tr>
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<td>III</td>
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<td>IV</td>
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<td>The Fifth</td>
<td>V</td>
</tr>
<tr>
<td>The Sixth</td>
<td>VI</td>
</tr>
</tbody>
</table>

Do not enter professional designations, such as “Esq.” or PhD,” in the suffix field.

**ENTERING A VOTER’S ADDRESS USING A STANDARDIZED ADDRESS**

A standardized address is one that is fully spelled out, abbreviated by using only the United States Postal Service (USPS) standard abbreviations, or as shown in the current Postal Service ZIP+4 file. USPS standards require that an address block contain, as a minimum, the recipient’s name, delivery address, and a last line (see the following example). The delivery address should always contain a street number and a street name. Addresses simply listing a building name, or building name and room number, are usually improper.
GENERAL GUIDELINES FOR FORMAT

☐ All lines of the address must be formatted with a uniform left margin.

☐ All data in the address field must be in UPPERCASE letters.

☐ The name of a city must be spelled out completely or abbreviated using USPS approved abbreviations.

☐ The following characters must never be entered into an address field:

  Accent Symbol: `  Colon: :  Parenthesis: ( )  Question Mark: ?
  Apostrophe: ’  Comma: ,  Percent Sign: %  Quote Marks: “
  Bracket: [ ]  Hyphen/Dash: -  Pound Sign: #  * Slash: /\

Please note that the only exception to this rule is the use of a hyphen/dash between the ZIP code and the plus 4 code or a house number that has a hyphenated number (see “House Number”).

1. House Number Field

Enter the voter’s house number in the HOUSE_NUMBER field. Some house numbers may consist of a whole number and a fraction. If the voter’s house number contains a fraction, put a space between the whole number and the fraction (e.g., 105 ½ MAIN ST). If the voter’s house number has a hyphenated number, enter the hyphen (e.g., 289-01 HIGH ST).

2. Pre Street Direction Field

Enter the pre-street direction of the voter’s address, if one is provided, in the PRE_STREET_DIRECTION field. If the voter has not provided a pre-street direction, leave the field blank.

Acceptable pre-street directions are: N, S, E, W, NE, NW, SE, and SW.

3. Street Name Field

Enter the voter’s street name in the STREET_NAME field. Typically, the street name is not abbreviated. If the voter has provided a street name with a hyphen, do not enter the hyphen in the field. Instead, replace the hyphen with a space.
4. **Numeric Street Field**

Numeric street names, for example, 7TH ST or SEVENTH ST, must be entered exactly as they appear in the USPS ZIP+4 file. Spell out numeric street names only when there are duplicate street names within a postal delivery area and the only distinguishing factor is that the one you matched is spelled out.

5. **Street Description Field**

Enter the voter’s street description in the STREET_DESCRIPTION field. See the following table for acceptable street description abbreviations:

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<th>DESCRIPTION</th>
<th>APPROVED</th>
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<td>RIVER</td>
<td>RIV</td>
<td>VIEW</td>
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6. **Post Street Direction Field**

Enter the voter’s post-street direction, if the voter provided one, in the POST_STREET_DIRECTION field. If the voter did not provide one, leave the field blank.

Acceptable post-street directions are: N, S, E, W, NE, NW, SE, and SW.

7. **Secondary Indicators Field**

Enter the voter’s secondary indicator, if the voter has provided one, in the SECONDARY_INDICATOR field. USPS approved secondary indicators are:

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
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<th>DESCRIPTION</th>
<th>APPROVED</th>
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<td>PH *</td>
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<td>KEY</td>
<td>ROOM</td>
<td>RM</td>
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</table>

* Does not require a Secondary Address RANGE to follow
8. **Secondary Address Range Field**
   If the voter’s address is part of a multiple-unit apartment or building, enter the room, suite, or apartment number in the SECONDARY_ADDRESS_RANGE field.

9. **City Field**
   Enter the voter’s city in the CITY field. You must spell out city names in their entirety. When abbreviations must be used due to labeling constraints, use only the approved 13-character abbreviations provided in the Postal Service’s “City State” file.

10. **State Field**
    Enter the two-character state abbreviation in the STATE field (i.e., OH).

11. **ZIP Code Field**
    Enter the voter’s five-digit zip code in the ZIP_CODE field. If you have the plus four digits of the voter’s zip code, enter the four digits in the ZIP_CODE4 field. For example, 43123, with the plus four, is 43123-4567.

12. **Entering Street Addresses and Post Office Boxes**
    If the voter has a mailing address that is a post office box, always abbreviate post office box as “PO BOX.” Please change any reference to “Caller,” “Lockbox,” and “Drawer” in a voter’s file in the SWVRD to “PO BOX.”

13. **Entering County, State, and Local Highways**
    The following are examples of county, state, and local highway primary names, and the recommended standardized format. You must use the standardized format when entering information into the SWVRD.

<table>
<thead>
<tr>
<th>EXAMPLES IN USE</th>
<th>STANDARD</th>
<th>EXAMPLES IN USE</th>
<th>STANDARD</th>
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<td>RD 22</td>
<td>ROAD 22</td>
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<td>ST HWIWAY 303</td>
<td>STATE HIGHWAY 303</td>
<td>ST RT 45 / SR45</td>
<td>STATE ROUTE 45</td>
</tr>
</tbody>
</table>
14. **Using Rural Route Addresses**

You must enter and print rural route addresses as: “RR N BOX NN.” For example, “RR 2 BOX 15A.” Please do not enter the words “RURAL,” “NUMBER,” “NO.,” or the pound (#) sign.

A leading zero before the rural route number is not necessary and should not be used. For example, “RR03 BOX 98D” should be entered as “RR3 BOX 98D.”

You should use a hyphen as part of the box number only when the hyphen is part of the address in the ZIP+4 file (e.g., RR 4 BOX 19-1A).

There should be no additional designations, such as town or street names, on the Delivery Address Line of rural route addresses. However, if secondary name information is used, place it above the Delivery Address Line.

**SPECIAL CONSIDERATIONS FOR MILITARY ADDRESSES**

1. **Overseas Locations**

Overseas military addresses must contain an APO or FPO designation along with a two-character “state” abbreviation of AE, AP, or AA and the ZIP Code or ZIP+4 Code (e.g., APO AE 09001-5275). AE is used for armed forces in Europe, the Middle East, Africa, and Canada; AP is for the Pacific; and AA is the Americas, excluding Canada.

2. **Domestic Locations**

You can use only the approved city name as listed in the “City State file,” along with the two-character state abbreviation and the ZIP Code or ZIP+4 Code (e.g., MINTO AFB ND 58705-1253).

**PREPRINTED DELIVERY POINT BARCODES**

The preprinted Delivery Point barcode must be correct for the delivery address, city, state, and ZIP+4 Code that appear on the mail piece. Please refer to the [USPS Domestic Mail Manual (DMM)](https://pe.usps.com/PC1/dmm/) for the barcode requirements that must be met to qualify for automation rates.
Section 1.07  Bureau of Motor Vehicles Voter Registration Transactions

OVERVIEW

Pursuant to the Help America Vote Act (HAVA), the National Voter Registration Act (NVRA), and the Ohio Revised Code, all boards of elections must mail confirmation notices to certain electors as part of a uniform and nondiscriminatory voter records information verification program prescribed by the Secretary of State.\(^{43}\)

To assist boards of elections with the BMV/SSA Voter Records Information Verification Program, the Ohio Secretary of State’s office will regularly send each board a BMV/SSA Voter Record Information Verification XML Packet. This electronic XML packet will notify the board if any of the following information in a new registration needs clarification or updating:

1. Driver’s License Number (DLN) could not be verified,
2. Last Name (LN) could not be verified,
3. First Name (FN) could not be verified,
4. Date of Birth (DOB) could not be verified,
5. Last Four Digits of Social Security number (SSN4) could not be verified, and/or
6. Whether the elector has been identified as deceased.

Boards of elections must use the information contained in the electronic XML packet to mail a Confirmation Notice, along with Confirmation Return Notice form, to any elector identified in the XML packet unless, upon review of the board’s records, the information could not be matched as a result of a data entry error by the board of elections. The Notice and accompanying Return Notice must be sent within 10 days of the receipt of the XML packet or other notification that further clarification or updating is needed for a particular voter registrant.

Voter Information Confirmation Notices and Return Notices issued under the ongoing verification program must be on forms prescribed by the Secretary of State (Form 10-C or Form 10-D).

Note: A county board of elections is not required to issue a confirmation notice if the nonmatch is the result of a different data entry formatting convention (e.g., “O’Brien” compared to “OBRIEN”) or a data entry error by the board of elections.

\(^{43}\) 52 U.S.C.A. §21083(a)(5); \textit{R.C. 3503.15}
Boards may not remove the names of voters from their official list of voters solely because relevant information in a county’s voter registration system does not match identification information maintained by the BMV or SSA. Boards may remove the names of ineligible voters from their official list of voters as authorized in this Section.

PROGRAM PROCESSING DETAILS

The information provided by any new voter registrant is compared with the BMV or SSA to identify whether the relevant information supplied by the registrant may be verified, and who may need to clarify or update their voter registration information.44 A new voter registrant is an individual not previously registered to vote in Ohio or an individual who was previously registered to vote in Ohio but lost their registration due to cancellation or by moving out of state.

If a new voter registration record contains information that cannot be verified by the BMV or SSA, the board must do the following: (a) mark or flag the record in the county voter registration system, (b) mail a Voter Information Confirmation Notice that includes a separate or detachable Voter Information Confirmation Return Notice to the address in the county’s voter registration records, (c) note the date on which a Voter Information Confirmation Notice is mailed to the voter registrant in the county’s voter registration records,45 and (d) note the date on which the board receives a completed Voter Information Confirmation Return Notice in response to that mailing.

MAILING THE VOTER INFORMATION CONFIRMATION “NOTICE” AND “RETURN NOTICE:”

The new voter registrants identified as having relevant information that needs to be clarified or updated must be sent a Voter Information Confirmation Notice (Form 10-C or Form 10-D) to the voter registrant’s current address as recorded in the county voter registration system by forwardable mail. This mailing must include a separate or detachable postage pre-paid, pre-addressed Voter Information Confirmation Return Notice upon which the voter registrant may clarify or update their relevant information that could not be verified by the BMV or SSA.

What to Do When Board Receives a Completed “Return Notice” of Voter Information Confirmation that CONFIRMS the Voter Registrant’s Information as Contained in the Board’s Records:

If a completed Return Notice confirms the voter registrant’s information as already contained in the board’s records, the board of elections must remove the

44 Help America Vote Act (HAVA) Sec. 303(a)(5)(B)(i); 52 U.S.C.A. §21083(a)(5).
45 This notation is essential for establishing the four-year anniversary date for when each Voter Information Confirmation Notice, along with the Voter information Confirmation Return Notice, was mailed.
mark or “flag” on the voter’s record and retain the completed return notice for a period of at least four years, in accordance with the Secretary of State’s retention chart.

What to Do When Board Receives a Completed “Return Notice” of Voter Information Confirmation that INDICATES CHANGES ARE NEEDED to the Voter Registrant’s Information as Contained in the Board’s Records:

- If a completed Return Notice confirms the relevant information must be updated/changed, the board of elections should update the relevant information consistent with the information provided by the voter on the Voter Information Confirmation Return Notice. The board of elections must remove the mark or “flag” on the voter’s record and retain the completed Return Notice for a period of at least four years, in accordance with the Secretary of State’s Retention Chart.

- If a completed Return Notice indicates a new address within the county, the voter registrant’s registration record must be updated by the board of elections with the new address and the date the Voter Information Confirmation Return Notice was received by the board. The board of elections must remove the mark or “flag” on the voter’s record and retain the completed Return Notice for a period of at least four years, in accordance with the Secretary of State’s Retention Chart. The board must then send the voter registrant an Acknowledgement Notice (Form 10-J), informing the voter registrant of the registration update and the location of their new polling location.

- If a completed Return Notice indicates a new address outside the county but still in Ohio, the board of elections that mailed the Voter Information Confirmation Notice must cancel the voter registrant’s registration and make a notation on the voter registrant’s registration record of the date the return notice was received by the board and the date of cancellation. The issuing board shall keep a copy of the completed 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. The completed Return Notice must be retained for a period of at least four years, in accordance with the Secretary of State’s Retention Chart.

- If a completed Return Notice indicates a new address outside the State of Ohio, the board of elections that mailed the confirmation notice to the elector shall mail Secretary of State Form 10-A to the elector, so the elector may cancel their voter registration in Ohio. The completed Return Notice must be retained for a period of at least four years, in accordance with the Secretary of State’s Retention Chart.
What to Do When Board DOES NOT Receive a Completed “Return Notice” of Voter Information Confirmation:

If the voter registrant fails to return the postage pre-paid Voter Information Confirmation Return Notice or otherwise fails to confirm the relevant information within the county’s voter registration system, then the board of elections must leave the mark or flag on the voter’s record.

Once a voter registrant’s voter registration record is flagged for failure to return a completed Return Notice of Voter Information Confirmation, the board must maintain its records with the voter registrant’s information flagged in the county voter registration database with a notation of the date the notice was mailed to the voter registrant. If the voter registrant fails for a period of four years (that includes two federal elections, occurring in November of even-numbered years) to update their registration or vote, then the board shall cancel the voter registrant’s registration and make a notation of the date of cancellation.

If a Voter Information Confirmation Notice or Return Notice is sent to a voter registrant to whom the board already has sent such a notice under the NVRA, the original four-year period from the mailing of the prior notice is used to compute the retention period for the county voter database, even though a subsequent Notice under this Section is mailed and not returned.

What to Do When Board Receives Information in the XML Packet that the Voter May Be Deceased:

If the BMV or SSA databases indicate that an elector is deceased, the board of elections must check with the chief health officer in the county and with the Ohio Department of Health to confirm a report of a deceased elector. County boards of elections should compare the information provided in the voter record (i.e., name, date of birth, etc.) with the same information provided in county and state health records to verify that the elector indicated in the BMV or SSA database as deceased is actually deceased. A voter registration record shall be cancelled by the board of elections upon performing such a comparison and making an affirmative finding that the voter is deceased. Boards may not cancel a voter registration record on the sole basis that the BMV or SSA databases indicate that the voter may be deceased. If the BMV or SSA databases indicate that an elector is deceased, but the board of elections is unable to confirm the report of the deceased elector by comparing information in its records regarding the elector with the chief health officer in the county and the Ohio Department of Health, the board must send a letter addressed to the elector. The letter shall request that the elector confirm their voter registration information as a way to help the board of elections determine if the deceased status indicated in the BMV or SSA
databases in error. The letter shall be accompanied by a postage prepaid return envelope. If there is no response to the letter or otherwise no confirmation that the elector is or is not deceased, then the board of elections should leave the mark or flag on the voter’s record.

Once an elector’s voter registration record is flagged for failure to respond to the letter seeking confirmation of the records of the BMV or SSA database or otherwise fails to confirm, whether or not through an executor, the elector is or is not deceased, the board must maintain its records with the elector’s information flagged in the county voter registration database with a notation in its records of the date the notice was mailed to the elector so that if the elector fails for a period of four years (that includes two federal elections, occurring in November of even-numbered years) to update their registration or vote, then the board shall cancel the elector’s registration and make a notation of the date of cancellation.

If a letter seeking confirmation of the records of the BMV of the death status of an elector is sent to an elector to whom the board already has sent such a notice under the NVRA, the original four-year period from the mailing of the prior notice is used to compute the retention period for the county voter database, even though a subsequent letter regarding death status is mailed and does not receive a response.

**State and federal laws prohibit election officials from canceling any voter registration solely because the voter registrant has not provided updated information, or solely because the voter provided information on their voter registration form that did not match the information on file with the BMV or SSA. This means that, unless a voter is deceased or there is a court order requiring removal, their name cannot be removed from the voter registration database without first being sent a notice as required by these procedures under the HAVA and/or the NVRA.**

**What to do with “No Forwarding Address” Returns for the BMV/SSA Voter Information Records Verification Program**

All Voter Information Confirmation Notices must be:

- Postage prepaid,
- Sent according to forwardable mail standards of the U.S. Postal Service, and
- Sent with a Return Notice that may be on the reverse side of the Notice (or detachable from it) for the voter to complete and send back to the board of elections.
The Return Notice must be able to be sent by the voter in a manner such that the voter’s private information on the Return Notice is not visible to persons who handle such Return Notices through the U.S. Mail.

Sometimes the U.S. Postal Service (USPS) will return this type of mail to the board as non-deliverable, because the USPS does not have a forwarding address for the addressee (the elector or voter registrant). The board must record that fact in its records (e.g., in the comments section of that voter’s file) and retain the undeliverable confirmation notice for four years. This will enable the board to document its compliance with these procedures as well as the general voter records maintenance program.

BMV/SSA Voter Record Information Verification Program is Prospective in Nature

The BMV/SSA Voter Record Information Verification Program is prospective in nature. This means that each confirmation notice must provide information advising the elector or voter registrant that their registration may be canceled four years after the postmark on that Voter Information Confirmation Notice (which period must include two federal general elections), unless the elector or voter registrant performs at least one of the following affirmative acts during the stated four-year period after the Voter Information Confirmation Notice is mailed:

- Returns the Voter Information Confirmation Return Notice card (originally sent with the Voter Information Confirmation Notice) confirming the accuracy of the previously outlined relevant information contained in their voter record at the board of elections;
- Clarifies or updates their voter registration and submits it to the board of elections via the Return Notice or otherwise; or
- Votes before that four-year period ends.

If an elector or voter registrant fails to both:
1. Respond to a Voter Information Confirmation Notice sent to them; and
2. Update their voter registration, or vote thereafter.

The board of elections shall not cancel their voter registration until after the four-year period (determined from the mailing of the Voter Information Confirmation Notice and computing within that four years the occurrence of two federal general elections). However, the elector’s or voter registrant’s record shall remain flagged in the voter registration system until the record is cancelled or until appropriate action is taken by, or on behalf of, the elector or voter registrant to clarify or update their voter registration information in the board’s records.
Please note that, if a Voter Information Confirmation Notice sent pursuant to the BMV/SSA Voter Record Information Confirmation Program, is sent to an elector to whom the board already has sent a confirmation notice, the mailing of this notice does not begin or “reset” the four year anniversary period for that elector.

Grounds for Cancellation of a Registration

If an elector or voter registrant fails both to respond to a Voter Information Confirmation Notice and update their voter registration or vote by the appropriate four-year anniversary date (established under a mailing pursuant to the NVRA or pursuant to these procedures that includes two federal general elections), the registration of the elector shall be cancelled by one of the following dates, whichever is later:

- Not later than 120 days after the date of the second federal general election in which the elector fails to vote; or
- Not later than 120 days after the expiration of the four-year period in which the elector fails to vote or respond to a Voter Information Confirmation Notice/Voter Information Confirmation Return Notice.

Please note that state and federal laws prohibit election officials from canceling any voter registration solely because the elector has not voted or solely because the voter has not provided updated information, or solely because the voter provided information on their voter registration form that did not match the information on file with the BMV or SSA as provided by the information in the revised BMV/SSA Voter Record Information Verification Program.

Any cancellation of an elector’s or voter registrant’s voting eligibility in the board’s records must be marked on their voter registration information and must include the date of cancellation.

Section 1.08 Secretary of State’s Online Voter Registration System

USING THE SYSTEM

The Secretary of State’s Online Voter Registration System allows an applicant to securely and efficiently submit a voter registration application online to the Secretary of State’s office. It also allows a registered elector to update their voter registration address online.

In order to use the System, an applicant must enter their: name, last four digits of Social Security number (SSN4), Ohio driver license number, and date of birth. If all of the information provided by the applicant matches the data in the SWVRD or is consistent
with data on file with the BMV, then the applicant can proceed with using the online system to change their voter registration address or register to vote. If the information does not match, then the applicant will be prompted to complete, print, and sign a paper voter registration form to mail or deliver to the appropriate county board of elections.

After the applicant has confirmed and submitted their voter registration or change of address information, the System will provide the applicant with a tracking number. This tracking number will be associated with the XML packet that is sent from the Online Voter Registration System to the county’s voter registration system (VRS). The XML packet will contain all of the required information entered by the applicant and the applicant’s signature. Each county’s VRS allows the board of elections to review the information contained in each XML packet and accept it into its VRS.

**USABILITY EXPECTATIONS AND SUPPORT**

Based on the system requirements, the majority of Ohioans will be able to utilize the Online Voter Registration System to register to vote or update their residential voting address. However, there will be some situations when an individual will not be able to use the system.

In the event that an applicant is unable to utilize the system, they may call their board of elections or the Secretary of State’s office for assistance. Boards of elections should assist voters as needed. If unexpected errors are experienced, Boards must promptly report them to the Elections Division of the Secretary of State’s office.

**INSTRUCTIONS FOR PROCESSING ONLINE RECORDS**

**TOOLS**

XML packets containing voter registration or change of address data will be sent from the Online Voter Registration System to the boards of elections on a regular basis. The voter registration system vendors have developed, at the expense of the Secretary of State’s office, reporting capability to enable each board of elections to review the incoming voter records and to accept them into its voter registration system. If a board needs training on this process, the board needs to contact its voter registration system vendor. Training materials for each of the voter registration system vendors are available on the Secretary of State’s BOE Portal.

**TIMELINE**

Each board of elections must access its online voter registration report and process (i.e., accept or reject) all records into its voter registration system at least once every workday.
Beginning the 60th day before any election and through the close of registration for that election, each board of elections must access its online transactions and process (i.e., accept or reject) all records into its voter registration system at least twice every workday.

REJECTING RECORDS

In the unusual circumstance that the processing of online records results in a rejection of the record from a board’s voter registration system, you must:

- Document the reason for the rejection in the voter registration system, carefully following the instructions for documenting a rejection provided by your vendor;
- Contact the voter by first class U.S. mail, phone, or email if that information was provided and contained in the XML packet, and inform them of the need to provide complete information; and
- Contact the Elections Division of the Secretary of State’s office.

RECORDS BELONGING TO ANOTHER COUNTY

Similar to a paper registration form, if an otherwise complete online voter registration application or change of address is timely submitted to the wrong county (as a result of the voter entering the incorrect county), it is still a valid application or update and must be treated as such. A board of elections that rejects a record because the voter’s address is not in the county must contact the Secretary of State’s office via email at (swvrd@OhioSOS.gov) within 24 hours of the rejection, so the Secretary of State’s office can redirect the record to the correct county.

Additionally, submission by a voter of a valid, in-county street address that contains a street name not in the board’s street/road table must not be rejected. Instead, it must be amended by the board of elections to conform to the county’s street/road table.

Example: Submission of “1234 State Route 161” when the board’s street table names that road “East Dublin-Granville Road” must not be rejected as invalid.
ELECTRONIC IMAGES OF SIGNATURES

1. **File Size and Content Requirements**

   An individual voter’s signature image file may not exceed 32 kilobytes (32K) of storage space. If the image file exceeds 32K, the Board must rescan the original image or reformat the existing file to conform to this requirement.

   An individual voter’s signature image file may not contain any other image. It is not acceptable to substitute an image of the voter registration form or another document in place of the voter’s signature image. If a signature image file contains any other image, the Board must rescan image files to conform to this requirement.

2. **“Bad Signature” Acknowledgement**

   If a board receives a signature acknowledgement ‘3000 Bad signature for voter OH00XXX’ from the SWVRD, it must rescan or resize and then resend the voter’s signature image file to the SWVRD. If a board needs training on this process, it needs to contact its voter registration system vendor.

   A “bad signature” acknowledgement must be resolved within two business days.

3. **Missing Signatures**

   On Monday of every week, the Secretary of State’s office will post to the BOE Portal, under Data Quality, a list of all voter records, by county, without a signature file associated with the record. Boards of elections must download the list each week and upload a signature file to the SWVRD by the close of that week.

   If the voter record has no signature image on file because the voter registered prior to the digitalization of voter signatures from original voter registration forms, the board of elections must contact the voter to obtain a signature to include with the voter’s record. The Board should use Form 260 or its local equivalent.

4. **Scanning Signatures from Paper Registration Forms**

   When a valid paper registration form is timely received by a board of elections, the board of elections must upload to the SWVRD the signature image associated with that voter’s record from the paper registration form no later than 24 hours after the voter record is sent to the SWVRD.
ISSUING ACKNOWLEDGEMENT CARDS

All boards of elections must issue acknowledgement cards at least one time per week. This weekly batch of acknowledgement cards must include all online applications and traditional paper voter registration forms (for new registrations, changes of address, and changes of name) received during the week before the batch run and/or mail date.

WIDGET PLACEMENT

Each board of elections must place on its website a widget developed by the Secretary of State’s office, so any voter accessing the county board of elections’ website seeking to register to vote or change their address may be easily redirected to the online voter registration and change of address portal. Secretary of State Widgets are online at: https://www.ohiosos.gov/widgets/.

REPORTING

New registrations and address changes submitted through the Secretary of State’s Online Voter Registration System are considered “Internet” registrations and must be tracked as changes of address for purposes of the EAC Survey. Boards of elections must track online voter registrations and address changes in a unique category.

Section 1.09 Bureau of Motor Vehicles Change of Address

OVERVIEW

A key component of federal National Voter Registration Act is that changes of address made by a licensed driver with the Bureau of Motor Vehicles (BMV) must also initiate a change of address for that person on the voter rolls.

On at least a twice-weekly basis, boards of elections will be provided BMV changes of address via the existing online change of address process. Additionally, and on at least a twice-weekly basis, the files from the BOE portal will begin to include records labeled “BMV COA Review,” which are BMV changes of address that require additional research before the board can update the voter’s record. The files from the BOE portal will contain “pre-matched” records that require a mandatory completion of the voter’s record and “possible-match” records that require research prior to completing the voter’s record.
Boards of elections will process the bulk of these files immediately (i.e., pre-matched records requiring a mandatory completion from the BOE portal and BMV changes of address from the Online Voter Registration System) and then attend to the possible-match records and “BMV COA Review” records (i.e., those requiring research).

All BMV change of address records will contain the date of the transaction at the BMV and should be treated as any other registration (physical card or online change of address). 46

**INSTRUCTIONS**

**PRE-MATCHED PAIRS REQUIRING A MANDATORY COMPLETION**

Under the three enumerated circumstances below, board of elections staff must complete the voter’s record in the county voter registration system and the SWVRD with the information from the BMV record that is missing in the SWVRD record, i.e., BMV ID, SSN4, or Date of Birth (DOB).

Boards of elections must download and completely process all pre-matched pairs at least once every work week.

1. **BMV ID Is Blank in the SWVRD Record, and the Record Pairs Match Exactly on SSN4, DOB, and Last Name**

   For every BMV-SWVRD pre-matched record in which the SWVRD BMV ID field is blank, and the two records match exactly on SSN4, DOB, and Last Name (regardless whether the records match on First Name), board staff must immediately complete the voter’s record in the county voter registration system and the SWVRD with the BMV ID from the field labeled BMV_LICENSE_NUMBER.

2. **SSN4 Is Blank in the SWVRD Record, and the Record Pairs Match Exactly on BMV ID, DOB, and Last Name**

   For every BMV-SWVRD pre-matched record in which the SWVRD SSN4 field is blank, and the two records match exactly on BMV ID, DOB, and Last Name (regardless whether the records match on First Name), board staff must immediately complete the voter’s record in the county voter registration system and the SWVRD with the SSN4 from the field labeled BMV_SSN4.

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46 Regardless of whether the registration is initiated using a physical voter registration card, the Online Voter Registration System, or comes from the BMV as a result of the NVRA change of address process, if the acknowledgement card issued to the voter by non-forwardable mail is returned as undeliverable, the board must place the voter in confirmation status and issue a confirmation card. R.C. 3503.19(C)(3)
3. **DOB Is Invalid in the SWVRD Record, and the Record Pairs Match Exactly on BMV ID, SSN4 and Last Name**

For every BMV-SWVRD matched record in which the SWVRD DOB field is “1/1/1800,” and the two records match exactly on BMV ID, SSN4, and Last Name (regardless whether the records match on First Name), board staff must immediately complete the voter’s record in the county voter registration system and the SWVRD with the DOB from the field labeled BMV_DOB.

**BMV CHANGE OF ADDRESS REQUIRING A MANDATORY UPDATE**

The vast majority of BMV change of address records will be sent to counties via the Online Voter Registration System. Boards of elections must download and completely process all BMV change of address records at least once every work week. These records will be flagged as “BMV” records for voter registration tracking purposes. Boards of elections must track these changes of address as “BMV Change of Address” transactions for Election Assistance Commission (EAC) reporting purposes.

Boards of elections must continue to follow the instructions and timeline for all records provided through the Online Voter Registration System.

**POSSIBLE-MATCH PAIRS AND BMV CHANGES OF ADDRESS THAT REQUIRE THE BOARD OF ELECTIONS TO RESEARCH AND RESOLVE**

Possible-match pairs and changes of address from the BMV that require review by the board of elections will be available in a single file. Changes of address from the BMV will be in this file for any of three reasons:

- The record is an unresolved duplicate in the SWVRD,
- The voter’s record in the SWVRD does not contain a voter signature on file, or
- The address provided by the user to the BMV is not compatible with the address file layout requirements of the Secretary of State’s Online Voter Registration System.

Boards of elections must download and completely process all possible match pairs and BMV changes of address labeled “BMV COA Review” at least once every work week.

**BMV CHANGES OF ADDRESS LABELED “BMV COA REVIEW”**

Changes of address from the BMV that are either duplicates or the address must be parsed before being entered into the voter registration system will be in a file labeled “BMV COA Review.” This file will contain BMV changes of address that the SOS was
unable to parse or process and therefore cannot be sent via the Online Voter Registration System. Boards of elections must review the “BMV COA Review” file and make a determination on the validity of the address provided. If the address is found to be valid by the board, then the board can enter the valid address into the county VR system and update the voter’s address. A board may conduct additional research into any or all of the “BMV COA Review” records in order to make a determination of the validity of the address change. Boards of elections must track these changes of address as “BMV Change of Address” transactions for EAC reporting purposes.

Additionally, boards of elections may correct any typos or data entry errors in the address in order to make the address valid and then update the voter’s address. If the board is unable to determine the validity of the address, the board must treat the record as an incomplete registration and contact the voter to obtain a complete or precinctable address.

**POSSIBLE MATCH-PAIRS**

Under the six enumerated circumstances below, boards are to carefully examine all of the available information in the record pairs and the voter’s original registration form to determine whether the two records are, in fact, the same person and, if so, which record (BMV or SWVRD) contains the correct information. After researching and resolving the discrepancy, board staff must correct the voter’s record in the county voter registration system and the SWVRD as required to fix any incorrect information contained in the voter’s record. If the record does not match due to a BOE related data entry error, as evidenced by a review of the data compared to the record filed with the board by the voter, the record may be corrected without contacting the voter.

Boards of elections may contact the registered voter by mail to verify the accuracy of the information in the SWVRD if the board is unable to resolve a discrepancy identified between the voter’s information in the SWVRD and the corresponding information in the BMV database.
1. **The Record Pairs Match Exactly on BMV ID, DOB, Last Name and First Name, but not SSN4**

   For every BMV-SWVRD matched record in which the two records match exactly on BMV ID, DOB, Last Name and First Name, but not SSN4, board staff must review the voter’s registration form to ascertain whether a data entry error explains the discrepancy. Boards must immediately correct their county voter registration system and the SWVRD as required to fix all data entry errors. Board staff may contact the registered voter by mail to verify the accuracy of the SSN4 information in the SWVRD if the board is unable to resolve the discrepancy between the SSN4 in the SWVRD record and the SSN4 in the BMV record. The discrepancy in the SSN4 information must be resolved by the board for all of the BMV-SWVRD matched pairs.

2. **The Record Pairs Match Exactly on BMV ID, SSN4, Last Name and First Name, but not DOB**

   For every BMV-SWVRD matched record in which the two records match exactly on BMV ID, SSN4, Last Name and First Name, but not DOB, board staff must review the voter’s registration form to ascertain whether a data entry error explains the discrepancy. Boards must immediately correct their county voter registration system and the SWVRD as required to fix all data entry errors. Board staff may contact the registered voter by mail to verify the accuracy of the DOB information in the SWVRD if the board is unable to resolve the discrepancy between the DOB in the SWVRD record and the DOB in the BMV record. The discrepancy in the DOB information must be resolved by the board for all of the BMV-SWVRD matched pairs.

3. **The Record Pairs Match Exactly on SSN4, DOB, Last Name and First Name, but not BMV ID**

   For every BMV-SWVRD matched record in which the two records match exactly on SSN4, DOB, Last Name and First Name, but not BMV ID, board staff must review the voter’s registration form to ascertain whether a data entry error explains the discrepancy. Boards must immediately correct their county voter registration system and the SWVRD as required to fix all data entry errors. Board staff may contact the registered voter by mail to verify the accuracy of the BMV ID information in the SWVRD if the board is unable to resolve the discrepancy between the BMV ID in the SWVRD record and the BMV ID in the BMV record. The discrepancy in the BMV ID information must be resolved by the board for all of the BMV-SWVRD matched pairs.
4. **The Record Pairs Match Exactly on BMV ID, Last Name and First Name, but not SSN4 and DOB**

For every BMV-SWVRD matched record in which the two records match exactly on BMV ID, Last Name and First Name, but not SSN4 and DOB, board staff must review the voter’s registration form to ascertain whether data entry errors explain the discrepancies. Boards must immediately correct their county voter registration system and the SWVRD as required to fix all data entry errors. Board staff may contact the registered voter by mail to verify the accuracy of the SSN4 and DOB information in the SWVRD if the board is unable to resolve the discrepancy between the SSN4 and DOB information in the SWVRD record and the SSN4 and DOB information in the BMV record. The discrepancies in the SSN4 and DOB information must be resolved by the board for all of the BMV-SWVRD matched pairs.

5. **The Record Pairs Match Exactly on BMV ID, SSN4 and Last Name, but not DOB and First Name**

For every BMV-SWVRD matched record in which the two records match exactly on BMV ID, SSN4 and Last Name, but not DOB and First Name, board staff must review the voter’s registration form to ascertain whether data entry errors explain the discrepancies. Boards must immediately correct their county voter registration system and the SWVRD as required to fix all data entry errors. Board staff may contact the registered voter by mail to verify the accuracy of the DOB and First Name information in the SWVRD if the board is unable to resolve the discrepancy between the DOB and First Name information in the SWVRD record and the DOB and First Name information in the BMV record. The discrepancies in the DOB and First Name information must be resolved by the board for all of the BMV-SWVRD matched pairs.

6. **The Record Pairs Match Exactly on BMV ID, DOB and Last Name, but not SSN4 and First Name**

For every BMV-SWVRD matched record in which the two records match exactly on BMV ID, DOB and Last Name, but not SSN4 and First Name, board staff must review the voter’s registration form to ascertain whether data entry errors explain the discrepancies. Boards must immediately correct their county voter registration system and the SWVRD as required to fix all data entry errors. Board staff may contact the registered voter by mail to verify the accuracy of the SSN4 and First Name information in the SWVRD if the board is unable to resolve the discrepancy between the SSN4 and First Name information in the SWVRD record and the SSN4 and First Name information in the BMV record. The discrepancies in the SSN4 and First Name information must be resolved by the board for all of the BMV-SWVRD matched pairs.
Section 1.10  Automatic Confirmation of Address Safeguard

As explained above, pursuant to the NVRA, a change of address submitted to the registrar of motor vehicles also serves as a change of address for voter registration purposes. This has the additional effect of changing that voter’s status from “active-confirmation” to “active-active,” and stopping the four-year clock toward cancellation if the voter previously received a confirmation card. Though not addressed by the NVRA, if an elector’s interaction with the BMV can serve to update automatically their voter registration address, it follows that an elector’s interaction with the BMV also can serve to confirm automatically the elector’s registration address.

The Automatic Confirmation of Address Safeguard seeks to exclude from Ohio’s general program of voter list maintenance a voter who might have moved and needs to update their voter registration but whose interaction with the BMV confirms the voter’s current voter registration address.

Pursuant to this safeguard, each county board of elections receives a monthly list of voters who have appeared at the BMV to apply for, update, or renew a driver license or state identification card and did not change their residential address with the BMV. The monthly list is posted on the BOE Portal on the right-hand side of the screen under “Confirmation Safeguard.” Each month’s list includes those voters (and their identifying information) who have appeared at the BMV during the previous month to apply for, update, or renew a driver license or state identification card and did not change their residential address with the BMV. The board must log on to the BOE Portal, retrieve, and review its county’s list each month. The board must compare and verify the information provided on the list for each voter with the information for that voter in the county voter registration system before making any updates to the voter’s record.

If any voter appears on the Confirmation Safeguard list and is in “active-confirmation” status pursuant to any year’s general voter records maintenance program, the board must compare and verify the information provided for that voter with the information for that voter in the county voter registration system. If the board determines that the information for the voter comports, the board must reset that voter to “active-active” status. The date of voter activity for the voter’s record is the date that appears on the list with the voter’s information under either “BMV_PERSON_RECORD_CHANGE_DATE” or “BMV_DRIVER_RECORD_CHANGE_DATE” – whichever date is later. The fact that the voter appeared at the BMV on this date and did not change their address serves as automatic confirmation that this voter still resides at the same address.
NAME CHANGES

If a voter legally changes their name, the voter must update their voter registration to reflect the name change. The voter can use a voter registration form for this purpose. The voter must submit the voter registration form with their change of name no later than the deadline for voter registration prior to the next election at which the voter intends to vote.

A voter who changes their name and fails to update their registration may be eligible to cast a regular ballot if that voter presents one of the following to the precinct election officials on Election Day and completes and signs Secretary of State Form 10-L:

1. Court order;
2. Marriage license; or
3. Proof of legal name change that includes both the voter’s former and current names.47

A voter who changes their name, fails to update their registration by the deadline, and does not provide proof of the name change on Election Day must cast a provisional ballot.

Please note that a voter who changes their name, moves outside of their precinct, and fails to update their voter registration by the deadline must cast a provisional ballot at the voter’s assigned polling location on Election Day or at the board office or other location designated for in-person absentee voting prior to the election.48

ADDRESS

1. Change of Address (Within the Precinct)

A voter who moves within their current precinct may update their voter registration at any time using a voter registration form or the Secretary of State’s Online Voter Registration System. If an update is made after the deadline for voter registration before an election, the voter will vote a regular ballot at their regular polling location by completing a voter registration form at the voter’s current polling location for that precinct.49

47 R.C. 3503.16(B)(1)(b).
48 R.C. 3503.16(B)(2).
49 R.C. 3503.16(B)(1)(a).
2. **Change of Address (Within the County and Outside of the Precinct)**

A voter who moves from one precinct to another in the same county may update their voter registration at any time using a voter registration form or the Secretary of State’s Online Voter Registration System. If an update is made after the deadline for voter registration before an election:

   the voter may appear at the board of elections office, update their voter registration, and vote a provisional ballot; or the voter may go to their new polling location on Election Day, the board of elections office, or another site designated by the board, update their registration and vote a provisional ballot.50

3. **Change of Address (County-to-County)**

A voter who moves from one Ohio county to another may update their voter registration at any time using a voter registration form. If an update is made after the deadline for voter registration before an election, the voter:

   During the 28 days before Election Day, may appear at the board of elections office, update their voter registration and vote a provisional ballot; or

   On Election Day, may go to the office of the board of elections in the voter’s new county of residence, or another site designated by the board, update their registration and vote a provisional ballot.

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**Section 1.12  Cancellation of Registration**

**EFFECT OF PRIOR REGISTRATION**

If an elector applying for registration is already registered in another state or in another county within this state, the elector shall declare this fact to the registration officer and shall sign an authorization to cancel the previous registration on a form prescribed by the Secretary of State. A properly completed voter registration form qualifies as adequate authorization.

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50 R.C. 3503.16(B)(2)
The director of the board of elections shall mail all such authorizations to the board of elections or comparable agency of the proper state and county. Upon the receipt of this authorization from the forwarding county, the director of a board of elections in Ohio, upon a comparison of the elector’s signature with the elector’s signature as it appears on the registration files, shall remove the elector’s registration from the files, and place it with the cancellation authorization in a separate file which shall be kept for a period of two calendar years. The board shall notify the elector at the present address as shown on the cancellation authorization that their registration has been canceled.\(^{51}\)

**UPON REQUEST**

A currently registered voter may cancel their registration at any time by filing a written request on a form prescribed by the Secretary of State’s office (Form 10-A). Prior to cancelling the registration, the board of elections should verify that the signature on the request and the signature on the voter registration card match.\(^{52}\)

**DEATH**

1. **Notice of Death of Registered Voter**

   A deceased person’s spouse, parent, or child, or the administrator of the elector’s estate, or executor of the elector’s will may file a certified copy of the elector’s death certificate with the county board of elections.\(^{53}\) Upon receipt, the board must cancel the deceased elector’s registration.

   The board then must send a written notice, on a form prescribed by the Secretary of State, to the address at which the deceased elector was registered, informing the recipient that the deceased elector’s registration has been canceled due to death, and advising the person that, if the cancellation was made in error, the elector may contact the board of elections to correct the error. If the elector’s registration is canceled in error, it shall be restored and treated as though it were never canceled.\(^{54}\) To assist in fulfilling this requirement, the Secretary of State has prescribed Form 255-C.

2. **Records Provided by the Ohio Department of Health**

   The Ohio Department of Health must send a report to the Secretary of State each month. The report must contain the names, Social Security numbers, dates of birth and death, and residential addresses of all persons over 18 years of age who have died within Ohio or another state during the preceding month. If the

\(^{51}\) R.C. 3503.33
\(^{52}\) R.C. 3503.21(A)(1)
\(^{53}\) R.C. 3503.21(A)(3)
\(^{54}\) R.C. 3503.21(F)
Department is notified of a death after sending its report, it must supplement the report not later than one month after learning of the death. Upon receipt and confirmation of the information from the Department of Health that an elector has died, the board of election must cancel the deceased elector’s registration.55

The board then must send a written notice, on a form prescribed by the Secretary of State (Form 255-C), to the address at which the deceased elector was registered, informing the recipient that the deceased elector’s registration has been canceled due to death, and informing the elector that, if the cancellation was made in error, the elector may contact the board of elections to correct the error. If the elector’s registration is canceled in error, it shall be restored and treated as though it were never canceled.56

To assist in fulfilling this requirement, the Secretary of State has prescribed Form 255-C.

3. State and Territorial Exchange of Vital Events (STEVE) Database

a. Overview

The National Voter Registration Act of 199357 (NVRA) requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of the death of the registrant."58

The Ohio Department of Health is a partner jurisdiction in the State and Territorial Exchange of Vital Events (STEVE) database. Use of STEVE will provide boards of elections with more timely and accurate information on Ohio electors who have died in Ohio or in a jurisdiction participating in STEVE. With the use of STEVE, the Ohio Department of Health will discontinue publishing decedent identifying information on its vital statistics webpage (accessed by county boards of elections from vitalsupport.odh.ohio.gov).

On a monthly basis, boards of elections will download a file from the SOS-hosted web portal. The file will contain information on decedents obtained from STEVE that are potential matches to electors in the SWVRD.

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55 R.C. 3503.18
56 R.C. 3503.21(F).
58 Section 8 of the NVRA; 52 U.S.C.A. §20507(A)(4)(a).
Use of STEVE provides a number of benefits, including 1) the number of jurisdictions providing decedent identifying information for Ohio residents who died out of state will increase, and 2) automatically, and on a monthly basis, decedent identifying information will be compared to the county records in the SWVRD and only records that are potential matches will be displayed for board staff to research and resolve.

Matching criteria are as follows (i.e., any of the below will result in a matched pair of records in the download file for the county):

<table>
<thead>
<tr>
<th>SSN4</th>
<th>DOB</th>
<th>LAST_NAME</th>
<th>FIRST_NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Blank in SWVRD</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Y</td>
<td>Blank in SWVRD</td>
<td>Blank in SWVRD</td>
<td>Blank in SWVRD</td>
</tr>
<tr>
<td>(i.e., 1/1/1800)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

Then, only if the STEVE record indicates the decedent is female:

<table>
<thead>
<tr>
<th>SSN4</th>
<th>DOB</th>
<th>LAST_NAME</th>
<th>FIRST_NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
</tbody>
</table>

b. Decedent Identifying Information Matched With Voter Identifying Information in County Download File

Following are the fields (in order of appearance) that will be contained within the county download file for STEVE-SWVRD matched records:

<table>
<thead>
<tr>
<th>STEVE (DECEDENT IDENTIFYING INFORMATION):</th>
<th>SWVRD (VOTER IDENTIFYING INFORMATION SUPPLIED BY THE COUNTY BOE TO THE SWVRD):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Name</td>
<td>Unique State Voter ID Number assigned by the SWVRD</td>
</tr>
<tr>
<td>First Name</td>
<td>Unique County Voter ID Number assigned by the county VRS</td>
</tr>
<tr>
<td>Middle Name</td>
<td>SWVRD Status</td>
</tr>
<tr>
<td>Suffix</td>
<td>Last Name</td>
</tr>
<tr>
<td>Last four digits of SSN</td>
<td>First Name</td>
</tr>
<tr>
<td>Birth date</td>
<td>Middle Name or Initial</td>
</tr>
<tr>
<td>Date of Death</td>
<td>Suffix</td>
</tr>
<tr>
<td>Male or Female (if supplied)</td>
<td>Birth date</td>
</tr>
</tbody>
</table>
When and How BOEs Must Download SWVRD Records that Have Been Matched with STEVE Records.

No less frequently than once per month, boards of elections must download their file of decedent identifying information matched to county records in the SWVRD and promptly process every record in the file. The board has been assigned a user name and password to log into the SOS system.

Once the board has logged into the SOS system, a link to the board’s file will display. The board should download the file by clicking on the link, and naming and saving the file in an appropriate directory and folder on its computer. Also displayed for the board is a list entitled “Processed.” After a board has downloaded its file of decedent identifying information, the file will automatically move into the “Processed” list where the board can re-access files that it has already downloaded.

How to Process the SWVRD Records that Have Been Matched with STEVE Data and Mandatory Updates to the Voter Registration Database (within 10 days of receipt)

Within 10 days of downloading its STEVE-SWVRD matched records, a county board of elections shall use the information provided from STEVE to confirm whether a voter in its county is deceased. It is important to keep in mind that a match between a record from STEVE and a record from the SWVRD does not guarantee that the records are for the same person. Board staff must carefully examine each pair of matched records and compare other identifying information from each source, STEVE and the SWVRD, such as middle name or initial, suffix, and address. If board staff is able to confirm that the voter is deceased using the information supplied, the board shall cancel the voter’s registration.
e. Notice

When a board cancels an elector’s registration as a result of data received through STEVE, the board must send a written notice, on a form prescribed by the Secretary of State (Form 255-C), to the address at which the deceased elector was registered, informing the recipient that the deceased elector’s registration has been canceled due to death, and informing the elector that, if the cancellation was made in error, the elector may contact the board of elections to correct the error. If the elector’s registration is canceled in error, it shall be restored and treated as though it were never canceled.59

To assist in fulfilling this requirement, the Secretary of State has prescribed Form 255-C.

INCARCERATION ON FELONY CONVICTION

An elector who has been convicted of a felony and incarcerated is not qualified to be an Ohio elector during their period of incarceration.60 At least once each month, the clerk of the court of common pleas of each county must file with the board of elections the names and residence addresses of all persons who have been convicted during the previous month of crimes that would disfranchise such persons under existing laws of the state.61 Accordingly, the list should include only those names of persons who both have been convicted and incarcerated.

Reports of conviction of crimes under the laws of the United States that disfranchise an elector and that are provided to the Secretary of State’s office by any United States attorney. The Secretary of State’s office forwards the information to the appropriate board of elections for cancellation.

Upon receiving notice that an elector has been convicted of a felony and incarcerated as a result of conviction, the board must cancel the elector’s registration and send a notice, by forwardable mail, on a form prescribed by the Secretary of State informing the elector of the date and reason for the cancellation. If the board of elections finds that the elector was cancelled in error, the board of elections shall restore the elector’s registration as if it had not been cancelled.62 The elector may be eligible to re-register to vote after their period of incarceration has expired.

59 R.C. 3503.21(F).
60 R.C. 2961.01.
61 R.C. 3503.18(C).
62 R.C. 3503.18(D).
Any questions regarding the list provided by the clerk of courts should be directed to the clerk of courts. Questions regarding specific offenses or what constitutes “incarceration” should be directed to the Board’s legal counsel, the prosecuting attorney.

**DETERMINATION OF INCOMPETENCY BY PROBATE COURT**

At least once each month, each probate judge must file with the board of elections the names and residence addresses of all persons over 18 years of age who have been adjudicated incompetent for the purpose of voting, as provided in section 5122.301 of the Revised Code.63

The determination of a physician or other medical professional, caretaker, or family member or the delegation or assignment of certain duties under a power of attorney is insufficient basis alone for a board of elections to cancel a voter’s registration for incompetency. A probate court must adjudicate or judge a person incompetent specifically for the purposes of voting in order for a board to cancel a voter’s registration for this reason.

The board must begin a process to cancel the voter registration of electors that the probate judge filed as adjudicated incompetent.64 Prior to cancelling the voter’s registration, the board of elections must send written notice on a form prescribed by the Secretary of State, by certified mail, return receipt requested, to the voter at the address on file with the board of elections. The notice must advise the voter that their name appears on the list provided by the probate judge, and, if the voter appears on that list in error, the voter must contact the probate court to resolve the issue. Secretary of State Form 255-F has been prescribed for this purpose.

Please note that voter’s registration may be cancelled as a result of the voter’s appearance on the list from the probate judge within 30 days prior to any election.

63 R.C. 3503.18(B)
64 R.C. 3503.18(D)
UNIFORM AND NONDISCRIMINATORY VOTER RECORDS MAINTENANCE

GENERALLY

The voter records maintenance program, generally, is a requirement of the National Voter Registration Act of 1993 (NVRA), commonly referred to as the “motor voter law.” The purposes of the NVRA are to increase the number of voter registrations for eligible citizens, to enhance the participation of eligible citizens in the voter process, to protect the integrity of the electoral process, and to ensure that accurate and current voter registration rolls are maintained. State law requires local election officials to conduct the state’s general voter records maintenance program every year. County boards of elections also are required to conduct the supplemental process every year.

TWO PARTS

There are two parts of the general voter records maintenance program of Ohio’s implementation of the NVRA:

1. The National Change of Address Process (NCOA), which is triggered when a voter record appears in the United States Postal Service (USPS) NCOA database indicating that the voter associated with that record likely has moved since the records were last compared, and thus may need to update their voter registration to the current voting residence address. Under state law, the Secretary of State matches voter records in the Statewide Voter Registration Database (SWVRD) against the NCOA database to compile the data for the NCOA process.

2. The Supplemental Process, which is triggered by a voter’s inactivity during a fixed period of time, generally two years (with inactivity determined by the absence of a voter initiated activity such as voting or the filing of a voter registration form). This second component is designated the “supplemental process,” because it seeks to identify electors whose lack of voter initiated activity indicates they may have moved, even though their names did not appear as a part of the NCOA process. Under state law, county boards of elections use data points (e.g., voting history) in their local County Voter Registration Database (CVRD) to compile the data for the supplemental process.

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67 R.C. 3503.31(D).
68 R.C. 3503.21.
This uniform and nondiscriminatory program has been designed to help ensure that accurate and current voter registration rolls are maintained, that voters who likely have moved are proactively contacted and given the opportunity to update their voter registration with their proper county board of elections, and to accurately identify and cancel the voter registrations of individuals who are no longer qualified electors under the law after applicable notice.

**INSTRUCTIONS FOR CONDUCTING ISSUED ANNUALLY**

Each year, following the primary election, the Secretary of State’s office will issue detailed instructions to boards of elections on conducting the NCOA and supplemental process. The instructions will outline what must be contained within the confirmation notice and how to process returned confirmation notices.

Each board is required to conduct the process within a specified timeframe and certify that it has completed the process.

**COMPLETION OF MAINTENANCE**

Before the date on which a voter’s registration is scheduled to be cancelled pursuant to the voter records maintenance program (i.e., the NCOA and supplemental processes), the board of elections shall send a notice, by forwardable mail, on a form prescribed by the Secretary of State. The notice will inform the voter of the date on which the voter’s registration is scheduled to be cancelled and the reason for the cancellation (i.e., failure to respond to a confirmation card and the date on which the confirmation card was mailed). If the voter replies to the notice updating or confirming the voter’s address before the date of cancellation, the voter’s registration shall not be cancelled.

It is important for each board to complete the voter records maintenance program. Because a voter’s registration cannot be cancelled within 90 days of a federal election (pursuant either to the NCOA or supplemental process), there is a finite window of time that records may be cancelled. Therefore, it is vital that each board track and calendar when its voter records must be cancelled.

A board should never complete the maintenance program and cancel an elector’s registration within 30 days of an election.

Please see section 1.16 on public records for list maintenance.

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Section 1.13 Publication of Voter Lists

GENERALLY

Each board of elections must update the information contained on its official voter registration lists on a regular, routine basis. Depending on the volume of new registration forms, updates to current registrations, and cancellations received, daily data entry may be required to maintain an accurate and up-to-date list.

PRIOR TO AN ELECTION

Fourteen days before an election, the board of elections must prepare from the statewide voter registration database established under section 3503.15 of the Revised Code a complete and official registration list for each precinct. The list must contain the names, addresses, and political party whose ballot the elector voted in the most recent primary election within the current year and the immediately preceding two calendar years, of all qualified registered voters in the precinct. All the names, insofar as practicable, must be arranged in alphabetical order. The lists may be prepared either in sheet form on one side of the paper or in electronic form, at the discretion of the board. Each precinct list shall be headed “Register of Voters,” and under the heading must be indicated the district or ward and precinct.

The names of the members of the board and the name of the director shall be attached to the precinct lists. A sufficient number of such lists must be provided for distribution to the candidates, political parties, or organized groups that apply for them. The board shall have each precinct list available at the board for viewing by the public during normal business hours. The board must ensure that, by the opening of the polls on the day of a general or primary election, each precinct has a paper copy of the registration list of voters in that precinct.70

DAY OF ELECTION

On the day of a general or primary election, precinct election officials must do both of the following:

1. By the time the polls open, conspicuously post and display at the polling location one copy of the registration list of voters in that precinct in an area of the polling location that is easily accessible;

2. At 11 a.m. and 4 p.m., place a mark, on the official registration list posted at the polling location, before the name of those registered voters who have voted.71

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70 R.C. 3503.23(A)
71 R.C. 3503.23(B)
CORRECTION OF REGISTRATION LIST

IDENTIFIED BY BOARD OF ELECTIONS

From time to time, a board of elections may discover that it has made an error that affects a voter registration record (e.g., in the data entry process, the board misspells the voter’s name, enters an incorrect date of birth, or transposes the voter’s residential address, etc.).

In such instances, it is incumbent upon the board of elections to promptly correct the error.

IDENTIFIED BY AFFECTED ELECTOR

The board may correct all errors occurring in the registration of electors when it finds that the errors subject to corrections were not of fraudulent intent. Specifically, when by mistake, a qualified elector has caused them to be registered in a precinct which was not that their place of residence, the board of elections, on full and satisfactory proof that such error was committed by mistake, may, on the voter’s personal application and proof of the voter’s true residence, correct that voter’s registration form.72

IDENTIFIED BY ANOTHER ELECTOR

A qualified elector of the county may file an application for correction or challenge of another elector’s voter registration at the office of the board of elections. Additional information on the challenge process and deadlines is contained in Section 1.15.

Section 1.14  Statewide Voter Registration System

DUPLICATE RESOLUTION

All county boards of election must keep their duplicate levels to .030 percent on a rolling monthly basis.

Additionally, when a board of elections prints its Election Day precinct lists,73 it is vitally important to have local and statewide voter registration lists as accurate as possible. The Secretary of State expects all counties to have their duplicate numbers at 0 percent by the 14th day prior to an election.

This level of duplicate management will allow for a more accurate voter file for Election Day.

72 R.C. 3503.30
73 R.C. 3503.23
VOTER HISTORY

All boards must upload voter history for all state elections to the Statewide Voter Registration Database (SWVRD) no later than 30 days after the completion of the county’s official canvass and recounts. Counties with more than 100,000 registered voters must contact the Elections Division to schedule their upload during that timeframe. For purposes of assigning voter history, a voter record should be marked as having voted only if any of the following are true:

- The voter signed the signature poll book on Election Day;
- The voter timely returned the identification envelope purporting to contain the voter’s marked absentee ballot (including UOCAVA and FWAB), regardless of whether the ballot is eligible to be counted;
- The voter was issued an absentee ballot in-person during the period for in-person absentee voting; or
- The voter is an eligible elector of the state of Ohio and cast a provisional ballot, regardless of whether the ballot is eligible to be counted.

PARTY AFFILIATION

Under Ohio law, an elector affiliates with a political party by voting in that party’s primary election. An elector is considered to be a member of a political party if they voted in that party’s primary election within the preceding two calendar years, or if they did not vote in any other party’s primary election within the preceding two calendar years.74

For purposes of re-calculating a voter’s party affiliation in the county voter registration system, each board of elections must program its county voter registration system to reflect party affiliation using the examples that follow:75

- Voted D in 2018 primary
  - Voted issues only (or non-partisan primary) in 2017 primary
  - Voted D or R in 2016 primary
    Elector’s affiliation is D

- Voted R in 2018 primary
  - Voted D or R in 2017 partisan primary
    Elector’s affiliation is R

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74 R.C. 3513.05, ¶77
75 Please note that the use of specific political parties and years in these examples is for demonstration purposes only. Any major political party (Democratic and Republican) or recognized minor political party appearing in any of these examples can be interchanged with any other political party based on the ballot selected by the voter. Likewise, the years appearing in these examples are for explanatory purposes only. Questions regarding the determination of an elector’s party affiliation may be directed to the Elections Division of the Secretary of State’s office.
Voted D in 2018 primary
   No primary held in 2017
   Voted D or R in 2016 primary
   *Elector’s affiliation is D*

Voted issues-only or did not vote in 2018 primary
   Voted issues-only (or non-partisan primary) in 2017 primary
   Voted D in 2016 primary
   *Elector’s affiliation is D*

Voted issues-only or did not vote in 2018 primary
   Voted R in 2017 partisan primary
   *Elector’s affiliation is R*

Voted issues-only or did not vote in 2018 primary
   No primary held in 2017
   Voted D in 2016 primary
   *Elector’s affiliation is D*

Voted issues-only or did not vote in 2018 primary
   No primary held in 2017
   Voted issues-only or did not vote in 2016 primary
   *Elector is unaffiliated*

Voted issues-only or did not vote in 2018 primary
   Voted issues-only (or non-partisan primary) in 2017 primary
   Voted issues-only or did not vote in 2016 primary
   *Elector is unaffiliated*

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**Section 1.15  Challenge of Right to Vote**

**CHALLENGES FILED PURSUANT TO R.C. 3503.24**

A qualified elector of the county may file an application for correction or challenge at the office of the board of elections. A challenger must 1) use Secretary of State Form 257, 2) file the application or challenge no later than 30 days before an election, 3) state the reasons for the application or challenge, and 4) sign under the penalty of election falsification.

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76 R.C. 3503.24(A)
77 R.C. 3503.03.24(A)
DETERMINE WHETHER A HEARING IS WARRANTED

The director and deputy director must complete an initial review to determine that a facially sufficient application or challenge has been filed by initially addressing the following questions:

☐ **Was the application or challenge filed under penalty of election falsification using Secretary of State Form 257?** If the person did not file the challenge under penalty of election falsification using Form 257, the challenge is invalid and cannot proceed.

☐ **Is the person who filed the application for challenge a qualified elector of the county?** The director and deputy director must review the board’s records to determine whether the person who has filed is a qualified elector of the county. If the director and deputy director determine that the person submitting the application or challenge is not a qualified elector of the county, the challenge is invalid and cannot proceed. Any disagreement between the director and deputy director must be resolved by a vote of the Board.

☐ **Does the challenge state sufficient reasons for the application for challenge?** The director and deputy director must complete an initial review of the reasons for the application or challenge as filed on Form 257 by considering whether the party filing the challenge has alleged sufficient information to sustain a successful challenge. As a part of this administrative process, the director and deputy director will review the face of the document as filed. If the director and deputy director determine that, even if proven to be true, the reasons alleged would not be sufficient to grant the challenge, the challenge is insufficient and cannot proceed. Any disagreement between the director and deputy director must be resolved by a vote of the Board.

**Note:** The determination that a challenge is facially valid and sufficient does not have any bearing on the ultimate merits of the challenge hearing.

SCHEDULE A HEARING

If a filing has not been found insufficient as described in above, then the director must promptly set a time and date for a hearing before the board. The hearing must be held not later than 10 days after the board receives the application or challenge.79

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78 Where the board only has a Director, the Director and the Chairperson will follow these steps.
79 R.C. 3503.24(I).
NOTICE FOR A HEARING

The board must provide notice to the person challenged that a hearing has been scheduled. The notice must inform the person challenged of the date and time for the hearing, of the person’s right to appear and testify, call witnesses and be represented by counsel.

The person filing the challenge must also be provided with notice as to the date and time of the hearing.

All notices must be sent by first class mail no later than six days prior to the scheduled hearing.

CHALLENGE PROCESS, HEARING, AND DECISION

In preparation for the hearing, the board must issue subpoenas to witnesses to appear and testify before the board at the hearing at the request of either party or any member of the board. All witnesses must testify under oath.

The board must reach a decision on all applications and challenges immediately following the hearing. If the board decides that a person’s name should not be on the registration list, the person’s name must be removed from the list. If the notice sent by the board is not returned undeliverable and the person challenged did not appear for the hearing, the board must provide notice to the person cancelled via mail.

If the board decides that a person’s name should appear on the registration list, the person’s name must be added to or remain on the list.

GENERAL CONSIDERATIONS

RETURN MAIL OR CHANGE OF ADDRESS

The return of mail, sent by an elections official or any other individual, as undeliverable, unable to forward, or change of address on file (NCOA) alone is insufficient to grant a challenge under section 3503.24 of the Revised Code.

FORECLOSURE

Evidence of a foreclosure action alone is insufficient to grant a challenge under section 3503.24 of the Revised Code.
CONFIRMATION STATUS

The fact that a voter’s status is recorded in the Statewide Voter Registration Database as “active-confirmation” or “inactive” alone is insufficient ground to grant a challenge under section 3503.24 of the Revised Code. An “active-confirmation” or “inactive” voter is treated the same as an “active” voter for voting purposes.

Section 1.16 Public Records

REGISTRATION FORMS AND LISTS

Except as otherwise provided by state or federal law, the registration records must be open to public inspection at all times when the office of the board is open for business, under such regulations as the board adopts, provided that no person must be permitted to inspect such records except in the presence of an employee of the board.85

All registration forms and lists, when not in official use by the registrars or judges of elections, must be in the possession of the board of elections. Names and addresses of electors may be copied from the registration lists only in the office of the board when it is open for business; but no such copying shall be permitted during the period of time commencing 21 days before an election and ending on the eleventh day after an election if such copying will, in the opinion of the board, interfere with the necessary work of the board. The board must keep in convenient form and available for public inspection a correct set of the registration lists of all precincts in the county.86

VOTER REGISTRATION LIST MAINTENANCE (NCOA AND SUPPLEMENTAL PROCESS) RECORDS

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.87

85 R.C. 3503.13
86 R.C. 3503.26(A)
87 52 U.S.C.A. §20507(i); R.C. 3503.26(B); CBE-45A & CBE-46, Secretary of State Retention Schedule.
RECORDS RETENTION CHART

The retention chart prescribed by Secretary of State’s office specifies the length of time that a board of elections must retain records related to voter registration (i.e., forms, lists of electors, etc.). Questions regarding the retention chart should be directed to the Elections Division of the Secretary of State’s office.

Questions regarding a request for public records or how to retain public records should be directed to the board’s legal counsel, the county prosecuting attorney.
Chapter 4: BALLOTS

Directive 2019-27

Section 1.01 General Guidelines

FORMAT

1. Headings must be printed in display Arial, Roman, or similar font. The font used for headings is the font that you will use throughout the ballot. Sans-serif fonts are easier to read; therefore, Arial or a similar font is preferred.

2. A 2-point rule must separate columns from each other.

3. The date of the election and the facsimile signatures of the members of the board of elections must be placed at the end of the ballot.

4. All ballots must be printed with black ink.

5. The names of all candidates for a single office must be in the same column of a paper ballot, or on the same screen of a DRE, so that the voter does not have to go to the next column or advance to the next screen to view all of the eligible candidates for that contest.

Because language for a ballot question or issue may be longer than is available in a single column, it may be necessary to wrap the language from one column to the next. The “Yes/No” ovals/buttons should never stand alone in a column without any portion of the text preceding them in that column. If your voting system is capable of combining more than one column to create a wider column to avoid wrapping text, you may do so. As a general rule, you should do your best to avoid wrapping text for a ballot question or issue. In counties where a language in addition to English is required to appear on the ballot, the presentation of the additional language version should follow, wrapped as may be necessary, immediately after the presentation of the English version, followed by the space for the voter to mark their vote. The additional language translation should not be presented in a separate column by itself.

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1 R.C. 3505.08(B)
2 R.C. 3505.08(A)
3 R.C. 3505.08(A)
4 R.C. 3505.08(A)
VOTER INSTRUCTIONS

Each ballot must contain instructions advising the voter how to mark the ballot. The instructions should be in upper and lower case of a minimum of 12-point type. Each board must provide clear instructions appropriate for its voting system(s), as follows:

☐ To vote: completely darken the oval (●) to the left of your choice.

☐ Note the permitted number of choices directly below the title of each candidate office. Do not mark the ballot for more choices than allowed.

☐ If you mark the ballot for more choices than permitted, that contest or question will not be counted.

☐ To vote for a write-in candidate: completely darken the oval (●) to the left of the blank line and write in the candidate’s name. Only votes cast for candidates who filed as write-in candidates can be counted.

☐ Do not write in a candidate’s name if that person’s name already is printed on the ballot for that same contest.

☐ If you make a mistake or want to change your vote: return your ballot to an election official and get a new ballot. You may ask for a new ballot up to two times.

For DREs, the board must provide DRE-specific voting instructions, substantially as follows:

☐ To vote for the candidate of your choice: touch that person’s name. A check-mark will appear indicating your selection.

☐ To vote for a write-in candidate: touch the area labeled “Write-in.” Letters will appear on the screen. Spell the name of the candidate of your choice by touching the letters.

☐ Do not type in a candidate’s name if that person’s name already is listed on the ballot for that same contest.

☐ If you make a mistake or want to change your vote: first touch the choice you no longer want. Then touch the choice you do want.

Instructions that are not consecutive steps, such as those listed above, should not be numbered. Differentiate between them by making each an individual paragraph or set them apart with bullets, as shown above.

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5 R.C. 3505.12; R.C. 3506.08; R.C. 3506.09.
If the system is not capable of printing instructions for paper ballots that differ from those that appear on the DRE screen, the board must do one of the following:

1. Program the instructions for an optical scan ballot and post DRE-specific instructions inside each DRE booth; or
2. Program the instructions for a DRE and work with the board’s optical scan ballot printing vendor to remove the pre-populated DRE instructions and replace them with the optical scan ballot instructions above.

BALLOT STUBS

Unless the Secretary of State’s office has granted permission for a board to use a one-stub ballot, each optical scan ballot must have attached at the top or bottom two stubs, each the width of the ballot and not less than one-half inch in length. Perforated lines must separate the stubs from the ballot and each other. The top stub shall be known as “Stub B” and must have printed on its face “Stub B.” The other stub shall be known as “Stub A” and must have printed on its face “Stub A.”

Each stub also must have printed on its face “Consecutive Number ___. “ Each ballot provided for use in each precinct must be numbered consecutively, beginning with the number 1, and must print the same ballot number upon both of the stubs attached to the ballot.

PAGE NUMBERS

Each side of a sheet of paper is considered a page. Every page should be labeled “Page X of Y” so the voter knows both the order of the ballot and how many pages remain.

**Example:** Page 2 of 2 indicates the “back” of a single sheet ballot.

**Example:** Page 3 of 4 indicates the “front” of a two sheet ballot.

For DREs, label each screen “Screen X of Y” for the same reason when technologically feasible.

PARTISAN PRIMARY ELECTION ONLY

Each board of elections is required to provide separate ballots for each political party listing candidates for nomination or election in a primary election.\(^7\)

Separate primary election ballots shall be provided for each political party having a candidate for nomination or election. Such ballots shall have printed at the top and below the stubs “Official (name of party) Primary Ballot.” Boards are not required to

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6 R.C. 3505.08(A); R.C. 3506.08; R.C. 3506.09
7 R.C. 3513.13
provide ballots of different colors for each political party nominating candidates at the primary election. However, a board of elections may choose, to provide color-differentiated ballots (tinted headings or color lines/bars across the top or along the side).

Primary election ballots for major parties (Democratic and Republican) shall list all offices and positions for which valid declarations of candidacy could have been filed. In the event that no valid declaration of candidacy is filed (including a declaration of intent to be a write-in candidate) then the board shall print “No Valid Petition Filed” in the space where a candidate’s name or a space for write-in would otherwise appear.8

Primary election ballots for minor political parties shall list only the offices and positions for which valid declarations of candidacy have been filed and shall contain only the names of persons whose declarations of candidacy have been determined to be valid for those offices and positions.

The names of all candidates who have not withdrawn,9 must be arranged, rotated, and printed upon the ballot in accordance with the provisions of Ohio Revised Code Chapters 3505, 3506, and 3513.

17-YEAR-OLD VOTERS (PRIMARY ELECTION ONLY)10

Ohio law permits 17-year-old electors who will be 18 years of age on or before the date of the general election to vote solely on the nomination of candidates seeking to be elected at that election and, in a presidential primary election, for Presidential convention delegates.

Voters who are 17 years old as of the date of the primary election are not permitted to vote on any question and/or issue.

FORM OF BALLOT FOR OPTICAL SCAN (17-YEAR-OLD VOTER)

Boards of elections may either:

1. Provide a unique optical scan ballot that contains only the offices with candidates to be nominated (i.e., without the state and central committee contests [in the appropriate years] and without the questions and issues) and allow the 17-year-old voter to place it into the precinct count optical scanner; or

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8 As required by R.C. 3513.14, when candidates for the office of delegate and alternate to the national and state conventions and member of the state central committee are elected at the primary election, no write-in votes are accepted and no blank space shall be left on the ballot after the names of the candidates for such office.

9 R.C. 3513.30.

10 Schwerdtfeger v. Husted, Franklin C.P. No. 16 CV 002346 (March 11, 2016); R.C. 3503.01; R.C. 3503.011; R.C. 3503.07.
2. Provide a regular optical scan ballot, instructions on the proper method for marking and returning the ballot, and an envelope into which the voted ballot must be placed and segregated from the other regular ballots. After the polls close, the board of elections will review the ballot contained in the envelope to ensure that no vote for which the 17-year-old voter is ineligible to cast is counted. If the ballot contains marks for contests and/or questions for which the 17-year-old voter is ineligible, the ballot must be remade consistent with the instruction provided in Chapter 8 Canvassing the Votes.

FORM OF BALLOT OF DRE (17-YEAR-OLD VOTER)

Boards of elections may either:

1. Provide a DRE ballot that contains the offices for which the 17-year-old voter is eligible to vote; or
2. Provide a central count, optical scan ballot and follow the instructions outlined in 2 above.

ELIMINATION OF PARTISAN PRIMARY ELECTIONS IN ODD-NUMBERED YEARS

DETERMINING WHETHER A PARTISAN PRIMARY ELECTION IS ELIMINATED BY LAW

Although partisan primary elections are held in even-numbered years for every office for which candidates may be nominated, that is not the case in odd-numbered years. Partisan primary elections held in statutory municipalities in odd-numbered years are subject to the restrictions of R.C. 3513.02, which provides if and when nominations for certain offices will be submitted to the voters. No partisan primary election will be held in an odd-numbered year in a statutory municipality that nominates municipal office holders by partisan primary election if either of the following circumstances occurs:

1. No valid declaration of candidacy is filed for nomination as a candidate of a political party for election to any of the offices to be voted for at the general election to be held in such year; or
2. The number of persons filing such declarations of candidacy for nominations as candidates of one political party for election to such offices does not exceed, as to any such office, the number of candidates which such political party is entitled to nominate as its candidates for election to such office.

11 R.C. 3513.02
DUTIES OF ELECTION OFFICIALS WHEN PRIMARY ELECTION ELIMINATED

If no partisan primary election is held in a municipality, the board of elections that would have conducted the primary election, declared the results, and issued certificates of nomination shall:

1. Declare to be nominated as of the ninetieth day before the primary election each person who would have been entitled to receive a certificate of nomination if the primary election had been held,
2. Issue appropriate certificates of nomination to each of them, and
3. Certify their names to the proper election officials in the order that their names may be printed on the official ballots provided for use in the succeeding general election in the same manner as though such primary election had been held and such persons had been nominated at such election.

NO WRITE-IN CANDIDATES IF PARTISAN PRIMARY ELECTION ELIMINATED

A board of elections shall not accept a declaration of intent to be a write-in candidate for any office for which the primary election has been eliminated pursuant to R.C. 3513.02.

Section 1.02 Candidate Guidelines

OFFICE HEADINGS

OFFICE TITLE

Each office title must be printed in 12-point boldface upper and lower case type; a screened (lightly shaded) heading should be used. The office title must be flush left.

NUMBER TO BE ELECTED

For all offices for which only one person may be nominated or elected, immediately below the office title, print “(Vote for not more than 1)” in a minimum point size of 10-point boldface upper and lower case type. The “vote for” wording should be flush left within the shaded title area directly beneath the title of the office or, if applicable, the term commencing date or the unexpired term ending date.

For offices for which more than one person may be nominated or elected, immediately below the office title, print “(Vote for not more than ___)” in a minimum point size of 10-point boldface upper and lower case type, the blank space to be filled with the number

12 R.C. 3505.08(A); R.C. 3505.08(B)
of persons who may be lawfully elected to the office. For example: “(Vote for not more than 2).” The “vote for” wording should be flush left within the shaded title area directly beneath the title of the office or, if applicable, the full term commencing date or the unexpired term ending date.

**FULL OR UNEXPIRED TERM**

For judicial offices, the designation of “Full Term Commencing,” followed by the appropriate date, must appear on the ballot. If for an unexpired term, the designation “Unexpired Term Ending,” followed by the term ending date of the office, must appear on the ballot.

The judicial offices for that court should appear in chronological order by the date the terms commence, followed by unexpired terms in descending order based on the ending date of the term.

For all other offices, the designation of term is necessary only when there is an unexpired term to elect (e.g., if a candidate is running for an unexpired term for mayor) and where two or more full terms for the office are to appear on the ballot (e.g., municipal court judge), in which case the offices should appear in chronological order by the date the terms commence. If there is both full and unexpired term for the same office, place the full term first followed by the unexpired term.

A 2-point rule must separate the title of the office from the names of the candidates for that office.

**CANDIDATE NAMES**

1. Names of candidates must be printed in a minimum of 12-point boldface upper and lower case type. The name of each candidate must be flush left, but the name should not extend into the voting channel or column.

2. In the event that no valid declaration of candidacy was filed (including a declaration of intent to be a write-in candidate) for an office, the board shall print “No Valid Petition Filed” in the space where a candidate’s name would otherwise appear.

3. A 4-point rule must separate the name of a candidate or joint candidates for the same office from the title of the office next appearing on the ballot.

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13 **R.C. 3505.04**
14 **R.C. 3505.08(A)**
15 **R.C. 3505.08(A); R.C. 3505.08(B)**

5. A write-in space must be provided on the ballot for every office for which the board of elections has received a valid declaration of intent to be a write-in candidate. If more than one person can be elected to an office, and more than one person filed a valid declaration of intent to be a write-in candidate, the board must provide a sufficient number of write-in spaces on the ballot for that office, but the number of write-in spaces cannot exceed the number of persons to be elected to that office.

**RESTRICTIONS**

1. **Nicknames**
   A candidate’s nickname may be printed on the ballot if the nickname is a natural derivative of the candidate’s legal name. However, quotation marks or parentheses cannot be printed on the ballot. For example, a candidate named William Smith may request that his name appear on the ballot as William Smith, Will Smith, Bill Smith, Billy Smith, but not William “Bill” Smith.

2. **Former names**
   Any former names that have been declared or submitted by a candidate must be printed on the ballot in parenthesis directly below the candidate’s current name. This requirement does not apply to a name change resulting from a marriage or divorce.

3. **Titles**
   Printing words, designations, or emblems descriptive of a candidate or the candidate’s political affiliation on the ballot, including titles such as “Dr.,” “Judge,” “Rev.,” etc., is prohibited.

4. **Same names**
   When two or more candidates for the same office have the same first and last names, contact the Secretary of State’s elections counsel.

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16 R.C. 3505.23; R.C. 3513.041
17 R.C. 3505.02
18 R.C. 3505.03
19 R.C. 3505.021
CANDIDATE’S POLITICAL PARTY

1. For all partisan contests, the name of the political party having nominated the candidate shall be printed in 10-point upper and lower case type and shall be separated from the name of the candidate by a 2-point blank space.

2. The name of the political party shall be flush with the name of the candidate.

3. No party designation shall appear under the name of an independent candidate except when the independent candidate makes a request at the time of filing their nominating petition to have the ballot designation “nonparty candidate” or “other-party candidate,” in which case the designation shall be printed as described above.

4. The designation “independent” shall not appear on the ballot.

5. No political party designation shall appear under the name of a candidate for nonpartisan office (e.g., Judge, Board of Education, etc.).

ROTATION OF CANDIDATES’ NAMES

The names of all candidates for an office must be arranged in alphabetical order in a group under the title of that office and must be rotated from one precinct to another, except when the number of candidates for a particular office is the same as the number of candidates to be elected to that office (i.e., uncontested races). The least common multiple of the number of names in each of the several groups of candidates determines the number of series to be printed.

For example: Four of the seven offices on the ballot have uncontested races. The remaining three offices (only one candidate to be elected to each particular office) have the following number of candidates printed on the ballot:

- **Office One** – two candidates
- **Office Two** – three candidates
- **Office Three** – four candidates

The least common multiple of this series of candidates is 12 (the smallest number possible that two, three, and four divide into evenly). Therefore, this series of candidates must rotate 12 times.

The board of elections must number all precincts in regular, serial sequence. In the first precinct, the names of the candidates in each group must be listed in alphabetical order based on the candidates’ last names. In each succeeding precinct, the name in each

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20 R.C. 3505.03; R.C. 3513.257
21 R.C. 3505.03; R.C. 3505.04
group which is listed first in the preceding precinct must be listed last, and the name of each candidate must be moved up one place.

**ROTATION ON ABSENTEE BALLOTS**

On absentee ballots, the rotation of names of all candidates for an office must be the same as the rotation of names as they appear on the voter’s Election Day precinct ballot.

*Note:* Boards of elections may not use the “absentee as a single precinct” method for tabulating and reporting absentee vote totals; the rotation on an absentee ballot must match the rotation on an Election Day ballot for the same precinct/style.

**Section 1.03 Questions & Issues**

Offices for which candidates may be elected are presented on the ballot first, followed by the questions and issues.

The certified form of the ballot must be used for all voting systems. The sample ballot provides the correct ballot format for various questions or issues that may appear on your local ballot.

**HEADINGS**

Immediately below the heading of each question or issue must be printed a brief title descriptive of each question or issue appearing on the ballot, such as “Proposed Bond Issue” or “Proposed Tax Levy.” Although not required by state law, numbering local questions and issues is a recommended practice.

**BALLOT LANGUAGE**

A minimum type size of 10-point must be used for all questions and issues. The ballot language need not contain the full text of the proposal to be voted upon. The board of elections may prepare a condensed text that properly describes each local question or issue appearing on the ballot. It is preferable that the purpose language be presented in upper and lower case type rather than in all capital letters.
In any case where condensed text is used, the full text of the proposed question or issue, together with the percentage of the affirmative votes necessary for passage as required by law, must be posted in each polling location in a visible location that is easily accessible to the voters.

Please review the appropriate sections of the Ohio Revised Code, local charter (if applicable), and the Ohio Ballot Questions and Issues Handbook provided by the Secretary of State’s office for ballot language and formats that may not appear on the certified ballot format.

**PERCENTAGE OF VOTES**\(^{25}\)

A brief statement of the percentage of affirmative votes necessary for passage must be on the ballot for each question and issue. The statement should be inserted in the space immediately below the title and name of entity requesting the submission of the question or issue. The percentage should be stated as follows: “A majority affirmative vote is necessary for passage” or such other brief statement as will be descriptive of the percentage of affirmative votes required for passage (e.g., “A 55 percent affirmative vote is necessary for passage”). Do not use the percent symbol “%.”

**Section 1.04  Proofs**

**PROOFING BALLOTS**

Each board of elections must thoroughly and promptly check every detail of its ballots, including but not limited to spelling, grammar and layout, upon receiving the ballot layouts or proofs from the vendor and/or printer. Either the director and deputy director, or board employees they designate, must proofread every candidate contest and ballot question or issue for every ballot style. They should also verify that candidate names are properly rotated.

After staff has proofed the ballots, the board members also should review and verify ballot layouts/proofs.

It is imperative that board personnel proof from original source material (e.g., the candidate’s petition or a document signed by the candidate to confirm the spelling of the candidate’s name, or the certification of an issue by the jurisdiction’s governing body, etc.), or a proofing master document that has been verified for accuracy against original source material.

It is a best practice, carried over from proofing set-type on a letterpress, to have one person read aloud what should be printed based upon the original source material.

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\(^{25}\) R.C. 3505.06(D)
while another person follows along on the proof provided by the printing vendor or generated by the central tabulating system to ensure that what is going to be printed is what should be printed. When proofing candidate names, speak the candidate’s name and then spell it aloud, letter by letter. When proofing candidate headings and ballot language, speak any numbers or dates one numeral at a time (e.g., “$1,000” would be read as “dollar-sign one comma zero zero zero”) and speak all punctuation or other symbols (e.g., “period of time, commencing” would be read as “period of time comma commencing”).

Each board also must proof the candidate contests and ballot questions and issues for each precinct split against its voter registration system to ensure that each voter is receiving all of the correct combination of offices and districts based on the voter’s residential address.

**POSTING PROOFS**

POSTING PROOFS

After a board of elections receives its ballot proofs, the board must do all the following:

1. **Notify the following individuals that the ballot proofs are available for inspection and correction:**
   - Chairperson of the local executive committee of each political party that is represented on the ballot by candidates; and
   - A designated representative for each group supporting and/or opposing a question or issue appearing on the ballot. If no such representative has been designated, the board may contact the treasurer whose name appears on the designation of treasurer, if any, filed on behalf of the group or committee.

Although current law does not require boards of elections to notify political subdivisions that have certified questions or issues to the ballot that the ballot proofs are available for inspection and correction, a board of elections should give those political subdivisions at least as much notice as must be given to groups supporting or opposing ballot issues.

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26 R.C. 3505.14

*Chapter 4: Ballots*
2. Post the ballot proofs for at least 24 hours in a publicly accessible place in the board office and include instructions for notifying the board of any needed or requested correction(s), after which board personnel must review and correct any error.

If a local correction is required at any stage of the proofing process prior to finalization and printing, the board must repeat the above notification and posting requirements and ensure that, in correcting the error, another part of the ballot was not inadvertently changed.

COPY OF ABSENTEE BALLOTS TO SECRETARY OF STATE

Each board of elections must have absentee ballots printed and ready for use 46 days before the election for Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters, and the day after the close of registration for non-UOCAVA voters. The board must have ballots ready 46 days before the election and must issue those ballots to any UOCAVA elector who, at that time, has submitted a valid application for absent voter's ballot under state law.

A copy of each absentee ballot style (including candidate contests and ballot questions and issues) must be sent to the Secretary of State’s office at least 46 days before the election. Email the ballots to the Elections Division at elections@OhioSoS.gov.

Section 1.05  Overlaps

MULTI-COUNTY DISTRICT PROOFS

For a multi-county district election, the board of the most populous county must notify all other boards in that district of the candidates or the ballot questions and issues appearing on the ballot for that district.

27 R.C. 3509.01; R.C. 3511.04.
28 42 U.S.C. 1973ff-1 (a)(8); R.C. 3509.01(B)(1); R.C. 3511.04(B).
29 R.C. 3505.01.
30 R.C. 3505.01(A)(2). Per R.C. 3505.071, the board of elections in the most populous county of a multi-county school district or transit authority must send a written notice to the board of elections in each less populous county of the district no later than 10 days after the date of the filing of the resolution or petition.
However, each board of a less populous county has the responsibility to find out and know what overlaps onto its ballots and seek out the information. Boards of elections in a multi-county district must follow the notification procedure detailed below:

1. Not later than the 70th day before the election, the board of the most populous county must send a written notice of the appropriate candidate names and political parties or designations (if applicable) and ballot language for the district questions or issues to the board of each less populous county within the multi-county district.

   The board of the most populous county must provide to the board of each less populous county in the district a receipt itemizing each candidate’s name and political party or designation and/or each ballot question or issue.

   Each board of a less populous county in a district must return the receipt to the board of the most populous county in the district, either confirming that the board of the less populous county received every candidate/question/issue itemized on the receipt, or identifying the itemized items it did not receive.

2. Not later than the 60th day before the election, the board of a less populous county must send a proof of its ballot containing the overlapping candidate contest or ballot question or issue to the board of the most populous county in the district.

   The board of the most populous county must review the proofs submitted by the board of the less populous county and verify that the candidate contests and ballot questions and issues as presented on the less populous county’s proof match those of the most populous county.

3. No later than the 58th day before the election, the board of the most populous county in the district must confirm, in writing, to the board of each less populous county in the district whether the submitted proofs are acceptable or need to be revised.

   Neither the board of the most populous county nor the board of a less populous county may print ballots or program voting machines until the board of the most populous county has approved the proofs from the less populous county.
4. The board of the most populous county of a multi-county district must immediately provide each board of a less populous county within the district a written notice, with receipt, of any candidate who dies or withdraws prior to Election Day, with instructions for the posting of a notice on the Election Day voting machines and to accompany all absentee ballots or the removal of that candidate’s name from the ballot and, if appropriate, substitution of a replacement candidate’s name.

**Note:** A board of elections must remove the name of any candidate who withdraws on or before the 70th day before an election. A board of elections will not remove the name of any candidate who withdraws after the 70th day before an election.\(^{31}\)

### Section 1.06 Bid Requirements\(^{32}\)

If the cost for printing ballots exceeds $25,000, the board must competitively bid the contract. The contract shall not be let until after five days’ notice published once in a newspaper of general circulation published in the county or upon notice given by mail by the board of elections, addressed to the responsible printing offices within the state. Each bid for such printing must be accompanied by a bond with at least two sureties, or a surety company, satisfactory to the board, in a sum double the amount of the bid, conditioned upon the faithful performance of the contract and for the payment as damages by such bidder to the board by reason of the failure of the bidder to complete the contract. No bid unaccompanied by such bond shall be considered by the board. The board may, however, waive the requirement that each bid be accompanied by a bond if the cost of the contract is $25,000 or less. The contract shall be awarded to the lowest responsible bidder. All ballots shall be printed within the state.

### Section 1.07 Ballot Quantities

Providing ballots is one of the most essential duties of a board of elections. It is not acceptable for a board to run out of ballots for an election. Likewise, it is unacceptable for a board, its director, or deputy director to delegate to any other person or entity the authority and responsibility for determining ballot quantities and machine allocation.

Each board of elections should take note of the contests on the ballot in each political subdivision to determine whether or not the board should supplement the minimum requirements of state law and this Chapter as it relates to the board’s provision of ballots and/or voting machines for the election.

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\(^{31}\) R.C. 3513.30(E).
\(^{32}\) R.C. 3505.13.
MINIMUM BALLOT QUANTITIES FOR PRECINCT-COUNT OPTICAL SCAN (PCOS) VOTING SYSTEMS

1. If a board of elections pre-prints the total stock of ballots to be used at a voting location on Election Day, the board must provide at least 1 percent more than the total number of voters registered in the precinct. In determining the number of registered voters, a board does not have to count electors who have failed to respond within 30 days to any confirmation notice. Be mindful of the proper allocation of this quantity across precinct splits.

2. If a board has chosen to provide ballots on demand at a voting location on Election Day, the board must provide for each precinct at least 5 percent more ballots than the total number of electors – regular and provisional – in that precinct who voted in the previous like election (e.g. the previous like election to the 2022 general election is the 2018 general election).

If precinct election officials request additional ballots, the board must provide those ballots in a timely manner so that all qualified electors in that precinct who wish to vote may do so. The board must have enough blank paper stock on hand to equal the difference between the statutory minimums of pre-printing and providing ballots on demand.

Note: When considering whether to pre-print fewer ballots and supplement with ballots on demand, the board must also consider whether or not its in-house printing capacity (including inventory of on-hand replacements for consumables) is sufficient to produce ballots on demand in the event that mass quantities of supplemental on demand ballots were required at the same time on Election Day. Be mindful of the proper allocation of this quantity across precinct splits.

33 R.C. 3505.11(A)
34 R.C. 3505.11(A)
35 R.C. 3505.11(B)(2)
3. **Provisional Ballots:** A board of elections must print and distribute to each precinct regular paper ballots and provisional ballot envelopes for use by provisional voters. The board must provide ballots and envelopes in the quantity of at least 5 percent more than the number of provisional ballots cast in that precinct at the previous like election. The number of ballots discussed in subsections A and B, above, must be increased by the number of provisional ballots estimated in this section, when determining the total number of ballots to be provided to a precinct. Be mindful of the proper allocation of these quantities across precinct splits and political parties.

4. The board of elections must vote in public session on the number of precinct count optical scanners to allocate and distribute to each precinct and/or polling location for use on Election Day. The board must hold a second vote in public session, no earlier than 30 days prior to the general election, to allow for an opportunity to reconsider the initial allocation made prior to the 90th day and determine if any real location is necessary.

### MINIMUM BALLOT QUANTITIES FOR DIRECT RECORDING ELECTRONIC VOTING SYSTEMS

1. Boards of elections using direct recording electronic (DRE) voting machines as their primary voting system on Election Day must deploy at least one DRE voting machine for every 175 registered voters in a precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine in the location. There must never be fewer than two DRE voting machines in any precinct or voting location except that in a presidential primary or general election in an even-numbered year, there must never be fewer than three. In determining the number of registered voters, a board does not have to count electors who did not respond within 30 days to any confirmation notice. It may also exclude from the count any registered voter who has requested an absent voter ballot (by mail or in person) as of the date the allocation decision is made by the board.

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36 This is a minimum requirement for preparedness, not a prediction for the number of provisional ballots expected to be cast.
37 R.C. 3501.11(B).
38 See Elections Administration Plans section in Chapter 15 of this manual.
The board of elections must vote in public session on the number of DREs to distribute and allocate to each precinct and/or polling location for use on Election Day. The board must hold a second vote in public session, no earlier than 30 days prior to the general election, to allow for an opportunity to reconsider the initial allocation made prior to the 90th day and determine if any reallocation is necessary.

2. Boards of elections must program on the encoder card or cards all ballot types to be provided in the precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine.

3. Boards of elections using DREs as their primary voting system on Election Day must provide backup paper ballots for a presidential primary election and general elections in even-numbered years. Providing back-up paper ballots is considered a best practice. Therefore, boards of elections using DREs as their primary voting system on Election Day should determine whether to print and distribute back-up paper ballots for all other elections. Boards of elections must provide sufficient supplies and equipment (e.g., paper for voter verified paper audit trail printers) so that voting may continue without undue delay resulting from missing or insufficient replacement supplies.

4. **Provisional Ballots:** A board of elections must print and distribute to each precinct regular paper ballots and provisional ballot envelopes for use by provisional voters. The board must provide ballots and envelopes in the quantity of at least 5 percent more than the number of provisional ballots cast in that precinct at the previous like election. Be mindful of the proper allocation of this quantity across precinct splits.

**MINIMUM ABSENTEE BALLOT QUANTITIES**

There is not a minimum quantity of absentee ballots required for printing in the same way as state law prescribes a minimum for Election Day ballots. It is considered a best practice to plan to have on hand at least 5 percent more ballots for use by absentee voters in the current election than were requested in the previous like election.

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39 R.C. 3501.11(B).
40 See Elections Administration Plans section in Chapter 15 of this manual.
41 This is a minimum requirement for preparedness, not a prediction for the number of provisional ballots expected to be cast in an election.
ADDITIONAL CONSIDERATIONS

When calculating the number of paper ballots to print, or DRE machines to deploy for any partisan primary election, the board of elections should consider the number of individuals who may switch parties from one election to the next in order to ensure a sufficient number of ballots for all parties with candidates for that election.

SEALED PRINTED PAPER BALLOTS

The board must make adequate provision for the inspection of the printing and rotation of names on the ballots. The selected printing vendor must seal the ballots securely in packages, one package for each precinct in the county and deliver them to the board at such time and place as the board may direct. The board, upon receiving such packages, must give a receipt for the ballots indicating the number of ballots in each package and the number of precincts in each case.

BACKUP OPTICAL SCAN BALLOTS

All boards of elections using DRE voting machines as their Election Day voting system must distribute backup optical scan ballots in the event of long lines and offer paper ballots to voters in the event of machine problems or breakdowns for presidential primary elections and general elections in even-numbered years. Although boards of elections are not required to give voters the “paper or plastic” choice between casting a ballot on the DRE or by using centrally counted optical scan ballots, it is acceptable for a board of elections to make the local decision to do so. If a board of elections permits a voter to cast a centrally counted optical scan ballot instead of voting on a DRE, it should do so for all elections, so as to not create voter confusion from one election to the next.
ESTABLISHING A WAIT TIME POLICY

County boards of elections are best suited to make the determination of what constitutes “long lines” based upon turnout in previous, similar elections, equipment allocation, availability and training of precinct election officials, and ballot length, in addition to other factors a board may choose to consider. To provide all voters and precinct election officials with consistent minimum standards, all boards of elections must establish a wait time policy for use in presidential primary elections and general elections in even-numbered years. When wait times reach the threshold established by the board’s wait time policy in any given precinct, precinct election officials must verbally announce the availability of centrally counted optical scan ballots to voters every half hour until the wait time is less than the board-established maximum wait time. Boards must ensure that this required policy is communicated to voting location manager and other precinct election officials before Election Day.

DETERMINING MINIMUM NUMBER OF PAPER BALLOTS

Boards must determine the minimum number of backup optical scan ballots to provide for each precinct by multiplying the number of ballots cast in the precinct (public count) from the previous like election by 15 percent. This is the minimum number of backup optical scan ballots that must be provided for that precinct. Boards of elections may print ballots totaling more than the calculated minimum number so long as the increase is uniform across the county. Although the ballots are labeled and look the same, this 15 percent is in addition to the quantity the board of elections determines is necessary to accommodate all provisional ballot voters at each precinct.

VOTER PRIVACY

Boards must provide a private area for voters to mark their centrally counted optical scan ballots. Privacy booths used by persons voting provisional ballots may be used for this purpose.

VOTER INSTRUCTIONS

To satisfy the requirements of the Help America Vote Act of 2002, each voter receiving a centrally counted, optical scan ballot must receive the instructions on how to properly mark and cast an optical scan ballot.

BACKUP PAPER BALLOTS ARE NOT PROVISIONAL BALLOTS

A centrally counted, backup optical scan ballot is NOT a provisional ballot and must NOT be placed into a provisional ballot envelope. A provisional ballot is ONLY to be cast

43 52 U.S.C. 21082.
under the circumstances set forth in law. In the event that a backup optical scan ballot is placed into a provisional ballot envelope, it must be counted as a regular ballot at the official canvass.

SECURE BALLOT CONTAINERS

Boards must provide a secure ballot container into which the voter may place their centrally counted, optical scan ballot after marking the ballot. A backup optical scan ballot need not be sealed inside an envelope when placed into the ballot box. However, if such ballots are to be placed into the same container as provisional ballot envelopes, the container shall not be labeled “Provisional Ballots,” and provisional ballots must be placed into the appropriate provisional ballot bag, large envelope, or other container that the board of elections provides in the precinct supply kit for that purpose.

TABULATION

Because a centrally counted, backup optical scan ballot is a “regular ballot” under state law, it must be tabulated and reported as a part of the board’s unofficial canvass.

Section 1.08 Logic and Accuracy Testing

To ensure that all electronic voting systems are accurately and uniformly tabulating votes cast during an election, all boards of elections must conduct Logic and Accuracy (L&A) Testing before conducting the required Pre-Election Public Testing. L&A Testing is the systematic pre-election testing of every component of a voting system with every ballot style to demonstrate that the ballots are accurate and that votes cast will be tabulated properly. It is conducted by processing a pre-audited group of ballots that are marked to record a predetermined number of valid votes for each contest. It must include for each contest one or more ballots that contain more votes than the number allowed in order to ensure that the automatic tabulating equipment can reject overvotes.

Boards must conduct L&A Testing before every election on each voting machine and component of automatic tabulating equipment, including backup machines and equipment, in order to confirm its functionality. Under no circumstances should a board deploy any voting equipment that has not undergone L&A Testing. The board should conduct thorough L&A testing prior to the distribution of any ballots to voters.

44 R.C. 3503.16; R.C. 3505.181.
45 R.C. 3506.14(A).
TESTING

OPTICAL SCAN

☐ Inspect the physical condition of the equipment—for example, check plugs and ports because damage to these areas may not be readily apparent;

☐ Check to make sure ballot box is empty;

☐ Verify PCMCIA card has correct data;

☐ Turn on each unit in Election Day mode to calibrate and test date and time, firmware, and backup battery status;

☐ Print a “zero tape” and check to be certain that all vote totals are at zero—this is also a good chance to test that all races are present;

☐ Process ballots;

☐ Run totals tape;

☐ Review results;

☐ Replace tape as necessary;

☐ Close and power down the unit;

☐ Remove the PCMCIA card;

☐ Remove the test ballots;

☐ Secure the PCMCIA cards (for subsequent upload into ERM);

☐ Maintain ballots in machine order/precinct order;

☐ After all units are tested, upload the results to ERM and run the report;

☐ Compare the results to the test script;

☐ For CENTRAL COUNT UNITS, process the complete test deck precinct scanners, upload the results to ERM, and run a report. Then do integrated testing to compare with precinct results;

☐ For AUTOMARK devices, listen to all audio and test at least 2 ballot styles for all functionalities.

DRE

☐ Inspect the physical condition of the equipment—for example, check plugs and ports because damage to these areas may not be readily apparent;

☐ Document the serial number of each unit;
- Turn on each unit in Election Day mode to calibrate and test date and time, firmware, and backup battery status. To calibrate a DRE, make sure the screen is positioned at the same height and angle that it will be at on Election Day. Use a stylus or bottom of a pen or pencil (not your finger) in order to get the most accurate calibration;

- Confirm the software and firmware numbers match the expected, certified configuration;

- Inspect the physical condition of the memory cards and clear all information off of each card;

- Print your zero tape and check to be certain all vote totals are at zero;

- Ensure that all races are present;

- Unplug the unit and check that the battery backup is functioning;

- Use a test script that includes the following:
  - A review of summary screen, accessibility features test (including sip & puff and jelly switch)
  - An audio test for all headers, contests, and candidates for each ballot style, including write-ins
  - A test of a magnified ballot, ensuring that it is not distorted, unreadable, and that it remains in calibration for each ballot style
  - A confirmation that the VVPAT prints correctly, including rejected ballots

- At end of L&A Test, print several ballot VVPAT tapes in order to help determine how many paper rolls or ballot canisters you will need for Election Day;

- Power down the unit in order to ensure it powers down correctly;

- Check paper supply to ensure both VVPAT and internal audit record have enough paper for Election Day;

- Maintain detailed documentation and post-test security measures;

- Seal each device properly so it is ready for Election Day;

- Conclude your L&A testing by performing an integrated test combining results from all sources (optical scan precinct count, central count, and voting machines).
When L&A testing, boards should create a file for each machine that stays with the machine so it is easy to keep track of machine performance. Remember to check ALL ballot styles, including rotation and write-in votes, along with the integration of all elections systems to be used, including accessible devices, absentee ballot devices, ballot on demand systems, EMS tallying of votes, and electronic poll books activating the ballot.

At end of test boards should know with confidence that all systems work together, that all the correct candidates appear on ballot, and that votes can be tallied. Boards will have ensured that election staff can operate the equipment end-to-end, and that the system can load and shut down properly. Lastly, the board will have checked that it has adequate supplies for Election Day.

Section 1.09  Public Test

Prior to each election, the board of elections must test and audit the variable codes applicable to that election to verify the accuracy of any computer program that will be used for tallying the ballots for each precinct in which an election will be held.

Public notice of the time and place of the test shall be given by proclamation or posting, as in the case of notice of elections. The test shall be conducted as set forth in R.C. 3506.14(B). If an error is detected, the cause of the error shall be ascertained and corrected, and an errorless test shall be made and certified to by the board before the count is started. The public test does not replace the L&A testing the board must perform and that the L&A testing does not serve as the public test.

Section 1.10  Public Records Retention

The Ohio Secretary of State’s office has developed a records retention schedule that sets forth the minimum amount of time that boards must retain particular types of election records, including ballots. The records retention schedule can be found at https://www.ohiosos.gov/globalassets/elections/eoresources/general/retentionschedule.pdf

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46 R.C. 3506.14(B).
Section 1.11  Prohibitions Concerning Ballots

Ohio law contains many prohibitions concerning the handling of ballots,\(^47\) including showing a voted ballot to another person, knowingly destroying or mutilating a ballot, forging or falsifying a ballot, possessing another person’s ballot when not permitted by law, and delaying the delivery of a ballot. Generally, such prohibited actions are punishable as a misdemeanor or felony. As such, if a board has questions regarding the handling of a ballot, it should discuss them with its legal counsel, the county prosecuting attorney.

\(^{47}\) R.C. 3599.20; R.C. 3599.21; R.C. 3599.22; R.C. 3599.26; R.C. 3599.33
Chapter 5: ABSENTEE VOTING

Directive 2019-28

Section 1.01 Definition

An absentee voter is any qualified voter who votes by mail or in person prior to Election Day.¹

Section 1.02 Eligibility

Any qualified voter whose registration information is current may request and vote an absentee ballot at any election without stating a reason.²

Section 1.03 Application

A qualified voter who wishes to cast an absentee ballot must either

1. Submit an application in writing to the board of elections of the county in which the voter resides; or,

2. Appear in-person at the board of elections office or other site designated in-person absentee voting and request to vote absentee.

A qualified elector who wants to receive and cast an absentee ballot in person at the board of elections office or other location designated for in-person absentee voting must

1. Announce their full name and current address to the election officials and must provide one of the valid forms of identification that are acceptable for voting purposes on Election Day or

2. Submit a completed written application containing their driver license number or the last four digits of their Social Security number; or

¹ R.C. 3509.02
² R.C. 3509.02
3. A copy of the elector's current and valid photo identification, a copy of a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector.  

While there is no required form for an application for an absentee ballot, the Secretary of State’s office makes available prescribed forms specific to each type of absentee vote.

**ABSENTEE BALLOT APPLICATIONS**

County boards of elections are prohibited from mailing unsolicited absentee ballot applications to any voter.  

Boards of elections are not prohibited from placing absentee ballot applications on the board’s website or in various public places (e.g., libraries, etc.). A request in writing in any form, a verbal request in person or by phone, or the completion of some manner of automated form of application (telephonic or web-based) initiated by an individual voter constitutes a proper request for an absentee ballot application and is not prohibited.

**REQUIRED FIELDS**

Generally, an absentee ballot application in any form is sufficient if it contains ALL of the following pieces of information:

1. The voter’s name;
2. The voter’s signature;
3. The address at which the voter is registered to vote;
4. The voter’s date of birth;
5. One of the following:
   - The voter’s driver license number;
   - The last four digits of the voter’s Social Security number; or
   - A copy of a current and valid photo identification, a military identification, or a current (within the last 12 months) utility bill, bank statement, government check, paycheck, or other government document (other than a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code).

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3 R.C. 3501.05.
4 R.C. 3509.03.
5 Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.011, 3501.382(F) and related OAG 2015-012.
voter registration mailed by a board of elections) that shows the voter’s name and address.

6. A statement identifying the election for which the absentee ballot is requested;

7. A statement that the person requesting the ballot is a qualified elector;\(^6\)

8. If the request is for a primary election ballot, the voter’s party affiliation; and

9. If the voter desires a ballot to be mailed to the elector, the address to which that ballot shall be mailed.

Certain types of absentee voters must provide additional information in order to receive an absentee ballot, as discussed below. All absentee ballot applications, except the Federal Post Card Application (FPCA) used by absentee voters who are uniformed services or overseas citizens (UOCAVA), are valid for a single election only.\(^7\) All other voters must reapply for an absentee ballot prior to each election in which the voter wishes to vote by absentee ballot.

**APPLICATION IN-PERSON (NO WRITTEN APPLICATION)**

For in-person absentee voters that prefer to vote in-person (without filling out an absentee ballot application)\(^8\), the following are forms of identification which are acceptable for voting purposes on Election Day and now are acceptable forms of identification for in-person absentee voting:

- An unexpired Ohio driver license or state identification card with present or former address so long as the voter’s present residential address is printed in the official list of registered voters for that precinct;

  **Note:** An Ohio driver license or state identification card with an old or former address IS ACCEPTABLE as a valid form of identification necessary to cast a regular ballot when the voter’s current address is printed in the Signature Poll Book.

- A military identification;

  **Note:** Military identification cards or copies of such cards must be accepted whether or not they contain the voter’s name or address. However, it still must allow a precinct election official to determine that it is the military ID card of the person who is presenting it for the purpose of voting.

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\(^6\) Under R.C. 3503.01, a voter’s qualifications to vote are determined as of the date of the election.

\(^7\) R.C. 3509.02; R.C. 3509.03.

\(^8\) Please note that this is still an option for those who prefer to fill out an application and/or take the ballot home with them.
• A photo identification issued by the United States government or the State of Ohio, that contains the voter’s name and current address and that has an expiration date that has not passed;

• An original or copy of a current utility bill with the voter’s name and present address;

  **Note:** A utility bill is a statement of fees owed and/or paid for services. It may be a printout of an electronically transmitted statement for services owed, paid, or a regular paper copy. A utility bill includes, but is not limited to, water, sewer, electric, heating, cable, Internet, telephone and cellular telephone services.

• An original or copy of a current bank statement with the voter’s name and present address;

• An original or copy of a current government check with the voter’s name and present address;

• An original or copy of a current paycheck with the voter’s name and present address; or

• An original or copy of a current other government document (other than a notice of voter registration mailed by a board of elections) that shows the voter’s name and present address.

For utility bills, bank statements, government checks, paychecks, and other government documents, “current” is defined as within the last 12 months. “Other government document” includes license renewal and other notices, fishing and marine equipment operator’s license, court papers, or grade reports or transcripts. “Government office” includes any local (including county, city, township, school district and village), state or federal (United States) government office, branch, agency, commission, public college or university or public community college, whether or not in Ohio.\(^9\)

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Section 1.04 Absentee Voting

ABSENTEE VOTING BY MAIL

To cast an absentee ballot by mail, voters apply using Ohio Secretary of State Form 11-A or any written application containing all the required information mentioned previously. Voters may submit applications to receive an absentee ballot by mail beginning January 1st of the election year or 90 days before the election, whichever is earlier, and ending 12:00 p.m. noon the Saturday before Election Day.10

Boards may begin mailing absentee ballots to those who have requested them on the first day after the close of voter registration before Election Day and may continue mailing absentee ballots as they receive valid applications up until 12:00 p.m. noon the Saturday before Election Day.11

A voter who receives an absentee ballot by mail may return it to the office of the board of elections through the mail or by personal delivery:

1. **Return by Mail**
   a. The absentee ballot must be postmarked no later than the day before Election Day and received at the board of elections office no later than the 10th day after Election Day.12
   b. If the absentee ballot does not have a postmark, it must be received at the board of elections office no later than 7:30 p.m. on Election Day.
   c. A postmark does not include mail sent using a postage evidencing system, including a postage meter or postage from private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.13

2. **Return by Personal Delivery**

A voter may deliver the absentee ballot personally or may have a family member14 deliver the absentee ballot by the close of polls on Election Day at the office of the board of elections only. No one may return a voted absentee ballot to a precinct polling location.

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10 R.C. 3509.03
11 R.C. 3509.01; R.C. 3509.03
12 R.C. 3509.05(B)(1)
13 R.C. 3509.05(B)(2)
14 R.C. 3509.05(A); “Family member” includes spouse, domestic partner, mother, father, step-mother, step-father, mother-in-law, father-in-law, brother, sister, step-brother, step-sister, half brother, half sister, brother-in-law, sister-in-law, grandmother, grandfather, aunt, uncle, child, step-child, son-in-law, daughter-in-law, or other family member living in the same household.
USE OF REMOTE BALLOT MARKING SYSTEM.

A voter with a qualifying disability under the Americans with Disabilities Act (ADA) may timely submit a completed application to receive an absentee ballot by mail and request to mark their absentee ballot using a county’s remote ballot marking system. A qualifying voter must provide all of the information required for an absentee ballot application and the following:

1. A statement that the person has a qualifying disability under the Americans with Disabilities Act (ADA);\(^{15}\)
2. A statement that the person needs to use the remote ballot marking system to mark independently their ballot; and
3. The email address to which the board can deliver the person’s ballot; and
4. The address to which the voter wants the Identification Envelope – Statement of Voter (Secretary of State Form 12-A) mailed to the voter, if that address is different from the voter’s registration address.

The voter may use Secretary of State Form 11-G for this purpose. The form is located on the Secretary of State’s website, and each board of elections must make it available upon request. If a voter submits a written absentee ballot application to a board of elections on a form other than the Secretary of State Form 11-G but indicates on the application that they have a disability and wants to use the remote ballot marking system, the board must make reasonable efforts to obtain any additional information necessary to process the application and make the remote ballot marking system available to the voter.

Once the board receives a timely and complete application from a voter, the board must transmit the following promptly to the voter via email to the email address provided by the voter:

1. A link through which the voter may access and mark their ballot using the remote ballot marking system;
2. Secretary of State Form 12-A (Identification Envelope – Statement of Voter)\(^ {16}\);

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\(^{15}\) A board of elections must accept as true the voter’s statement that they have a qualifying disability under the ADA. Under no circumstances may a board of elections require a voter to provide documentation of their disability or any information beyond what is requested on Secretary of State Form 11-G.

\(^{16}\) Each board must use the version of Secretary of State Form 12-A that appears on the Secretary of State’s website, because that version of the form is compliant with Web Content Accessibility Guidelines (WCAG) 2.0 and is a fillable PDF.
3. Secretary of State Form 12-N (Instructions to Voters Using a Remote Ballot Marking System); and

4. Any additional instructions prepared by the board of elections or the vendor that the voter might need to utilize the remote ballot marking system.

If a board of elections receives a notice of delivery failure for the email, the board must verify that it attempted to send the email to the email address provided, and, if so, the board must contact the voter immediately to obtain a valid email address. The voter must provide any alternate email address to the board in writing using a separate written application for an absent voter’s ballot. If the board is unable to obtain a valid email address for a voter by 12:00 p.m. noon on the Saturday before Election Day, the board must transmit the ballot to the voter by regular, U.S. Mail.

The board also must send the voter an absentee ballot identification envelope and statement of voter (Secretary of State Form 12-A) and an absentee ballot return envelope (Secretary of State Form 12-F) via regular U.S. Mail on the same day that the board emails the link and instructions to the voter. The identification envelope and absentee ballot return envelope must be sent either to the voter’s registration address or to the address requested by the voter on the voter’s written application, if the voter has requested that the envelopes be sent to an alternate address.

As with all absentee ballot identification envelopes, boards of elections are required to pre-print the voter’s name and address (at which the voter is registered to vote) on the voter’s identification envelope prior to mailing it to the voter. In addition to pre-printing the voter’s name and address (at which the voter is registered to vote) on the envelope, the board also must indicate the location that the voter needs to sign the statement of absentee voter by punching two small holes with a hole puncher – one on the “X” following “Signature” and one at the end of the signature line. This will allow the voter to detect – by touch – where they need to place their signature.

A voter can mark their ballot by accessing the remote ballot marking system through the link provided to the voter. Each board of elections must work closely with its remote ballot marking system vendor to assist a voter with troubleshooting and resolving any issues. Each board of elections also must work closely with its vendor to provide detailed step-by-step instructions for a voter to follow to access and use the system.

After marking the ballot, the voter must print it and enclose it in an envelope using one of the following methods:

1. The voter may complete electronically, print, and sign the Identification Envelope – Statement of Voter (Secretary of State Form 12-A) that the board emailed to the voter and enclose it with the voter’s ballot in any envelope provided by the voter.
2. The voter may complete and sign the Identification Envelope – Statement of Voter (Secretary of State Form 12-A) that the board mailed to the voter and enclose their ballot in the Identification Envelope.

The voter may return their voted ballot to the board of elections by mail or by personal delivery:

1. **Return by Mail**
   - The absentee ballot must be postmarked no later than the day before Election Day and received at the board of elections office no later than the 10th day after Election Day.¹⁷
   - If the absentee ballot does not have a postmark, it must be received at the board of elections office no later than 7:30 p.m. on Election Day.
   - A postmark does not include mail sent using a postage evidencing system, including a postage meter or postage from private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.¹⁸

2. **Return by Personal Delivery**

   A voter may deliver the absentee ballot personally or may have a family member¹⁹ deliver the absentee ballot by the close of polls on Election Day at the office of the board of elections only. No one may return a voted absentee ballot to a precinct polling location.

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¹⁷ R.C. 3509.05(B)(1).
¹⁸ R.C. 3509.05(B)(2). See also, 39 CFR 501.01.
ABSENTEE VOTING IN PERSON

UNIFORM HOURS STATEWIDE FOR IN-PERSON ABSENTEE VOTING

In-person absentee voting begins on the first day after the close of voter registration before Election Day for all types of absentee voters.20

All boards of elections must adopt the following as their business hours for in-person absentee voting:21

1. *Elections Conducted in Even Years (excluding special elections)*

   a. *Presidential General Election*

   *Weeks One and Two of Voting* Voting begins the day after the close of registration for the election. Boards must be open for in-person absentee voting on any holiday established by state or federal law.

   - 8:00 a.m. to 5:00 p.m. on each weekday (Monday through Friday)

   *Week Three of Voting* Boards must be open for in-person absentee voting during the hours listed below, including on any holiday established by state or federal law.

   - 8:00 a.m. to 6:00 p.m. on each weekday (Monday through Friday)
   - 8:00 a.m. to 4:00 p.m. on Saturday
   - 1:00 p.m. to 5:00 p.m. on Sunday

   *Week Four of Voting* Boards must be open for in-person absentee voting during the hours listed below, including on any holiday established by state or federal law.

   - 8:00 a.m. to 7:00 p.m. on each weekday (Monday through Friday)
   - 8:00 a.m. to 4:00 p.m. on the Saturday before Election Day
   - 1:00 p.m. to 5:00 p.m. on the Sunday before Election Day

   *Week of Election Day*

   - 8:00 a.m. to 2:00 p.m. on the Monday before Election Day

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20 R.C. 3509.01; R.C. 3511.10.
b. Presidential Primary and Gubernatorial Elections

Weeks One and Two of Voting Voting begins the day after the close of registration for the election. Boards must be open for in-person absentee voting on any holiday established by state or federal law.

☐ 8:00 a.m. to 5:00 p.m. on each weekday (Monday through Friday)

Week Three of Voting Boards must be open for in-person absentee voting during the hours listed below, including on any holiday established by state or federal law.

☐ 8:00 a.m. to 5:00 p.m. on each weekday (Monday through Friday)
☐ 8:00 a.m. to 4:00 p.m. on Saturday

Week Four of Voting Boards must be open for in-person absentee voting during the hours listed below, including on any holiday established by state or federal law.

☐ 8:00 a.m. to 7:00 p.m. on each weekday (Monday through Friday)
☐ 8:00 a.m. to 4:00 p.m. on the Saturday before Election Day
☐ 1:00 p.m. to 5:00 p.m. on the Sunday before Election Day

Week of Election Day

☐ 8:00 a.m. to 2:00 p.m. on the Monday before Election Day

2. Elections Conducted in Odd Years, Special Elections, and Primary Elections (excluding presidential primary elections)

Weeks One, Two and Three of Voting Voting begins the day after the close of registration for the election. Boards must not be open for in-person absentee voting on any holiday established by state or federal law.

☐ 8:00 a.m. to 5:00 p.m. on each weekday (Monday through Friday)

Week Four of Voting Boards must be open for in-person absentee voting during the hours listed below. Boards must not be open for in-person absentee voting on any holiday established by state or federal law.

☐ 8:00 a.m. to 7:00 p.m. on each weekday (Monday through Friday)
☐ 8:00 a.m. to 4:00 p.m. on the Saturday before Election Day
**Chapter 5: Absentee Voting**

   - 1:00 p.m. to 5:00 p.m. on the Sunday before Election Day

   *Week of Election Day*

   - 8:00 a.m. to 2:00 p.m. on the Monday before Election Day

If there are any in-person absentee voters waiting in line when voting ends on a particular day during the in-person absentee voting period, the in-person voting location shall be kept open until those voters who were in line when the location closed for the day have cast a ballot.\(^\text{22}\)

Boards must place signage at their office (and at their in-person absentee voting location if that location is different from their office) alerting voters to this schedule.

**IN-PERSON ABSENTEE VOTING LOCATION**

Boards of elections may accommodate in-person absentee voting at the board office, or may designate another location for that purpose.\(^\text{23}\) If the board chooses to designate an alternate location for in-person absentee voting, in-person absentee voting may occur only at that location, and that designated location must comply with all applicable requirements and prohibitions for polling locations.\(^\text{24}\) Boards of elections having designated another location for in-person absentee voting may not issue absentee ballots to voters, other than by mail, from the board office.

Boards of elections operating an alternate site for in-person absentee voting before the election may accept the return of absentee ballots to such alternate site in addition to the board of elections office, but may only allow in-person absentee voting at one location.

**IN-PERSON ABSENTEE VOTING BALLOT ISSUING AND RETURN PROCEDURES**

The board must provide a signature book to be signed by the in-person absentee voter\(^\text{25}\) after the board has verified the eligibility of the voter. The board then must verify the voter’s signature, identify the correct ballot style for the voter, and issue an absentee ballot to the voter. A voter who applies for and receives an absentee ballot in person may vote the ballot immediately or may take that ballot home to complete at a later date. An in-person absentee voter who is issued an optical scan ballot must mark the ballot at the board of elections office or other site designated for in-person absentee voting and insert the voted ballot into the scanner to cast it. An in-person absentee voter casting their ballot on a DRE or touchscreen interface must mark and

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\(^{22}\) R.C. 3509.01(B)(3).
\(^{23}\) R.C. 3501.10(C).
\(^{24}\) R.C. 3501.11(G).
\(^{25}\) R.C. 3509.051(C).
cast the ballot using the voting machine. The board is not required to issue, and an in-person absentee voter is not required to complete, an Identification Envelope – Statement of Voter (Secretary of State Form 12-A), if the voter is casting their ballot at the board of elections office or other site designated for in-person absentee voting.26

If an absentee voter chooses to take the ballot home, the board must provide the absentee voter a return mailing envelope and Identification Envelope – Statement of Voter (Secretary of State Form 12-A).27 A voter who receives an absentee ballot in person and takes the ballot home to vote may return it to the office of the board of elections through the mail or by personal delivery:

Return by Mail

☐ The absentee ballot must be postmarked no later than the day before Election Day and received at the board of elections office no later than the 10th day after Election Day.

☐ If the absentee ballot does not have a postmark, it must be received at the board of elections office no later than 7:30 p.m. on Election Day.

☐ A postmark does not include mail sent using a postage evidencing system, including a postage meter or postage from private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.28

Return by Personal Delivery

A voter may deliver the absentee ballot personally or may have a family member deliver the absentee ballot by the close of polls on Election Day at the office of the board of elections only. No one may return a voted absentee ballot to a precinct polling location.30

26 R.C. 3509.051(B).

27 See Chapter 5, Section 1.04, of the Ohio Election Official Manual.

28 R.C. 3509.05(B)(2). See also, 39 CFR 501.01.

29 R.C. 3509.05(A); “Family member” includes spouse, domestic partner, mother, father, step-mother, step-father, mother-in-law, father-in-law, brother, sister, step-brother, step-sister, half brother, half sister, brother-in-law, sister-in-law, grandmother, grandfather, aunt, uncle, child, step-child, son-in-law, daughter-in-law, or other family member living in the same household.

30 R.C. 3509.05(A).
ABSENTEE VOTING UNDER SPECIAL CIRCUMSTANCES

Ohio law provides some guidelines for other types of absentee voting under special circumstances.

DISABILITY OR CONFINEMENT

A voter who has a disability or is confined and cannot vote at a polling location on Election Day or in person at the board office due to personal illness, physical disability, infirmity, or confinement may vote by absentee ballot. This includes voters who are confined to a nursing home, jail, or workhouse. An absentee voter who has a disability or is confined applies using Secretary of State Form 11-F or any written application containing all the required information plus the nature of the voter's illness, physical disability, infirmity, or confinement.

Voters with a disability or who are confined may submit applications to receive an absentee ballot beginning January 1st of the year or 90 days before the election, whichever is earlier, and ending 12:00 p.m. noon on the Saturday before Election Day.

A voter who has a disability or is confined may receive and return an absentee ballot by mail or in person through two boards of elections employees:

Return by Mail

- The absentee ballot must be postmarked no later than the day before Election Day and received at the board of elections office no later than the 10th day after Election Day.
- If the absentee ballot does not have a postmark, it must be received at the board of elections office no later than 7:30 p.m. on Election Day.
- A postmark does not include mail sent using a postage evidencing system, including a postage meter or postage from private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.

Receipt and Return by Two Board of Elections Employees

- The two boards of elections employees, each belonging to different major political parties, may deliver an absentee ballot to a voter who has a disability or is confined, and return the ballot to the board office.

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31 R.C. 3509.08(A).
32 R.C. 3509.05(B)(12). See also, 39 CFR 501.01.
The two board employees must be present during delivery, voting, and return of the ballot and must subscribe to that fact on the absentee ballot identification envelope (Form 12-C).

An absentee voter who has a disability or is confined and who also is required to vote a provisional ballot due to a change of address or change of name may vote a provisional absentee ballot (Form 11-I). No other type of absentee voter may vote provisionally by absentee ballot.

**UNFORESEEABLE HOSPITALIZATION**

An absentee voter who is confined to a hospital or whose minor child is confined to a hospital due to an accident or unforeseeable medical emergency occurring after the absentee voting by mail application deadline of 12:00 p.m. noon on the Saturday before Election Day may vote by absentee ballot. Any such voter applies using Secretary of State Form 11-B or any written application containing all the required information plus the hospital at which the applicant or the applicant’s minor child has been admitted, the date of the applicant’s or the applicant’s child’s admission to the hospital, and the offices for which the applicant is qualified to vote.

Voters with an unforeseeable hospitalization may submit applications beginning after 12:00 p.m. noon on the Saturday before Election Day and ending at 3:00 p.m. on Election Day.

An absentee voter with an unforeseeable hospitalization within the county may receive and return the absentee ballot through a family member, or through two boards of elections employees.

If the hospitalization is out of county, the absentee voter may receive and return the absentee ballot through a family member or by mail.

**Receipt and Return by a Family Member**

A family member of the voter may deliver the absentee ballot to the voter, and return the voted absentee ballot to the board of elections office by the close of polls on Election Day. A voter’s family member may not return a voted absentee ballot to a precinct polling location.

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33 R.C. 3509.08(A).  
34 R.C. 3503.16(G).  
35 R.C. 3509.08(B)(1).  
36 R.C. 3509.08(B)(2).  
37 R.C. 3509.08(B)(2).  
38 R.C. 3509.08(B)(2).  
40 R.C. 3509.08(B)(2).
Receipt and Return by Two Boards of Elections Employees

☐ Two boards of elections employees, each belonging to different major political parties, may deliver a ballot to an absentee voter who is hospitalized or whose minor child is hospitalized within the county.41 The two board employees must be present during delivery, voting, and return of the ballot, and must subscribe to that fact on the Absentee Ballot Identification Envelope (Form 12-C).

Receipt and Return by Mail

☐ If the hospital is located outside the county in which the voter is registered to vote, the board may mail the absentee ballot.42

☐ The absentee ballot must be postmarked no later than the day before Election Day and received at the board of elections office no later than the 10th day after Election Day.

☐ If the absentee ballot does not have a postmark, it must be received at the board of elections office no later than 7:30 p.m. on Election Day.

☐ A postmark does not include mail sent using a postage evidencing system, including a postage meter or postage from private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.43

UOCAVA VOTERS

Both federal and state laws govern absentee voting by uniformed services and overseas United States citizens. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)44 and the Military and Overseas Voter Empowerment (MOVE) Act45 are federal laws enacted to protect the rights of United States citizens to vote in federal elections while they are serving in the uniformed services or residing overseas. The Ohio General Assembly has incorporated those federal protections into the Ohio Revised Code and has extended them to state and local elections.46

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41 R.C. 3509.08(B)(2).
42 R.C. 3509.08(B)(2).
43 R.C. 3509.05(B)(2). See also, 39 CFR 501.01.
The following voters are UOCAVA Voters: 47

**A uniformed services voter is:**

- A member of the active or reserve components of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard;
- A member of the National Guard and the organized militia who is on activated status; 48
- A member of the merchant marine, the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration; or
- A spouse or dependent of any of the above.

**An overseas voter is:**

- A person who is considered by Ohio law to be a resident of the state, but currently is living outside the U.S. Before leaving the U.S., the voter was last eligible to vote in Ohio or would have been eligible to vote in Ohio had the voter been 18 years of age or older; or
- A person who was born outside the U.S., but who has a parent or guardian who last resided and was last eligible to vote in Ohio before leaving the U.S.

UOCAVA voters apply for absentee ballots using the Federal Post Card Application (FPCA) or by filing a written request with the board of elections containing all the following required information:

- The voter’s name;
- Signature;
- Address at which registered to vote in Ohio;
- Date of birth;
- Acceptable form of identification;
- The election(s) for which the voter is requesting ballots;
- Statements that the voter is a qualified elector, an absent UOCAVA voter, and that the voter or the voter’s parent or guardian, if applicable, resided in Ohio for at least 30 days prior to commencing service or leaving the U.S.;
- The voter’s party affiliation (primary elections only);

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47 R.C. 3511.01.
48 The Ohio organized militia consists of Ohio citizens who are members of the Ohio National Guard, the Ohio Naval Militia, and the Ohio Military Reserve. R.C. 5923.01.
• The method by which the voter wishes to receive a ballot (mail, email, or fax); and
• The mailing address, email address, or fax number at which the voter wishes to receive the ballot.\(^{49}\)

Only UOCAVA voters may submit absentee ballot applications by mail, email, fax, or in person.\(^{50}\) Applications by mail, email, or fax must be received by the board by 12:00 p.m. noon on the Saturday before the election.\(^{51}\) An application delivered in person to the office of the board of elections must be received by the close of polls on Election Day.\(^{52}\)

In addition, relatives of UOCAVA voters may apply for absentee ballots on the UOCAVA voter’s behalf if the UOCAVA voter is already registered to vote by using Secretary of State Form 11-E or the FPCA.\(^ {53}\) A relative must submit the form on behalf of the registered UOCAVA voter in person or by mail to the county board of elections office.

The FPCA serves both as a voter registration form if the voter is not already registered or needs to update their registration and a request for absentee ballots. An FPCA used to register or update the registration of a qualified UOCAVA voter must reach election officials no later than 30 days before the election in order to be valid.\(^{54}\) If a voter applies for an absentee ballot using an FPCA, that request is a request for absentee ballots for every election in that year, unless the voter specifically notes that they are requesting a ballot only for a single election in the year.\(^{55}\) If the board receives an absentee ballot application that is not an FPCA, and it is clear that the applicant is a UOCAVA voter under Ohio law, the board must provide the voter the same accommodations as if the voter had applied using an FPCA.\(^{56}\)

If the UOCAVA voter is using the FPCA to register to vote or to update their registration, an emailed or faxed copy of a signed form is acceptable under the law to register an eligible voter.

\(^{49}\) R.C. 3511.02(A)
\(^{50}\) R.C. 3503.19(B); R.C. 3511.021(A)(2)
\(^{51}\) R.C. 3511.04(B)
\(^{52}\) R.C. 3511.10. In instances where UOCAVA applications are received on or close to Election Day pursuant to this section, the board of elections must make best efforts to transmit the ballot to the voter in order for the voter to complete and return it such that it may be counted.
\(^{53}\) R.C. 3511.02(C). Relatives include “spouse, father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother or sister of the whole blood or half blood, son, daughter, adopting parent, adopted child, stepparent, stepchild, daughter-in-law, son-in-law, uncle, aunt, nephew, or niece.”
\(^{54}\) 52 U.S.C.A. § 20302.
\(^{55}\) R.C. 3511.02
\(^{56}\) R.C. 3509.10
In regard to UOCAVA voters, each county must complete the following tasks:

1. **Prepare Two Notices of Elections for Voters Using the Federal Write-In Absentee Ballot**

   Each board of elections must prepare two election notices for each precinct for use with the Federal Write-In Absentee Ballot. A uniformed services or overseas voter may request a copy of this notice to be sent via mail, fax, or email. If the board of elections maintains an internet website, the board must post the initial notice and the updated notice on its website.

   Please refer to Secretary of State Form 120 for an election notice template.

   a. **Initial Notice**

      The board must make available an initial notice at least 100 days before each regularly scheduled election and as soon as possible before an election that is not regularly scheduled. This initial notice must contain the following:

      - A list of all federal, state, and local offices the board expects to be on the ballot;
      - A list of all questions and issues the board expects to be on the ballot; and
      - Specific instructions on how a uniformed services or overseas voter must indicate their choice on the Federal Write-In Absentee Ballot.

   b. **Updated Notice**

      After the date on which the ballot form is certified, and no later than 46 days before each election, the board of elections must make available an updated notice with the following information:

      - A list of certified candidates for each office on the ballot;
      - A list of all certified questions and issues on the ballot; and
      - Specific instructions on how a uniformed services or overseas voter must indicate their choice on the Federal Write-In Absentee Ballot.

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57 R.C. 3511.16
58 R.C. 3511.16(B).
59 R.C. 3511.16(C).
2. Transmit UOCAVA Ballots on the 46th Day Before Each Election

On the 46th day before each election—even if the 46th day falls on a day the board is not regularly open for business—each board must transmit an absentee ballot to every UOCAVA voter who has filed a valid application with the board as of January 1st of that year or 90 days before the election, whichever is earlier, to receive an absentee ballot by mail, email, or fax. UOCAVA ballots must be transmitted on the 46th day. **This is a mandatory deadline.** Boards must have the necessary personnel on site to accept UOCAVA applications, review them for validity, and issue ballots on the 46th day prior to the election.

UOCAVA voters may receive absentee ballots by mail, email, or fax. Each UOCAVA voter should designate on the application form the manner in which the voter prefers to receive the ballot. If the UOCAVA voter does not express a preference on the application, the board of elections must deliver the absentee ballot via standard mail.60

**All uniformed services and overseas voters may vote a complete ballot—all federal, state, and local candidate and issue contests—of the Ohio precinct in which the voter resided immediately before leaving Ohio for military service or to reside overseas.** A person who moves from Ohio to a location outside the United States without becoming a resident of another state does not lose Ohio residency, and is therefore eligible to vote on all candidate and issue contests.61

When the board transmits a ballot to a UOCAVA voter, it must provide the following items:

- Ballot;
- Secretary of State Form 12-A (Identification Envelope with Statement of Voter);
- Secretary of State Form 12-K (Instructions to Uniformed Services or Overseas Voters); and
- Secretary of State Form 12-J (Ballot Tracking for Military and Overseas Voters-Notification of PIN).

When sending a ballot to a UOCAVA voter via email, it is sufficient to attach the ballot to the email in .pdf form generated from the EMS system. The actual

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60 R.C. 3511.021(A)(2).
61 R.C. 3503.021(G). Note: A non-UOCAVA voter who moves from Ohio to another state within the U.S and resides there for four years or more still is deemed to have lost their residence in Ohio; R.C. 3503.021(D). In the Classification portion of the FPCA, there are separate checkboxes. Under Ohio law, all UOCAVA voters are treated similarly and are issued a complete ballot, regardless of which box they check.
ballot issued to the UOCAVA voter will be the one used when remaking the ballot upon return. It will have a stub.

If the board receives more than one absentee ballot request from a UOCAVA voter and has already issued that voter a ballot, the board may not transmit another ballot to the same voter unless the voter’s subsequent request states the voter submitted an initial request more than 30 days before the election, but has not received a ballot as of the 15th day before the election. The board must also ensure that it has not received a voted ballot from that voter.62

**Federal Write-In Absentee Ballot (FWAB)**

The Federal Write-In Absentee Ballot (FWAB) may be used by a UOCAVA voter to vote for all federal, state, and local offices, questions, and issues in every election.63

The voter will download the FWAB from the Federal Voting Assistance Program website at [www.fvap.gov](http://www.fvap.gov) and complete the ballot with the information the board provides in the election notices explained above.

If, after mailing the FWAB to the board of elections, the voter receives the requested absentee ballot, the voter may vote the ballot and return it to the board of elections. If the board receives the voter’s valid absentee ballot by the 10th day after the election, it must count the absentee ballot and not the FWAB.

The declaration accompanying a FWAB may be used simultaneously to register the person to vote for the next election if it is received no later than 30 days before the election. If the UOCAVA voter who submits a FWAB to the board of elections after that point and is not already a registered Ohio voter, the ballot cannot count. However, the declaration will serve to register an otherwise eligible voter to vote in future elections.64

3. **Enter UOCAVA Voter Data into the Centralized Ballot Tracking System (CBTS)**

The Centralized Ballot Tracking System (CBTS) allows UOCAVA voters to track the status of their absentee ballots.65 When the board receives a valid FPCA or Secretary of State Form 11-E, it must enter the voter into the CBTS to create a voter record. The CBTS will automatically generate a unique, personal identification number (PIN) for the voter. The board must provide the voter

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62 R.C. 3511.08
63 R.C. 3511.14
64 R.C. 3511.14(B)
65 R.C. 3511.021(B)
notification of the assigned PIN, which the voter will use to log in and view ballot status. Secretary of State Form 12-J may be used to notify a voter of their assigned PIN and to inform the voter how to access the CBTS website and track the ballot.

Once the board creates a voter record, it is required to update and maintain the accuracy of that record. Each absentee ballot record must be updated with the following information:

- Date the board received the FPCA or Secretary of State Form 11-E;
- Date the board transmitted the blank absentee ballot to the voter;
- Date the board received the voted absentee ballot;
- What errors, if any, the board detected on the absentee ballot ID envelope; and
- Whether the absentee ballot was counted.

**All CBTS records must be updated completely before the official canvass is completed.**

If you do not have a copy of the CBTS manual, please contact the Secretary of State’s Elections Division.

**SAFE AT HOME VOTERS**

Substitute House Bill 359 from the 131st General Assembly created an address confidentiality program, known as the “Safe at Home” program, for victims of crimes, such as domestic violence, human trafficking, rape, sexual battery, and menacing by stalking. The Ohio Secretary of State’s office administers this program and is responsible for creating an absentee ballot application and identification envelope for participants of the program. To protect their confidentiality, a participant in the program must vote only absentee by mail, using their identification number on the absentee ballot application and identification envelope instead of their address.66 A participant with questions regarding how to request and receive an absentee ballot without compromising the confidentiality of their address should contact the Safe at Home Program at the Secretary of State’s office at 614.995.2255.

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66 R.C. 3509.04(B).
Chapter 5: Absentee Voting

### Section 1.05 Processing Absentee Ballot Applications

**PRE-PRINTING ONLY NAME AND ADDRESS ON ABSENTEE BALLOT APPLICATION**

In the required fields of any type of absentee ballot application, the board may pre-print only a voter’s name and address before mailing to a voter who requests it.67 None of the other required pieces of information on any type of absentee ballot application shall be completed by election officials on a voter’s behalf, unless the voter requests assistance and is a voter with a disability or with literacy challenges.68

**PROHIBITION ON PRE-PAYING POSTAGE ON ABSENTEE BALLOT RETURN**

No board is permitted to pre-pay return postage for any type of absentee ballot application.69

**SUBMISSION BY FAX OR EMAIL**

Only UOCAVA voters may submit absentee ballot applications by mail, email, or fax.70 Non-UOCAVA absentee ballot applications must be mailed or delivered to the board of elections in person. A board may not accept or process a non-UOCAVA absentee ballot application received by fax or email.

**INCOMPLETE APPLICATIONS**

If the board receives an application for an absentee ballot that does not contain all the required information listed above, it promptly must notify the voter of the missing information and ask the voter to resubmit a complete application containing all required information.71

In the event that an absentee ballot application from a UOCAVA voter is missing some of the required information or that the board of elections is unable to open the file in which the voter transmitted the FPCA, the board must contact the voter immediately, using the quickest and most effective available means of communication. Boards must attempt to contact the voter using all the contact information provided on the form and

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67 R.C. 3509.03(F).
68 R.C. 3505.24; R.C. 3509.03; R.C. 3511.02(F); R.C. 3511.10.
69 R.C. 3509.03; R.C. 3511.02(E). This prohibition does not affect UOCAVA voters’ use of the USPS Official Absentee Balloting Materials postage-paid envelope if they choose to return their FPCAs through the USPS.
70 R.C. 3503.191(B); R.C. 3511.021(A)(2).
71 R.C. 3509.04(A).
must ask the voter to resubmit a complete application containing all required information.

The board may not return an incomplete application of any type to the voter, as once an application is received at the board office, it is a public record. In addition, election officials may not complete an application’s missing information on behalf of the voter. The voter must personally complete any missing information on the application, unless the voter has paperwork on file with the board of elections to receive assistance from a designated attorney-in-fact.72

ISSUING BALLOTS

Absentee voting begins 4673 days before each election for UOCAVA voters only and on the day after the close of registration before each election for all other types of absentee voters.74 Due to the earlier start date for UOCAVA voting, boards must have ballots proofed and ready to mail prior to the 46th day before each election. Once the board receives an application that meets the requirements explained above, it must provide the voter with the correct ballot for the voter’s precinct, based on the voter’s residence address.

Boards of elections may not outsource the mailing of absentee ballots to vendors or any other third party unless the board has received prior written authorization from the Director of Elections, conditioned upon submission of appropriate quality assurance procedures.

IDENTIFICATION ENVELOPE AND PRE-PRINTING ONLY NAME AND ADDRESS

Ohio law requires boards of elections to provide an identification envelope with the absentee ballot (Forms 12-A and 12-C).75 State law permits boards of elections to pre-print the voter’s name and address (at which the voter is registered to vote) on the identification envelope unless the voter has a confidential voter registration record.76 None of the other required pieces of information on any type of absentee ballot application shall be completed by election officials on a voter’s behalf, unless the voter requests assistance and is a voter with a disability or literacy challenges.77

Boards of elections are instructed to pre-print the voter’s name and address (at which the voter is registered to vote) on the voter’s identification envelope prior to providing it.
to the voter. Boards of elections may fulfill this requirement by pre-printing the voter’s name and address directly onto the identification envelope, by pre-printing the voter’s name and address onto a sticker or label and then affixing the sticker or label to the identification envelope, or by some other method which accomplishes this purpose.

When a voter’s name is placed anywhere on the identification envelope by a board of elections (i.e., other than in the blanks identified for this purpose on Forms 12-A or 12-C), the name portion of the statutory requirement for the identification envelope to contain the voter’s name\(^\text{78}\) is satisfied.

The statutory prohibition against pre-printing information other than the voter’s name and address does not limit a board from printing other information helpful to the board in administering its duties (e.g., voter identification number, ballot style, precinct, party-affiliation, municipality or other jurisdictions, bar codes, etc.). However, the board shall not pre-print the address of a participant in the Safe at Home program.\(^\text{79}\)

**PROHIBITION ON PAYING RETURN POSTAGE ON AN ABSENTEE BALLOT**

No board is permitted to pre-pay return postage for any absentee ballot.\(^\text{80}\)

**MAILING CONSIDERATIONS AND INSTRUCTIONS**

These instructions implement several administrative practices that are intended to increase the operational likelihood that ballots received after Election Day, if otherwise valid, can be included in the official canvass of the election. The instructions are based on close collaboration between state and local election officials in Ohio and the U.S. Postal Service.

USPS-expected level of service for point-to-point delivery of First-Class Mail is 2 to 5 days, and under ordinary circumstances, First-Class Mail in machineable letter-size envelopes is postmarked in an automated process versus flat-size envelopes, which generally receive a lower percentage of postmarks.

While no single operational or administrative action provides a complete remedy to the situation, the implementation of several administrative practices may increase the operational likelihood that ballots received after Election Day, if otherwise valid, can be included in the official canvass of the election. Therefore, boards of elections must implement the following:

- Include with every absentee ballot (except those issued and cast in person) the notice prescribed by the Secretary of State’s office, \textit{Form 12-1}. A board of

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\(^\text{78}\) \textit{NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.06(D)}.  
\(^\text{79}\) R.C 3509.04.  
\(^\text{80}\) R.C. 3509.04; R.C. 3511.04. This prohibition does not affect UOCAVA voters’ use of the USPS Official Absentee Balloting Materials postage-paid envelope to return their ballots through the USPS.
elections may print the SOS-prescribed notice on other instructional material that the board already inserts into its absentee ballot packets (e.g., on the back of Secretary of State Form 12, “Instructions to Absentee Voters).

- USPS highly recommends that all county boards of elections use letter-size courtesy reply envelopes. \(^{81}\) As noted above, use of this envelope size will increase the operational likelihood that the ballot receives a postmark. However, even letter-size envelopes could be treated as flats depending on the weight of the absentee ballot return envelope, which includes the ballot sheets enclosed in an identification envelope. We cannot know how many sheets will be necessary to accommodate ballot length from one election to the next. The use of letter-size envelopes (depending on ballot length) will increase the likelihood of postmarking in most counties for most elections. Boards of elections not already using letter-size courtesy reply envelopes must carefully consider whether continuation of this practice for the presidential general election is in the best interest of its county’s voters given the recommendation from USPS.

- USPS recommends that boards of elections contact and leverage available Postal resources that support election mail coordination, mailpiece design, mailing preparation and entry activities and coordinating mailpiece delivery and pickup.

  For assistance with mailpiece design, contact a Mailpiece Design Analyst (MDA) by calling the MDA Support Center at (855) 593-6093 (hours of operation are Monday – Friday, 7 am - 5 pm CT) or by sending your request by email to mda@usps.gov. Please contact and develop a relationship with your local Election Mail Coordinator.

- USPS recommends that all trays and sacks with mailings of ballot materials affix Tag 191, Domestic and International Ballots. This bright green tag provides a high degree of visibility on ballot mail as it enters Postal processing centers. These tags are available by contacting an USPS Election Mail Coordinator (see above).

- Boards of elections must use First-Class Mail postage rather than standard or non-profit postage rates when paying for the delivery of outbound absentee ballots. Use of USPS-approved practices to maximize postage discounts for First-Class Mail (e.g., presort First-Class Mail) are encouraged.

- Remember, USPS requires that the balloting materials for all types of absentee ballots, whether disseminated in hardcopy or electronically, must indicate in a prominent location the proper amount of First-Class Mail postage that must be paid. This information must be included in the balloting materials (i.e., on the

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\(^{81}\) This recommendation does not contemplate the use of #10 business envelopes. In fact, USPS regulations allow a letter size envelope to be up to 6\(\frac{3}{4}\) inches in height, 11\(\frac{1}{2}\) inches wide, and \(\frac{3}{4}\) inch thick. This maximum size is substantially larger than a #10 business envelope.
ballot instructions, mailing instructions, or the envelope) with the marking “First-Class Mail postage must be applied.”

- Alternatively, the marking “Apply First-Class Mail postage here” may be printed in the upper-right corner of the address side of the envelope used by the voter to return the ballot to election officials. USPS will also accept approved variations of the above markings. Additionally, balloting materials must indicate, in a prominent location, the specific amount of First-Class Mail postage required for the return of the ballot to election officials. The marking requirements will not apply to balloting materials that are qualified under the special exemptions specified by USPS.82

Postage Evidencing – The term “postage evidencing system,” as used in R.C. 3509.05(B)(2), refers to postage meters or private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.83 As such, absentee ballots bearing postage affixed by a postage meter or through a PC Postage company cannot be accepted after Election Day, even if postmarked by the day before Election Day.

- All other forms of postage are acceptable for post-election receipt by the board of elections, including postage labels obtained at a USPS customer service window or from a USPS Self-Service Kiosk.

- Furthermore, please note that postage labels (i.e., Postage Validation Imprint, or PVI) obtained at a USPS customer service window or through a Self-Service Kiosk meet the USPS definition of a “postmark,” meaning no other forms of postmarking are necessary. Receiving a postmark through the retail window PVI or the Self-Service Kiosk postage label are the USPS-preferred methods for ensuring that postmarking occurs on ballots being mailed within a week of Election Day.

82 USPS Domestic Mail Manual 703.8.1.2. See also, http://about.usps.com/election-mail/election-mail-resources.htm.
83 See 39 CFR 501.01.
Often when USPS processes mail, an ID Tag, in the form of a fluorescent bar code, is printed by USPS on the back of the envelope or flat. While the data contained in the ID Tag bar code is largely informational for USPS operations, it contains a date/timestamp. The ID Tag is not considered a postmark by USPS. However, it is common sense to use whatever date/time information is provided by USPS on the physical envelope to qualify for counting any otherwise valid absentee ballot.

Therefore, for purposes of R.C. 3509.05(B) only, whenever an official USPS postmark is not present or is not legible, but a readable ID Tag is printed on the envelope, the board of elections must obtain a bar code reader to decode the ID Tag on the envelope. In these instances, if the date/timestamp contained in the ID Tag is no later than the day before Election Day (and the exceptions of R.C. 3509.05(B)(2) regarding postage evidencing systems are not present), the board shall proceed with determining whether or not the absentee ballot is otherwise eligible using the ID Tag as a proxy for a postmark.

The Secretary of State’s office purchased scanners to support boards of elections on a scheduled basis. Please contact your assigned regional liaison to schedule the use of a scanner before your official canvass.

**POLL LIST TO IDENTIFY ELECTORS REQUESTING ABSENT VOTER’S BALLOT.**

The board must mark the name of each registered elector in the precinct who requested an absentee ballot for that election. If a voter who is marked in the poll book as having requested an absentee ballot appears at a precinct polling location to vote on Election Day, the voter will be required to cast a provisional ballot.

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84 [https://about.usps.com/handbooks/po408/ch1_003.htm](https://about.usps.com/handbooks/po408/ch1_003.htm).
85 This does not apply to Safe at Home address confidentiality program participants per R.C. 111.44.
86 R.C. 3509.09.
Chapter 5: Absentee Voting

ABSENTEE BALLOT STATUS LOOKUP

☐ Through each board of elections website, absentee voters in the county must be permitted to identify the status of their absentee ballot from the date of application to the date the ballot was accepted for counting. Specifically, each board website must provide the voter with the following information:

☐ The date the voter’s absentee application was approved;

☐ The date the voter’s approved absentee application was processed by the board of elections (i.e., the date the board of elections mailed the ballot or otherwise issued it);

☐ The date the voter’s voted absentee ballot was received by the board of elections; and

☐ The date the voter’s voted absentee ballot was accepted for counting (or, if not accepted for counting, the reason it was determined to be ineligible for counting and the deadline by which the voter may correct any deficiency).

This search functionality must be available to voters beginning at least the 46th day before an election through the 35th day after that same election. For more information on voter access to information, please refer to Chapter 15 Miscellaneous Duties, Section 1.09.

Section 1.06 Processing Absentee Ballots

All absentee ballots must be returned by mail or in person to the office of the board of elections. No ballot may be returned by fax or email. Ohio law prohibits the electronic return of an absentee ballot and the processing or counting of any ballot returned electronically.

The board must examine each returned absentee ballot envelope for eligibility before the board may remove the ballot from the envelope.

Boards of elections may begin processing, but not tabulating, absentee ballots not earlier than the day following the close of voter registration. “Processing” includes:

☐ Determining whether a UOCAVA voter signed the ballot and submitted it for mailing not later than 12:01 a.m. on Election Day. If the board receives the ballot within the timeframe discussed in the next section, it shall be deemed to have been submitted for mailing by 12:01 a.m. on Election Day;

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87 R.C. 3511.04
88 R.C. 3511.021(A)(4)
89 R.C. 3505.27
90 R.C. 3511.11(C)
Confirming that the board received the ballot by the close of polls on Election Day at the office of the board of elections if delivered in person, or by the 10th day after Election Day if delivered by mail. **Please note that a postmark is not required in order for a UOCAVA ballot to be valid.** The board must count an otherwise valid UOCAVA ballot regardless of whether it contains a timely postmark, a late postmark, or no postmark;\(^91\)

Opening absent voter’s ballot envelopes that have been examined and accepted as valid. If a ballot is not sealed in the identification envelope, avoid looking at the markings on the ballot, place the ballot in the identification envelope, and seal it.\(^92\)

Determining whether the stub is still attached;

Preparing the absent voter’s ballot for scanning; and

Scanning of the absent voter’s ballot using automatic tabulating equipment at a central counting station;\(^93\) and identifying absent voter’s ballots that cannot be “read” or are “rejected” by the ballot scanning device to determine whether the ballot needs to be remade so that it can be read by the scanner. This includes remaking of UOCAVA ballots transmitted by email or fax.

Apart from those presenting valid identification and voting in-person immediately, Ohio law requires all absentee voters to place their ballot in the ID envelope and seal the envelope. The board of elections must clearly indicate that the ballot must be sealed within the ID envelope in order to count. If the board receives an absentee ballot that is not sealed in its identification envelope, the board must seal the envelope. If the ballot is not inside the identification envelope, avoid looking at the markings on the ballot, and place the ballot in the identification envelope and seal it.

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\(^91\) R.C. 3511.11(C).

\(^92\) R.C. 3511.11(A).

\(^93\) In no circumstance may any board initiate the human-readable reporting of election results from absentee ballots processed prior to 7:30 p.m. on Election Day. R.C. 3505.26.
At the close of in-person absentee voting each day, a bipartisan team of board of elections’ employees must secure all poll books, voting equipment, voted ballots, and ballot boxes. The poll books, voting equipment, voted ballots, and ballot boxes must be stored in a manner that prevents unauthorized access. Prior to the start of in-person absentee voting each day, a bipartisan team of board of elections’ employees must inspect all voting equipment and ballot boxes to ensure that all tamper-evident seals are intact. The board must program its voting equipment to utilize all available security features, such as the use of a password to open or close the equipment. As a reminder, each board must ensure that when any voting machine is powered-down after the close of in-person absentee voting each day, the machine does not tabulate any votes cast on it.

**INCOMPLETE OR NON-CONFORMING IDENTIFICATION ENVELOPE**

Whenever a board of elections receives an absentee ballot identification envelope that is missing required information or that contains information that does not conform to the voter’s registration record, and the board of elections cannot determine the voter’s eligibility without the missing or nonconforming information (see Section 1.07 below), the board of elections must contact the absentee voter to give the voter an opportunity to supplement the voter’s identification envelope so the voter’s ballot can be tabulated. The board must meet this requirement by issuing Secretary of State Form 11-S to the voter. Boards must include a courtesy reply envelope (pre-addressed return envelope) with every Secretary of State Form 11-S issued.

Secretary of State Form 11-S provides spaces for a board of elections to print the voter’s name and registration address, and to identify for the voter the specific information that is missing or in error (the “nature of the defect”) on the voter’s absentee ballot identification envelope. The voter need only provide the information that cures the defect when returning a completed Form 11-S and does not need to sign and date Form 11-S, unless the voter’s signature on the voter’s absentee ballot identification envelope was omitted or did not reasonably match the voter’s signature on file with the board of elections.

In the event that the board issues Form 11-S because the voter’s driver license number or last four digits of the voter’s Social Security number provided on the identification envelope does not match the information as recorded in the statewide voter registration

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94 Please note that pursuant to a court order, if the nature of the non-matching information is such that an absentee voter provided the number above their picture and not the driver license number (two alphabet letters followed by six numbers), the Board must notify the voter of such error by telephone or in writing, within two business days of receiving the application or voted ballot. The voter so notified must be permitted to appear in person at the office of the Board to provide the correct information. In the case of a returned absent voter’s ballot, the voter shall have until the 10th day after the election to provide this information to enable their ballot to be counted. See Directive 2008-80.
database, and the voter completes and returns Form 11-S with the same information provided on the identification envelope, the board must review its voter registration records – including original paper records if necessary – prior to the 10th day before the election to determine whether the mismatch is a result of data entry error.

Whenever a voter has requested the voter’s absentee ballot to be mailed by the board of elections to an address other than the address at which the voter is registered to vote, and the voter’s absentee ballot identification envelope is “defective,” the board must issue Form 11-S to both the address at which the voter is registered to vote and the address to which the voter had requested the voter’s absentee ballot be mailed by the board.95

Boards of elections must adhere to the following schedule when reviewing completed absentee ballot identification envelopes and issuing Form 11-S to absentee voters:

- Form 11-S must be issued not later than two business days after a “defective” absentee ballot identification envelope is received by the board from the start of absentee voting through the third Saturday prior to an election;
- Form 11-S must be issued not later than one calendar day after a “defective” absentee ballot identification envelope is received by the board of elections between the third Monday and last Friday prior to an election; and
- Form 11-S must be issued on the same day that a “defective” absentee ballot identification envelope is received by the board of elections between the Saturday prior to an election and through the 6th day following an election.

For purposes of this section, “issued” means that Form 11-S has been presented by the board of elections to the USPS, with accurate first-class postage affixed by the board of elections necessary for first-class delivery.

It is not necessary for a board to provide Form 11-S to an absentee voter whose ballot was received by the board of elections after 7:30 p.m. on Election Day and is postmarked later than the day prior to the election.

Once an absentee voter has completed Form 11-S, the voter may return it to the board of elections in person, by mail or other private delivery service (e.g., UPS, FedEx, etc.), or by any person authorized by state law to return the voter’s absentee ballot.96

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95 Regardless of whether the voter requested assistance in casting the absentee ballot, if a voter requests assistance to supplement the voter’s identification envelope the board of elections must send two employees, not of the same political party, to the voter to provide assistance. Ray v. Franklin County Board of Elections Case No. 2:08-CV-1086, 2008 WL 4966759 (S.D. Ohio Nov. 17, 2008).

96 R.C. 3509.05(A).
In the case of voters with disabilities or UOCAVA voters, all county boards of elections must provide reasonable accommodations, as follows:

- **Voters with Disabilities** – Regardless of whether the voter requested assistance in casting the absentee ballot, if a voter requests assistance to supplement the voter’s identification envelope, the board of elections must send board employees, not of the same political party, to the voter to provide assistance.97

- **UOCAVA Voters** – A UOCAVA voter’s board of elections must provide notice to the voter in the same manner in which the voter requested transmission of the ballot by the board to the voter (i.e., by email, facsimile, or by mail, if application was made by mail or in person).

A completed Form 11-S must be received by the board of elections by the 7th day after an election,98 or be post-marked by the 7th day after the election and received by the board of elections by the 10th day after the election, in order to cure the voter’s defective absentee ballot identification envelope and have the ballot included in the official canvass, which may begin on the 11th day following the election.

**Section 1.07  Mandatory Step-by-Step Process for Counting Absentee Ballots**

**STEP 1: DETERMINE WHETHER THE BALLOT WAS TIMELY SUBMITTED:**

An absentee ballot returned in person to the board of elections office must be delivered by 7:30 p.m. on Election Day.99 The ballot also may be returned to the board’s designated location for in-person absentee voting at any time during in-person absentee voting.

An absentee ballot returned via mail must be postmarked no later than the day before Election Day and received at the board of elections office no later than the 10th day after Election Day. If the absentee ballot returned via mail does not have a postmark, it must be received at the board of elections office no later than 7:30 p.m. on Election Day.

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98 R.C. 3509.06(D)(2)(b).
99 R.C. 3509.05.
A postmark does not include mail sent using a postage evidencing system, including a postage meter or postage from private companies that dispense postage through the internet (e.g., Stamps.com), known as the PC Postage program.\textsuperscript{100}

Note that a postmark is not required in order for a UOCAVA ballot to be valid. The board must count an otherwise valid UOCAVA ballot regardless of whether it contains a timely postmark, a late postmark, or no postmark.\textsuperscript{101}

- If the absentee ballot was not timely submitted, the board must reject the absentee ballot.\textsuperscript{102}
- If the absentee ballot was timely submitted, proceed to Step 2.

**STEP 2: DETERMINE WHETHER THE VOTER HAS PROVIDED THE MINIMUM REQUIRED INFORMATION:**

In order for an identification envelope to be opened and the absentee ballot to be counted, the absentee voter must provide sufficient information on the absentee ballot ID envelope to identify the voter and to determine that the voter was eligible to cast the ballot.\textsuperscript{103}

At a minimum, an absentee voter must provide:\textsuperscript{104}

1. **Name;**\textsuperscript{105}
2. **Signature;**\textsuperscript{106} and
3. **Proper Identification:**\textsuperscript{107}
   - The voter’s driver license number;\textsuperscript{108}
   - The last four digits of the voter’s Social Security number;\textsuperscript{109} or
   - A copy of a current and valid photo identification, a military identification, or a current (within the last 12 months) utility bill, bank statement, government check, paycheck, or other government document (other than a notice of voter registration mailed by a board of elections) that shows the voter’s name and address.\textsuperscript{110}

\textsuperscript{100} R.C. 3509.05(B)(2). See also 39 CFR 501.01.
\textsuperscript{101} R.C. 3511.11(C).
\textsuperscript{102} R.C. 3509.07.
\textsuperscript{103} NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.06(D), R.C. 3509.07(A).
\textsuperscript{104} NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.06(D)(3)(a)(i)(I).
\textsuperscript{105} NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.06(D)(3)(a)(i)(II).
\textsuperscript{106} NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.06(D)(3)(a)(i)(III).
\textsuperscript{107} NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.06(D)(3)(a)(i)(IV).
\textsuperscript{108} R.C. 3509.06(D)(3)(a)(i)(V).
\textsuperscript{109} R.C. 3509.06(D)(3)(a)(i)(VI).
\textsuperscript{110} R.C. 3509.06(D)(3)(a)(i)(VII).
• It is important to note that the board of elections is required to pre-print the voter’s name as it appears in the voter registration record onto the absentee ballot identification envelope. See, paragraph E.1. of Section 1.05, above. Occasionally, a voter may strike through and write a name on the identification envelope that is different from the name preprinted by the board using the voter’s name as it appears in the voter registration record. Ohio law does not permit an absentee ballot identification envelope to be used as a voter registration update form (change of name form). If the absentee voter’s name on the absentee identification envelope or Secretary of State Form 11-S does not match the name in the voter’s registration record, the board must reject the absentee ballot.¹¹¹

• The absentee voter’s signature must correspond with the signature that appears in the voter’s registration file. If the absentee voter’s signature on the absentee identification envelope or Secretary of State Form 11-S does not correspond with the signature in the voter’s registration record, the board must reject the absentee ballot.

• The absentee voter must provide a form of proper identification.

  Note: The absentee voter is not required to provide the same form of identification they provided when registering to vote. If an identification data field in the county voter registration system (CVRS) or statewide voter registration database (SWVRD) is blank, the information contained on an absentee identification envelope, provided under penalty of falsification, may be entered into the CVRS to complete the voter’s registration record both in the CVRS and SWVRD. In any instance of deficiency, the Board must carefully review its voter registration records to determine if an error on the part of the board of elections is the result of the deficiency before it ever rejects any ballot.

If the absentee voter has not provided a form of proper identification on the absentee identification envelope or Secretary of State Form 11-S, the board must reject the absentee ballot.¹¹²

☐ If the absentee voter has provided their name, signature, and a form of proper identification on the absentee identification envelope or Secretary of State Form 11-S, and the board can confirm the absentee voter’s eligibility,¹¹³ proceed to Step 4.

¹¹¹ R.C. 3509.07(B).
¹¹² R.C. 3509.07(F).
¹¹³ R.C. 3509.07(A) and (C).
If the absentee voter has provided their name, signature, and a form of proper identification on the absentee identification envelope or Secretary of State Form 11-S, but the board cannot determine the absentee voter’s eligibility, proceed to Step 3.

STEP 3: DETERMINE WHETHER VOLUNTARY INFORMATION PROVIDED ON THE ABSENTEE IDENTIFICATION ENVELOPE CONFIRMS THE VOTER’S ELIGIBILITY.

Only if the board of elections cannot confirm that the absentee voter was eligible to cast the ballot based on the required information the absentee voter provided, may it look at the voluntary information provided on the absentee ballot identification envelope.

1. **Residence Address** - Pursuant to *NEOCH v. Husted*, Case Nos. 16-3603/3691 (6th Circuit 2016), failure to complete the address field on an absentee identification envelope is not a reason to reject an absentee ballot. If sufficient information is present for the board of elections to confirm that the voter is eligible to vote the ballot that was cast, the ballot must be counted. If the voter has a confidential voter registration record (i.e., they are a participant in the Safe at Home program), that voter need only provide their program participant identification number.

It is important to note that the board of elections is required to pre-print the voter’s address as it appears in the voter registration record onto the absentee ballot identification envelope. See, paragraph E.1. of Section 1.05, above. Occasionally, a voter may strike-through and write an address on the identification envelope that is different from the address preprinted by the board using the voter’s registration record. Ohio law does not permit an absentee ballot identification envelope to be used as a voter registration update form (change of address form). If the absentee ballot identification envelope indicates that the voter’s registration information is out-of-date and that the voter is required to vote a provisional ballot (i.e., the address written by the voter is outside of the precinct in which the voter is registered), the absentee ballot cannot be counted;116

When reviewing addresses, remember that the U.S. Postal Service assigns a mailing address (e.g., Columbus) that is not the same as the political subdivision

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114 *NEOCH v. Husted*, Case Nos. 16-3603/3691 (6th Circuit 2016);
116 R.C. 3509.07(C).
(i.e., City, Village, or Township) in which the voter resides (e.g., the City of Bexley). The political subdivision, ZIP Code, and/or city (as assigned by the USPS) are generally not relevant to this determination.

The voter’s address is sufficient when the number and street is in the county (e.g., 2598 Ruhl Avenue) regardless of the City and ZIP code (except when the same address exists in two different precincts within the same county).

The following examples assume the ballots were cast in a polling location in Franklin County:

<table>
<thead>
<tr>
<th>Street No. &amp; Name</th>
<th>City / ZIP</th>
<th>Political Subdiv.</th>
<th>In County?</th>
<th>Valid?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2598 Ruhl Ave.</td>
<td>Columbus, 43209</td>
<td>Bexley</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>2598 Ruhl Ave.</td>
<td>Bexley, 43209</td>
<td>Bexley</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>63 Pinebrooke</td>
<td>Westerville, 43082</td>
<td>Westerville</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Under no circumstances shall a board of elections use any database other than the county’s voter registration system (CVRS) or the statewide voter registration database (SWVRD) when determining whether or not the address on an absentee ballot identification envelope is valid. Specifically, boards of elections may not use the property records of a County Auditor or County Treasurer or any maps of a County Engineer to determine whether or not an absentee ballot identification envelope is valid.

If a board of elections must use the voter’s address to confirm a voter’s eligibility, it must not require technical precision in a voter’s completion of the address field. Boards should consider technical mistakes (such as inverting digits) and be aware that technical mistakes in providing one’s address may not be cited as reasons to reject an absentee ballot.

2. Date of Birth - Pursuant to NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016), failure to complete the date of birth field on an absentee identification envelope is not a reason to reject an absentee ballot. If sufficient information is present for the board of elections to confirm that the absentee voter is eligible to vote the ballot that was cast, the ballot must be counted. A board of elections may never reject an absentee ballot for the sole reason that the date of birth is missing, insufficient, or incomplete.

If a board of elections must use date of birth to confirm a voter’s eligibility, it must not require technical precision in a voter’s completion of the date of birth field. Technical mistakes in providing one’s date of birth (such as accidental

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transposition of month and year numerals, mistakenly writing the current date, or inverting digits) may not be cited as reasons to reject an absentee ballot.119

☐ If the board could not determine the absentee voter’s eligibility from the properly provided required information, and the voluntary information on the absentee identification envelope does not allow the board to confirm the absentee voter’s eligibility, the board must reject the absentee ballot.120

☐ If the board could not determine the absentee voter’s eligibility from the properly provided required information, but the voluntary information on the absentee identification envelope allows the board to confirm the absentee voter’s eligibility, proceed to Step 4.

**STEP 4: OPEN ELIGIBLE ABSENTEE BALLOTS AND CONFIRM CONTENTS.**

☐ If the eligible absentee ballot contains more than one ballot of any kind, or any voted ballot that the voter was not entitled to vote, the board must reject the absentee ballot. 121

☐ If Stub A is detached from the eligible absentee ballot, the board must reject the absentee ballot.122

☐ If the correct ballot is enclosed in the absentee identification envelope along with Stub A, the board must count the ballot.

The board must endorse the back of the identification envelope of any absentee ballot that was not eligible with the words “Not Counted,” along with the reason the ballot was not counted,123 and retain the rejected ballot pursuant to established retention schedules.

**All valid absentee ballots returned by the close of polls on Election Day, whether returned in person or by mail, must be included in the unofficial canvass.**

Valid absentee ballots received after the close of polls on Election Day through the 10th day after the election, including ballots whose identification envelopes were insufficient but were cured by the 7th day following the election, must be included in the official canvass.

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120 NEOCH v. Husted, Case Nos. 16-3603/3691 (6th Circuit 2016); R.C. 3509.07(A).
121 R.C. 3509.07(D).
122 R.C. 3509.07(E).
123 R.C. 3509.07.
Section 1.08 Eligibility of Former Ohio Residents to Vote by Absentee Ballot in Ohio in a Presidential Election

In order to cast a ballot for President and Vice-President from the Ohio precinct in which the voter resided prior to moving to another state, a former Ohio resident must:\textsuperscript{124}

1. Be qualified to vote in Ohio, with the exception of residence and registration. The former resident must be a United States citizen who will be at least 18 years old as of the day of the Presidential Election; have resided in Ohio for at least 30 consecutive days immediately before moving from Ohio; and have been otherwise eligible to vote in Ohio before moving from Ohio. Therefore, the voter may not be currently incarcerated for a felony conviction, have been adjudicated incompetent to vote by a court, or have been twice convicted of violations of Ohio’s election laws;

2. Have moved to another state from their Ohio residence not more than 90 days before the day of the Presidential Election;

3. Not be registered to vote in the new state of residence; and


A former Ohio resident who satisfies the requirements listed above may vote in Ohio for President and Vice-President, but not for any other offices or issues.\textsuperscript{125} The voter may cast an absentee ballot by mail, an absentee ballot in person at the board office or other designated location during the in-person absentee voting period, or a ballot in person on Election Day at the Ohio precinct polling location where the voting residence was located at the time the voter moved from Ohio to another state.

\textsuperscript{124} R.C. 3504.01
\textsuperscript{125} R.C. 3504.01
CERTIFICATE OF INTENT TO VOTE IN A PRESIDENTIAL ELECTION

An eligible former resident must complete two copies of the Certificate of Intent to Vote in a Presidential Election (Form 107-A) and file them in person or by mail with the board of elections of the county where the individual was last a qualifying former resident of Ohio.127

The Certificates of Intent must be filed no later than the 30th day before the general election at which the President and Vice-President are elected.128

NOTICE TO SECRETARY OF STATE

A board of elections that receives a valid and timely-filed Certificate of Intent to Vote in a Presidential Election from any former Ohio resident must send one of the copies of that form to the Ohio Secretary of State’s Elections Division no later than the 25th day before the day of the presidential election.129

ABSENTEE BALLOT FOR FORMER OHIO RESIDENT

An eligible former Ohio resident may request and receive an absentee ballot by mail or in person if the former Ohio resident timely files the Certificates of Intent and timely submits an absentee ballot application. An application for an absentee ballot by mail must be received by the appropriate board of elections by 12:00 p.m. noon on the Saturday before the election. The voter may request the ballot to be mailed to the voter’s new residence. The residential address of the voter on the application must be the voter’s voting residence at the time the voter moved from Ohio to another state. All other identification requirements for both the application and the identification envelope apply.

ELECTION DAY VOTING FOR FORMER OHIO RESIDENT

On Election Day, former Ohio residents must vote at the precinct and polling location where their voting residence was located at the time the voter moved from Ohio to another state. The signature poll book or poll list must be marked “Former Resident’s Presidential Ballot” to indicate any former Ohio residents at that precinct and/or polling location who have filed a Certificate of Intent to Vote in a Presidential Election.130

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126 R.C. 3504.02
127 If the voter has a confidential voter registration record (i.e., is a participant in the Safe at Home program), the applicant may include the applicant’s program participation identification number instead of the applicant’s address or precinct in the Certificate of Intent. R.C. 3504.02.
128 R.C. 3504.02
129 R.C. 3504.05
130 R.C. 3504.04
A former Ohio resident must sign their name in the poll book. All other Election Day voter identification requirements apply.

**TYPE OF BALLOT FOR FORMER OHIO RESIDENT**

To provide “President and Vice-President Only” ballots to former Ohio residents who have timely filed a Certificate of Intent to Vote in a Presidential Election, boards of elections must issue a centrally counted, optical scan, paper ballot from the correct precinct’s ballot of the voter’s former Ohio voting residence.

After the former Ohio resident has marked the ballot, the ballot must be placed in an envelope (identification envelope for absentee ballots or an envelope created specifically for Election Day former Ohio resident voters) and the envelope must be clearly labeled “Former Ohio Resident’s Presidential Ballot.”

Prior to the official canvass, the board must remake the ballot for only the contest for President and Vice-President of the United States, as former Ohio residents are not eligible to cast a vote for any other contest. Once remade, the former Ohio resident's presidential ballot may be tabulated.

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131 R.C. 3504.01; R.C. 3504.04
132 See Chapter 8 Canvassing the Votes for more information
WHAT IS A PROVISIONAL BALLOT?

Provisional voting is a failsafe that allows a voter whose identity and/or eligibility is in question to cast a ballot that is counted after the voter’s eligibility is verified. Provisional voting ensures that no eligible elector is denied the opportunity to cast a ballot in an election.

Though Ohio had a form of provisional voting prior to the enactment of the Help America Vote Act of 2002 (HAVA), HAVA requires every state to offer provisional voting in each federal election.1

WHO IS ELIGIBLE TO CAST A PROVISIONAL BALLOT?2

The reasons that a voter must cast a provisional ballot are:

1. The voter’s name is not in the poll book or on the supplemental voter list.
   
   **Note:** Before a precinct election official issues a provisional ballot for this reason, they must make sure that the voter is in the correct precinct and is not eligible to cast a regular ballot in a different precinct or polling location. If the voter is in the wrong precinct, the precinct election official must direct the voter to the correct precinct.3

2. The voter does not provide or is unable to provide proper or valid identification.

3. The voter has changed their name and moved to a different precinct without updating their address by the voter registration deadline (30 days prior to the election).

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1 Section 303(b) of HAVA, 52 U.S.C.A. § 21082.
2 R.C. 3505.181(A)(1)-(7).
3 R.C. 3505.181(C)(1).
4. The voter has moved to a different precinct without updating their address by the voter registration deadline (30 days prior to the election).

5. The voter has changed their name and does not have proof of the legal name change.

   **Note**: A voter who changes their name and fails to update their registration may be eligible to cast a regular ballot if that voter presents one of the following to the precinct election officials on Election Day and completes and signs **Form 10-L**:
   - Court order;
   - Marriage license; or
   - Proof of legal name change that includes both the voter’s former and current names.4

6. The voter’s signature does not match the signature on file with the board of elections (i.e., the signature in the poll book or displayed by the electronic poll book).

7. The voter has been challenged, and the challenge has been resolved against the voter.5

8. The notice of registration or acknowledgment notice has been returned to the board as undeliverable.

9. The voter requested an absentee ballot for the election.

10. The voter already has cast a provisional ballot.

For reasons 8, 9, and 10, the voter should be marked or flagged in the poll book as needing to cast a provisional ballot.

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4 R.C. 3503.16(B)(1)(b)
WHEN AND WHERE CAN A PROVISIONAL BALLOT BE CAST?

When and where an elector is able to cast a provisional ballot depends upon the reason why they must cast a provisional ballot.

The following voters can cast a provisional ballot at the board of elections office or at another site designated for early in-person absentee voting beginning the 28th day prior to a general, non-presidential primary, or special election and the 25th day prior to a presidential primary election and ending at the end of in-person absentee voting on the Monday prior to the election:

1. A voter who has moved from one precinct to another within a county and failed to update their address by the voter registration deadline.\(^6\)

2. A voter who has moved from one precinct to another within the county and changed their name but failed to update their voter registration.\(^7\)

3. A voter who has moved outside of their county (but still within Ohio) and failed to update their address by the voter registration deadline.\(^8\)

Additionally, a voter who is unable to appear at the board of elections office on account of personal illness, physical disability, or infirmity can request and cast a provisional/absentee ballot beginning the 27th day prior to an election and ending at noon on the Saturday prior to Election Day.\(^9\) For details on a provisional/absentee voter, please refer to Chapter 5 Absentee Voting in this manual.

If a voter must cast a provisional ballot for any reason other than those listed in this subsection, they must cast it in their precinct on Election Day.

HOW DOES A VOTER CAST A PROVISIONAL BALLOT?

1. **What Each Precinct Needs**

   A board of elections must supply each precinct with enough of the following for provisional voters:

   - The Provisional Ballot Affirmation Statement or provisional ballot envelope containing the affirmation statement (Form 12-B with the most-recent issue date);

   - The provisional ballot notice (Form 12-H with the most-recent issue date);

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\(^6\) R.C. 3503.16(B)(2).
\(^7\) R.C. 3503.16(B)(2).
\(^8\) R.C. 3503.16(C).
\(^9\) R.C. 3503.16(G).
Form 12-D, Provisional Voter Precinct Verification Form; Form 10-L for Change of Name Voters; and An optical scan ballot for each ballot configuration within the polling location.

Form 12-D is used only when a voter insists on casting a provisional ballot in the wrong precinct within the polling location after being directed to the correct precinct within the polling location.\(^\text{10}\)

2. **What Each Provisional Voter Needs**

After it has been determined that a voter must cast a provisional ballot, the voter must be given the following three items:

- A Provisional Ballot Affirmation Statement or provisional ballot envelope containing the affirmation statement (Form 12-B with the most-recent issue date).
- The provisional ballot notice (Form 12-H with the most-recent issue date).
- The appropriate optical scan ballot.

The provisional ballot notice (Form 12-H) is required both by state and federal law.\(^\text{11}\) It provides information on provisional voting and applicable deadlines, as well as a toll-free number that the voter may call to learn the status of their provisional ballot.

3. **What Each Provisional Voter Must Do**

The voter is responsible for completing and signing the Provisional Ballot Affirmation Statement (Form 12-B).\(^\text{12}\)

The voter must provide five items on the provisional ballot affirmation in order for the ballot to be eligible to be counted. The required five items are:

- The voter’s printed name;
- The voter’s valid signature;
- The voter’s date of birth;

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\(^\text{10}\) R.C. 3505.181(C).
\(^\text{11}\) 52 U.S.C.A. § 21082; R.C. 3505.181(B).
\(^\text{12}\) R.C. 3505.182.
The voter’s current address; and

An acceptable form of identification.

A provisional voter must print and sign their name. If a voter fails either to print or sign their name on the affirmation statement, the provisional ballot cannot be counted. Ohio law does not permit a voter to appear at the board of elections office after the election to print and/or sign their name on the affirmation statement.

A provisional voter must provide their date of birth and current address on the affirmation statement. Ohio law does not permit a voter to appear at the board of elections office after the election to provide their date of birth or current address on the affirmation statement.

The month and day of the voter’s date of birth on the affirmation statement must match the month and day of the voter’s date of birth in the voter registration database unless one of the following two exceptions applies:

- The voter’s date of birth in the database is 1/1/1800, or

- The board of elections finds by a vote of at least three members that the voter has met all of the other requirements of division (B)(3) of R.C. 3505.183.

**Note:** The requirements of division (B)(3) of R.C. 3505.183 are:

- The provisional voter is registered to vote;

- The provisional voter is eligible to cast a ballot in the precinct and for the election in which the individual cast the ballot;

- The provisional voter provided all of the information required (i.e., printed name, signature, date of birth, and current address and provided identification on Election Day or during the seven days following the election);

- If the provisional voter provided their Social Security number, driver license, or state identification number, that number is not different than the number contained in the Statewide Voter Registration Database.

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13 R.C. 3505.183(B)(1)(a)
14 R.C. 3505.183(B)(3)
15 R.C. 3505.183(B)(3)(e)
16 R.C. 3505.183(B)(3)(a)
17 R.C. 3505.183(B)(3)(b)
18 R.C. 3505.183(B)(3)(c)
19 R.C. 3505.183(B)(3)(d)
The provisional voter provided their current address; and

If the provisional voter has been challenged, they provided information necessary to resolve the challenge during the seven days following the election or the board resolved the challenge in favor of the voter at a hearing.

A provisional voter must provide an acceptable form of identification either on Election Day or during the seven days following the election. Acceptable identification to cast a provisional ballot includes the following:

- The last four digits of the voter’s Social Security number;
- The voter’s driver license or state identification card number;
- A current and valid photo identification;
- A military identification; or
- A copy of a current utility bill (including cell phone bill), bank statement, government check, paycheck, or other government document that shows the voter’s name and current address.

For additional information and definitions on acceptable identification for voting purposes, please see Chapter 7 of this manual and Directive 2008-80 in the resources section.

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20 R.C. 3505.183(B)(3)(f).
21 R.C. 3505.183(B)(3)(g) & (h).
22 R.C. 3505.183(B)(6) & (7).
23 R.C. 3505.181(B)(6).
24 “Current” means that the document contains a date within the last 12 months or an expiration date that has not passed.
Section 1.02  Provisional Ballots Cast in the Wrong Precinct

THE IMPORTANCE OF THE CORRECT PRECINCT

When an individual registers to vote in Ohio, they are placed within a precinct based upon their residential address and is eligible to vote in all elections held in that precinct. A voter must be a resident of the precinct in which they offer to vote.

PROVISIONAL BALLOT CAST IN THE WRONG PRECINCT OF A SINGLE-PRECINCT POLLING LOCATION

Because Ohio law requires a voter to be a resident of the precinct in which they offer to vote, a provisional ballot cast in the wrong precinct cannot be counted unless it falls under the exception outlined in subsection (c), below.

PROVISIONAL BALLOT CAST IN WRONG PRECINCT OF MULTI-PRECINCT POLLING LOCATION

Under Ohio law, a provisional ballot cast in the wrong precinct of a multi-precinct polling location may be eligible to be counted if the precinct election official did not notify the voter that they were in the wrong precinct. A precinct election official must notify and direct a voter to the correct precinct.

If a voter refuses to cast a ballot in the correct precinct, they must be permitted to cast a provisional ballot and advised that a ballot cast in the wrong precinct cannot be counted. To document the fact that the voter was directed to the correct precinct but opted to cast a provisional ballot in the wrong precinct, a precinct election official must complete Form 12-D and attach it to the provisional voter’s provisional ballot envelope.

If a precinct election official does not complete and attach Form 12-D to the provisional envelope, the board must remake and count the provisional ballot for any contest in which the voter would be eligible to vote if the voter were to cast a ballot in the correct precinct.

Details on processing a provisional ballot cast in the wrong precinct but correct polling location are contained in Section 1.04, Step-by-Step Process For Determining Eligibility.

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25 R.C. 3503.01(A)
26 R.C. 3503.01(A)
27 R.C. 3505.181(C)(1)
28 R.C. 3505.181(C)(1)
29 R.C. 3505.181(C)(2)
Section 1.03  Processing Provisional Ballots

EXAMINATION OF PROVISIONAL AFFIRMATIONS PRIOR TO OFFICIAL CANVASS

Board staff, working in bipartisan teams, may begin examining provisional ballot envelopes the day after the election, as long as the board has adopted a provisional ballot policy allowing its staff to do so. The bipartisan teams may categorize provisional ballots into groups of like ballots (e.g., ballots that have been verified and eligible to be counted, provisional affirmations that are missing the voter’s signature, etc.) for the board to consider.

SUPPLEMENTAL INFORMATION DURING SEVEN-DAY PERIOD

A provisional voter who failed to provide identification on Election Day may appear at the board of elections and provide identification during the seven days following the election.

A provisional voter who has been challenged and needs to provide information to resolve the challenge also may appear at the board of elections and provide information during the seven days following the election.

BOARD MEMBERS VOTE ON ELIGIBILITY

It is important to remember that only the board members themselves can determine the validity of each provisional ballot. The board must, by a majority vote, determine whether to accept and count – or whether to reject and not count – each and every provisional ballot in a properly-noticed, public meeting.

OPENED AND COUNTED IN OFFICIAL CANVASS

No provisional ballot envelope may be opened and no provisional ballot may be counted until the board has voted on the eligibility of each and every provisional ballot cast in the election.

The opening of provisional ballot envelopes and the counting of provisional ballots cannot begin until the start of the official canvass, which may begin no earlier than the 11th day following the election.

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30 R.C. 3505.183(G)(1).
31 R.C. 3505.181(B)(7).
32 R.C. 3505.181(B)(7).
33 R.C. 3505.183(D).
34 R.C. 3505.32(A).
A board must complete the counting of provisional ballots and the official canvass no later than the 21st day after the election.\textsuperscript{35}

**MANDATORY STEP-BY-STEP PROCESS FOR DETERMINING ELIGIBILITY**

Each board is required to follow the step-by-step instructions outlined below to determine the eligibility of a provisional ballot to be counted.

**Section 1.04 Step-by-Step Process for Determining Eligibility**

**STEP 1: DETERMINE WHETHER THE AFFIRMATION STATEMENT ON THE PROVISIONAL BALLOT ENVELOPE CONTAINS EACH OF THE FOLLOWING FIVE ITEMS:**

1. Voter’s printed name;
2. Voter’s valid signature;
3. Voter’s date of birth;
4. Voter’s current address; and
5. Voter’s identification.

- If the affirmation statement contains all five of the required items, proceed to Step 2.
- If the affirmation statement does not contain both the voter’s printed name and valid signature, then the board must reject the provisional ballot.\textsuperscript{36}
- If the affirmation statement does not contain the voter’s date of birth or it does not fall into the exception below, then the board must reject the provisional ballot.\textsuperscript{37}

**Exception:** If the affirmation statement contains the voter’s date of birth but the month and day are different from the month and day in the Statewide Voter Registration Database, the board must reject the provisional ballot unless 1) the voter’s date of birth in the database is 1/1/1800; or 2) the board of elections finds by a vote of at least three of its members that the voter has

\textsuperscript{35} R.C. 3505.32(A)

\textsuperscript{36} R.C. 3505.183(B)(4)(a)(viii)

\textsuperscript{37} R.C. 3505.183(B)(4)(a)(ix)
met all of the other requirements of division (B)(3) of R.C. 3505.183. If the ballot falls into this exception, proceed to Step 2.

**STEP 2: DETERMINE WHETHER THE PROVISIONAL VOTER INDICATED ON THE AFFIRMATION STATEMENT SHOWED AN ACCEPTABLE FORM OF IDENTIFICATION TO THE PRECINCT ELECTION OFFICIAL OR WHETHER THE PROVISIONAL VOTER PROVIDED AT LEAST ONE OF THE FOLLOWING ON THE AFFIRMATION STATEMENT: THE LAST FOUR DIGITS OF THE VOTER’S SOCIAL SECURITY NUMBER, THE VOTER’S DRIVER LICENSE NUMBER, OR STATE IDENTIFICATION CARD NUMBER.**

- If the voter indicated on the affirmation statement that they showed the precinct election official one of the acceptable forms of identification, proceed to Step 3.\(^{39}\)
- If the voter provided identification on the affirmation statement, and the number (or, if a driver license or state identification card number, the combination of letters and numbers) provided is not different from the number that is contained in the Statewide Voter Registration Database, proceed to Step 3.\(^{40}\)
- If the voter provided identification on the affirmation statement but that identification is different from what is contained in the Statewide Voter Registration Database (i.e., the number or, if a driver license or state identification card number, the combination of letters and numbers, provided is different), the board must reject the provisional ballot.\(^{41}\)
- If the voter did not provide identification on the affirmation statement or did not indicate that they showed an acceptable form of identification to the precinct election official but returned to board of elections within seven days after the election and provided one of the acceptable forms of voter identification, proceed to Step 3.\(^{42}\)
- If the voter did not provide identification on the provisional ballot affirmation, did not indicate on the affirmation statement that they showed the precinct election official an acceptable form of identification, and did not return to the board

\(^{38}\) R.C. 3505.183(B)(d)(a)(ix)
\(^{39}\) R.C. 3505.181(B)(6).
\(^{40}\) R.C. 3505.183(B)(3)(d).
\(^{41}\) R.C. 3505.183(B)(6)(a)(viii).
\(^{42}\) R.C. 3505.183(B)(3)(q).
within the seven days after the election to remedy the missing item, the board must reject the provisional ballot. 43

**STEP 3: DETERMINE WHETHER THE BOARD CAN VERIFY THE IDENTITY OF THE VOTER BASED ON THE INFORMATION PROVIDED ON THE PROVISIONAL BALLOT AFFIRMATION OR PROVIDED BY THE VOTER WITHIN THE SEVEN-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 seven 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 seven days of the election, the board must reject the provisional ballot. 44

**Note:** To verify identity, the board must 1) conduct at least one “wildcard” search of the county’s local voter registration database, if available, 2) conduct a voter query of the Statewide Voter Registration Database using ‘Search by Driver License Number’ and 3) conduct at least one voter query of the Statewide Voter Registration Database by entering as much or as little information as is available using ‘Search by Name.’ Once a board has successfully identified a voter with one search, it is not necessary to conduct the additional queries.

**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. 45

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43 R.C. 3505.183(B)(4)(a)(viii).
44 R.C. 3505.183(B)(4)(b)(i); State ex rel. Skaggs v. Brunner (2008), 120 Ohio St. 3d 506.
45 Ohio Constitution Article V, Section 1; R.C. 3505.183(B)(4)(a)(i).
STEP 5: DETERMINE WHETHER THE VOTER IS A RESIDENT OF THE COUNTY AND PRECINCT IN WHICH THE VOTER OFFERS TO VOTE.\textsuperscript{46}

☐ If the voter is a resident of the county and precinct in which the provisional ballot was cast, proceed to Step 6.

☐ If the voter moved and provided a new address within the precinct on the affirmation statement, then the voter is considered a resident of the new precinct and the board must proceed to Step 6.

☐ If the voter cast the provisional ballot in the wrong precinct, but in the correct polling location, including the board of elections office, and a precinct election official did not complete and attach 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.\textsuperscript{47}

☐ If the voter cast the provisional ballot in the wrong precinct, but in the correct polling location, including the board of elections office, and a precinct election official did complete and attach Form 12-D, but the board verified that the precinct to which the precinct election official 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 location, including the board of elections office, and 1) a precinct election official completed 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.\textsuperscript{48}

☐ If the voter cast the provisional ballot in the wrong precinct and wrong polling location the board must reject the provisional ballot.\textsuperscript{49}

\textsuperscript{46} R.C. 3503.01(A).
\textsuperscript{47} R.C. 3505.183(D)(1).
\textsuperscript{48} R.C. 3505.183(D)(1).
\textsuperscript{49} R.C. 3505.183(D)(3).
STEP 6: DETERMINE WHETHER THE VOTER ALREADY REQUESTED AND CAST A BALLOT IN THE ELECTION.

☐ If the voter has not cast another ballot, proceed to Step 7.

☐ If the voter has requested and cast an absentee ballot but either of the following exceptions apply, proceed to Step 7.

**Exception 1**: The board of elections shall count the provisional ballot, instead of the absentee ballot, if the board determines that the absentee ballot is invalid because the elector’s signature on the absentee voter’s identification envelope does not match the signature on file with the board of elections, and the elector cast the provisional in the voter’s precinct on Election Day. If the ballot meets this exception, proceed to Step 7.

**Exception 2**: The board of elections does not receive the voter’s absentee ballot by the 10th day following the election, and the elector cast the provisional in the voter’s precinct on Election Day. If the ballot meets this exception, proceed to Step 7.

☐ If the voter has cast another ballot, or requested and cast an absentee ballot and the exceptions above do not apply, the board must reject the provisional ballot.

STEP 7: IF YOU HAVE COMPLETED STEPS 1 THROUGH 6 AND DETERMINED THAT THE PROVISIONAL BALLOT SHOULD BE REJECTED, YOU MUST CONSIDER AND APPLY THE CONSENT DECREES ISSUED BY THE FEDERAL COURT IN NORTHEAST OHIO COALITION FOR THE HOMELESS V. BRUNNER, S.D. OHIO NO. 2:06-CV-896, (NEOCH), WHICH IS COPIED IN FULL IN SECTION 1.07 OF THIS CHAPTER.

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50 R.C. 3509.09(C)(2).
51 R.C. 3509.09(C)(3).
Section 1.05  Registering to Vote / Updating Address from Affirmation

A board cannot count a provisional ballot cast by an individual who is not registered to vote in Ohio by the voter registration deadline for that election. However, a completed Provisional Ballot Affirmation Statement (envelope) also serves as a voter registration form, change of address, and/or change of name form. Even if the provisional ballot envelope is not opened and the ballot counted, the board must use the information on the application to enter the person as a new registered voter, or update the voter’s address and/or name.

If the board needs information in addition to that provided on the Provisional Ballot Affirmation Statement in order to register the individual to vote, the board must contact the individual and request the information needed.

Section 1.06  APRI Exception

The parties to Ohio A. Philip Randolph Institute et al. v. LaRose, Case No. 2:16-cv-303 consented to a joint stipulation and order that the Secretary of State will reinstate and implement the “APRI Exception” for all special, local, state, and federal elections taking place through December 31, 2022. This Directive is materially similar to the court-ordered Directives that were in effect starting with the 2016 General Election.

TO WHOM THIS EXCEPTION APPLIES

For purposes of the aforementioned elections only, a provisional ballot cast during the in-person absentee voting period or on Election Day by a voter who is not registered to vote in the State of Ohio may be counted if all of the following apply (the “APRI Exception”):


2. The voter’s provisional ballot affirmation reflects an address within the precinct in which the voter currently resides, and the voter was previously registered to vote within that 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 voter’s provisional ballot affirmation form and the ballot otherwise comply with all applicable laws and directives.
APPLYING THE APRI EXCEPTION

Boards must apply the APRI Exception to the provisional ballot eligibility determination of any provisional voter who is not registered to vote in the State of Ohio at least 30 days before the election. If the board determines, as evidenced by the voter having a “cancelled” status in the Statewide Voter Registration Database (“SWVRD”), that the voter previously was registered to vote in the State of Ohio, it must count the provisional ballot using the following steps in conjunction with the mandatory process for determining eligibility of provisional ballots in Chapter 6, Provisional Voting, of the Ohio Election Official Manual:

1. Identify the most recent address of registration in the Statewide Voter File for the voter (because merged records can result in multiple records for a single voter, it is necessary to identify the most recent address of registration on file prior to cancellation). Proceed to “step 2” below.

2. If the most recent address of registration in the Statewide Voter File for the voter is in a different county than the address provided by the voter on the provisional affirmation, the board must reject the provisional ballot. If the most recent address of registration in the Statewide Voter File for the voter is the same as the address provided by the voter on the provisional affirmation, or if the address provided by the voter on the provisional affirmation is in the same county as the most recent address for the voter in the Statewide Voter file, proceed to “step 3” below.

3. Identify the “reason” code in the SWVRD. If the reason code is “Cancelled – Deceased,” “Cancelled – Incompetent,” or “Cancelled – Incarcerated” the board must reject the provisional ballot. (A “merged” record is not a “cancelled” record.) If the reason code is something other than death, adjudication of incompetency by a probate judge, or incarceration on a felony conviction, proceed to “step 4” below.

4. Identify the date of cancellation in the SWVRD. If the date of cancellation is prior to 2011 or after 2019, the board must reject the provisional ballot. If the date of cancellation in the SWVRD is after January 1, 2011, but not after 2019, proceed to “step 5” below.

5. Determine if the voter was cancelled under the “Supplemental Process” of the state’s general voter records maintenance program.

If the board’s records do not differentiate between a cancellation under the “NCOA Process” and a cancellation under the “Supplemental Process,” the board must contact the Secretary of State’s elections counsel. The Secretary of State’s elections counsel will compare the information from the
voter’s provisional ballot affirmation to the NCOA list from the year in which the voter was sent a confirmation notice (four years prior to the year of cancellation).

The Secretary of State’s office shall possess the NCOA lists from 2007, 2009, 2011, 2013, 2014, and 2015. A county seeking to determine whether an individual is on the NCOA list in accordance with subsection (b) above shall contact the Secretary of State’s office, which shall provide the county with a prompt response.

The provisional ballot of a voter whose registration was cancelled under the “NCOA Process” cannot be counted under the APRI Exception. If the voter’s registration was cancelled under the “NCOA Process,” the board must reject the provisional ballot.

The provisional ballot of a voter whose registration was cancelled under the “Supplemental Process” must be counted under the APRI Exception if the provisional ballot affirmation and the provisional ballot otherwise comply with all applicable laws, as directed in the mandatory process for determining eligibility of provisional ballots in Section 1.04 of this chapter.

DELIVERY IN CERTAIN CIRCUMSTANCES OF A PROVISIONAL BALLOT TO AN INDIVIDUAL WITH A PERSONAL ILLNESS, PHYSICAL DISABILITY, OR INFIRMITY

Boards of elections are required to have two board staff members – one Democrat, one Republican—deliver a provisional ballot to an individual who meets all of the following conditions:

- The individual attests to the board that he or she has a personal illness, physical disability, or infirmity;
- The individual attests to the board that he or she is unable to cast a ballot in-person during absentee voting or on Election Day;
- The individual completes Form 11-I-2;
- The individual’s voter registration was cancelled in 2011, 2013, 2015, or 2019 under the “Supplemental Process”;

52 R.C. 3503.16(G)
• The individual’s most recent address of registration in the Statewide Voter File is in the same county as the individual’s current address of registration as listed in the attestation;

• The individual is requesting the delivery of the provisional ballot to an address in the same county as both the individual’s recent address of registration in the Statewide Voter File and the individual’s current address of registration as listed in the attestation; and

• The individual is submitting the request to the board no later than noon on the Saturday prior to Election Day.

Boards are required to provide Form 11-I-2 to each individual contacting the board stating that he or she satisfies the conditions above.

If the individual completes Form 11-I-2, submits the Form to the board, and satisfies all of the conditions above, the board shall send two staff members—one Democrat, one Republican—to deliver a provisional ballot to the individual.


If a Federal Postcard Application or a Federal Write-In Absentee Ballot is received pursuant to state law, and the board of elections determines that the applicant’s voter registration was cancelled in 2019, 2015, 2013, or 2011 under Ohio’s supplemental list maintenance program, the applicant shall be considered to have submitted the application by the deadline established in 52 U.S.C. § 20302(a)(2), so long as the other requirements of this Directive, issued pursuant to court order, are met.

The board shall make a reasonable effort to locate any Federal Postcard Applications or a Federal Write-In Absentee Ballots that were received prior to October 7, 2019, and this Directive shall apply to any such Applications or Absentee Ballots as are located.
ADDITIONAL INSTRUCTIONS

- For the 2020 Presidential Primary Election, the board must provide provisional ballots in the quantity of at least fifteen percent (15%) more than the number of provisional ballots cast in that precinct at the 2012 or 2016 Presidential Primary Elections, whichever was higher. For the 2020 Presidential General Election, the board must provide provisional ballots in the quantity of at least 15 percent (15%) more than the number of provisional ballots cast in that precinct at the 2012 or 2016 Presidential General Elections, whichever was higher. For all other elections between January 1, 2020 and December 31, 2022, the board must provide provisional ballots in a quantity of at least fifteen percent (15%) more than the number of provisional ballots cast at that precinct in the like election or its closest equivalent that occurred four years earlier. Additionally, each board must provide to each precinct and/or polling location a stock of provisional ballot affirmation envelopes (containing Secretary of State Form 12-B) that is greater than the number of provisional ballots being provided for this election. Be mindful of the proper allocation of ballot and envelope quantities across precinct splits. Additionally, any multi-precinct polling location must have a sufficient supply of Secretary of State Form 12-D.

- Boards of elections will be required to provide the total count of provisional ballots counted using the APRI Exception separate from all other counted provisional ballots when the board submits its supplemental report at the conclusion of the official canvass following Election Day.

- Boards of elections are required to add the following language to any web tool used to aid voters in searching for their registration information:

  “If you are unable to locate your voter registration information but think you are registered to vote and you have not moved outside of your county of prior registration, you may be eligible to cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address that may be counted. We encourage you to check your registration status by contacting your local county board of elections. To find your polling place, please click here or call your county board of elections. Follow this link for a full listing of Boards of Elections.”

- With respect to absentee ballot request forms, submitted in person or by mail, that have not already been processed and/or rejected by the respective boards of elections, the following language shall be included in any notification of a denial of the request for an absentee voter ballot to any nonregistered voter:
“You may still cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address. If you are unable to cast a ballot in-person during absentee voting or on Election Day because of personal illness, physical disability, or infirmity, you may be eligible to have a provisional ballot delivered to you. Please contact your local county board of elections for more information.”

Section 1.07 NEOCH

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 the notice, which was updated in 2014 following amendments to the statutes governing the casting and counting of provisional ballots, 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.

**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;

v. THE SIGNATURE OF THE VOTER SUBSTANTIALLY CONFORMS TO THE SIGNATURE CONTAINED IN THE BOARD OF ELECTION’S RECORDS FOR THAT VOTER;


vii. THE INDIVIDUAL PROVIDED HIS OR HER CURRENT ADDRESS;

viii. THE PROVISIONAL BALLOT AFFIRMATION INCLUDES THE LAST FOUR DIGITS OF THAT VOTER’S SOCIAL SECURITY NUMBER, WHICH IS NOT FOUND TO BE INVALID;

ix. THE INDIVIDUAL’S RIGHT TO VOTE WAS NOT SUCCESSFULLY CHALLENGED;

x. THE INDIVIDUAL DID NOT ALREADY CAST A BALLOT FOR THE ELECTION IN WHICH THE INDIVIDUAL CAST THE PROVISIONAL BALLOT; AND

xi. 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 SEVEN DAYS AFTER THE DAY OF THE ELECTION THAT casting 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 MONTH AND DAY OF THE VOTER’S DATE OF BIRTH ARE DIFFERENT FROM THE DAY AND MONTH OF THE VOTER’S DATE OF BIRTH IN THE STATEWIDE VOTER REGISTRATION DATABASE, BUT THE VOTER’S DATE OF BIRTH IN THE STATEWIDE VOTER REGISTRATION DATABASE IS JANUARY 1, 1800 OR THE BOARD OF ELECTIONS HAS FOUND, BY A VOTE OF AT LEAST 3 OF ITS MEMBERS, THAT THE VOTER HAS MET ALL OTHER REQUIREMENTS OF DIVISION (B)(3) OF R.C. 3505.183;

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

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.

Section 1.08 Free Access System

Both Ohio and Federal law require the state to establish a free access system, in the form of a toll-free number, which enables a provisional voter to call and learn whether their provisional ballot was counted.\(^53\) If the provisional ballot was not counted, the individual can ascertain why the ballot was not counted and how to register to vote or resolve any issues with their voter registration.\(^54\)

Each provisional voter must be given Form 12-H, which contains the toll-free number for the free access system and the deadline by which the voter can appear at the board of elections office to provide identification.

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\(^53\) R.C. 3505.181(B)(5); 52 U.S.C.A. § 21082.

\(^54\) R.C. 3505.181(B)(5)(b).
Only the provisional voter can access information about their provisional ballot. A board of elections is prohibited from releasing information on a provisional ballot through the free access system to anyone other than the provisional voter.

Section 1.09 Public Records

WHEN PROVISIONAL BALLOT AFFIRMATION STATEMENTS CAN BE DISCLOSED

Provisional ballot affirmation statements are public records. However, they are not subject to disclosure or inspection pursuant to a request for public records until after the time period for any recount or elections contest has passed. As with all requests for public records, the board might want to consult with its legal counsel if it receives a request for Provisional Ballot Affirmation Statements.

The Secretary of State’s retention schedule sets forth the retention period for Provisional Ballot Affirmation Statements/envelopes. The retention schedule is available in the resources section of this manual.

PROVISIONAL BALLOT AFFIRMATION STATEMENT AS VOTER REGISTRATION FORMS

If a Provisional Ballot Affirmation Statement is used to register an individual to vote, it must be retained permanently, because it serves as the individual’s voter registration application.
Chapter 7: ELECTION DAY VOTING

Directive 2019-15

Section 1.01 Delivery and Return of Ballots and Voting Equipment

DELIVERY TO POLLING LOCATION

Each board of elections must arrange for the delivery of voting equipment to polling locations prior to or on Election Day. If voting equipment will be delivered to a polling location prior to Election Day, the board must arrange for the security of the equipment at the polling location. The security of the election equipment must include mechanisms that will prevent the physical access or physical tampering of the equipment by any personnel other than a voting location manager, precinct election official or employee of the board. The storage of voting equipment at a precinct election official’s home, vehicle, or place of employment is prohibited, and a precinct election official must never retain custody of voting equipment overnight.

At a polling location, voting equipment must be stored in the manner recommended by the voting equipment manufacturer and in a clean and climate-controlled environment. The equipment must not be stored on the ground in an area prone to flooding or where liquids accumulate.

If memory cards are inserted into the voting machines when they are delivered to a polling location or transferred to a precinct election official, the board is required to use tamper evident seals to allow detection if the memory card is tampered with while in the machine. The seal must be unique to each machine with a documented, unique identifier that corresponds to the particular voting machine. Documentation of the unique identifier for the tamper evident seal as it corresponds to a particular voting machine should be maintained on three lists. Two lists must be retained in a secure location at the board office, with one kept by the director and the other by the deputy director.
Upon set up and closing, precinct election officials must inspect all pieces of voting equipment that are assigned to their precinct for any physical damage. Precinct election officials must document the inspections on a maintenance/event log provided by the board of elections and must specifically note any signs of damage or tampering discovered on the equipment or cases used to house the equipment.

Additionally, boards of elections must use a Chain of Custody Log (Form 400 or local equivalent) to document the exchange of custody of voting equipment, election supplies, and/or ballots. Boards should train precinct election officials on inspection of tamper evident seals so they know what to look for when inspecting the equipment.

POLLING PLACE SECURITY AND EMERGENCY RESPONSE

Precinct election officials must maintain control over all voting equipment, keys, memory cards, ballots, and all other election supplies at all times. Any suspicious activity or damage to the equipment must be reported to the board immediately. The board must provide each voting location manager with a list of persons to contact in the event of an emergency.

Precinct election officials must be instructed that, in the event of an emergency, their first priority is the safety of the electors and other election officials. Precinct election officials should remove voting equipment, election supplies, and ballots only if it may be done safely. If any voting equipment, election supplies, and ballots are removed from a polling location, at least one (preferably two, one of each major political party) must remain with the equipment and supplies at all times.

SECURE RETURN OF BALLOTS, ELECTION DAY SUPPLIES, AND ELECTRONIC POLL BOOKS

At the close of polls, all ballots and election supplies (i.e., paper and electronic poll books, poll lists, tally sheets, election reports, and other materials) must be returned by a bipartisan team to the board of elections office or other location designated and staffed by the board. The bipartisan team must consist of the voting location manager and an employee or appointee of the board who is a member of a different political party than the voting location manager and “has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties [of promptly and securely transporting and delivering ballots and election supplies to the board of elections].”

Each electronic poll book must be sealed by the precinct election officials with a tamper-evident seal before being returned from the polling location to the board of elections’

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1 R.C. 3505.31
office. If the electronic poll book uses a removable data storage unit or produces a paper record, the data storage unit and the paper record must also be sealed with a tamper-evident seal in an appropriate storage container before being returned to the board office.

When transporting ballots and election supplies, the bipartisan team must travel in the same vehicle. The board is permitted to have one or more additional persons, such as a law enforcement official, accompanies the bipartisan team. One bipartisan team may transport the ballots and election supplies for an entire multi-precinct polling location.

### Section 1.02 List of Registered Voters

Copies of the official Precinct Voter Registration Lists must be provided to each precinct and updated and posted at specific times during the day.

- The first copy of the list should be posted at 6:30 a.m., after the absentee and early provisional voters have been marked by the voting location manager. The precinct election officials must keep the other copies, updating them by checking off voters as they vote.

- The second copy of the list, marked to indicate who has voted since 6:30 a.m., must be posted at 11:00 a.m. The precinct election officials must keep the other copies, updating them by checking off voters as they vote.

- The third copy of the list must be posted at 4:00 p.m., marked to indicate who has voted from 11:00 a.m. to 4:00 p.m. After 4:00 p.m., the precinct election officials are not required to post another updated list.

Party affiliation is required to be included in the registration list that is posted at 6:30 a.m., 11 a.m., and 4 p.m. on Election Day at each polling location.²

Please note that any person may enter the polling location for the sole purpose of checking and taking notes from the official Precinct Voter Registration List that is posted at 6:30 a.m., 11:00 a.m., and 4:00 p.m. Such persons may not wear any electioneering or campaign clothes or accessories and may not interfere with or disrupt the election. Such persons may not remove the posted official Precinct Voter Registration List, and election officials should be careful to post the list in a manner that it cannot be removed unnoticed by an election official.

² R.C. 3503.23

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Chapter 7: Election Day Voting
Section 1.03 Signature Poll Books – Paper or Electronic

CONTENTS

The signature poll book – or signature poll list – is a required element for any election. It is the record that precinct election officials use to determine whether or not a voter is registered to vote and eligible to vote in that election at that precinct. A signature poll book must contain four primary elements:

- The voter’s name;
- The voter’s address;
- An image of the voter’s signature; and
- A space for the voter to sign their signature.

In a partisan primary election, there must also be a space for the precinct election official to record the political party ballot selected by the voter.

The signature poll book may also contain additional information necessary for the precinct election official to determine the type of ballot (i.e., ballot style number; house, senate and congressional or school district name/number, etc.).

The poll book can be in paper or electronic form. An electronic poll book contains the same information on the voters assigned to the precinct and polling location as a paper poll book contains.

Each voter is required to sign the poll book (if electronic, the voter signs the signature pad or on the screen of the poll book using a stylus). If the voter is physically unable to sign, they may have their properly appointed attorney-in-fact sign on the voter’s behalf.

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3 R.C. 3503.23.
4 R.C. 3505.18; R.C. 3501.382. Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.011, 3501.382(F) and related OAG 2015-012. In counties with electronic poll books, if a voter is physically unable to sign and cannot be accommodated on the electronic poll book, the voter may affix their signature in the backup paper poll book. In the alternative, the voter may have a properly appointed attorney-in-fact sign on the voter’s behalf.
SPECIAL NOTATIONS IN THE POLL BOOK

The board of elections is also required to provide special notations in the signature poll book identifying voters who may require special processing (i.e., a 17-year-old voter) or who must vote by provisional ballot.

1. **17-Year-Old Voter**

   Ohio law allows a 17-year-old voter who will be 18 years of age on or before the date of the next general election to vote in the primary election solely on the nomination of candidates seeking election and, in a presidential primary election, for Presidential convention delegates. This is because the 17-year-old voter will be eligible to vote for the nominees at the November general election.

   As with every voter, a 17-year-old voter must be registered to vote and satisfy Ohio’s voter identification requirements.

   Voters who are 17 years old as of the primary election are not permitted to vote on any of the following:
   - State Party Central Committee
   - County Party Central Committee
   - Questions and Issues

   The ballot style given to a seventeen-year-old voter is determined in accordance with the type of voting system used by the county and instructions of the board.

2. **First-time Registrant By-Mail**

   Under federal law, a first-time registrant by mail who does not provide a valid form of identification at the time of registration (i.e., driver license number, last four digits of the voter’s Social Security number, or a copy of an acceptable form of voter identification) must be flagged as such in the poll book and must show identification in order to vote a regular ballot. State law requires all voters to provide identification at the polls prior to casting a regular ballot. If any voter does not provide an acceptable form of identification, that voter must cast a provisional ballot.

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5 *Schwerdtfeger v. Husted*, Franklin C.P. No. 16 CV 002346 (March 11, 2016); R.C. 3503.01; R.C. 3503.011; R.C. 3503.07, State ex rel. Webber v. Felton, 77 Ohio St. 554 (1908).

3. **BMV/SSA Mismatch**

Under federal law, a new voter registration must be compared with records from the Bureau of Motor Vehicles or the Social Security records to verify the voter’s identification (i.e., the voter’s driver license number and/or the last four digits of the voter’s Social Security number). In the event the information provided by the voter and entered into the county voter registration system does not match the information in the other government databases, the board of elections must send a confirmation card to that voter, informing the voter of the mismatch and giving the voter an opportunity to correct it. If the voter does not correct the mismatch, that voter must be flagged in the voter registration data base.

4. **Requested Absentee Ballot**

If a voter has submitted a valid application for an absentee ballot (either by-mail or in person) that voter must be flagged in the poll book. If that voter appears to vote on Election Day, they must cast a provisional ballot, even if the voter states that the voter did not receive or has not returned the voter’s absentee ballot. Boards must ensure that all signature poll books have been printed with these flags, including updating them on Election Day using a supplemental list prepared after the signature poll books have been prepared. If using electronic poll books, the board must ensure that all voters who have requested an absentee ballot have been flagged and must upload the supplemental list of absentee voters onto its electronic poll books prior to the opening of polls.

A board of elections may not permit a precinct election official to accept a voted absentee ballot at the polling location on Election Day. No absentee ballot can be accepted at a polling location on Election Day. The voter must return it to the office of the county board of elections before 7:30 p.m. on Election Day.

5. **Acknowledgement Card Returned as Undeliverable**

Whenever an acknowledgement notice is returned as undeliverable, the board of elections must send a confirmation card by forwardable mail to the voter giving the voter an opportunity to correct or confirm the information on file with the board of elections. If the voter does not correct or confirm the information by returning the confirmation card or submitting another voter

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7 52 U.S.C.A.§21083(a).
8 R.C. 3509.09
9 R.C. 3509.05(A)
10 R.C. 3509.05(A)
registration record, the voter must be flagged as such in the poll book and must cast a provisional ballot at the polls on Election Day.\textsuperscript{11}

6. \textbf{Party Affiliation}

Party affiliation, defined in \textit{R.C. 3513.19} as the most recent ballot selected at a partisan primary held during a look-back period that is limited to the current year and two immediately preceding calendar years, is not required to be included in the poll list or signature poll book.\textsuperscript{12}


7. \textbf{Former Ohio Resident — Presidential Election Only}

The signature poll book or poll list must be marked “Former Resident’s Presidential Ballot” to indicate any former Ohio residents at that precinct and/or polling location who have filed a Certificate of Intent to Vote in a Presidential Election.\textsuperscript{13} On Election Day, former Ohio residents must vote at the precinct and polling location where their voting residence was located at the time the voter moved from Ohio to another state.

To provide “President and Vice-President Only” ballots to former Ohio residents who have timely filed a Certificate of Intent to Vote in a Presidential Election, boards must issue a centrally counted, optical scan, paper ballot from the correct precinct’s ballot of the voter’s former Ohio voting residence.

After the former Ohio resident has marked the ballot, the ballot must be placed in an envelope (identification envelope for absentee ballots or an envelope created specifically for Election Day former Ohio resident voters) and the envelope must be clearly labeled “Former Ohio Resident’s Presidential Ballot.”

For more information, please refer to the information regarding Former Ohio Resident voters in \textit{Chapter 5 Absentee Voting}.

\textsuperscript{11} R.C. 3503.19
\textsuperscript{12} R.C. 3501.30
\textsuperscript{13} R.C. 3504.04
Section 1.04 Procedure

IDENTIFYING VOTER IN SIGNATURE POLL BOOK — PAPER OR ELECTRONIC

1. PEO Must Direct Voter to Correct Polling Place

It is the voter’s responsibility to be timely registered to vote at the proper residential address, to know the correct precinct and voting location assigned, and to bring a valid form of identification to the polls on Election Day. Precinct and voting location information for registered voters is available online at www.OhioSoS.gov/elections/voters/toolkit/.

When a voter appears to vote in the wrong precinct, Ohio law requires that the precinct election officials direct that voter to their correct precinct and polling location, explain that a provisional ballot cast in the wrong precinct cannot be counted, and provide the voter with a phone number for the board of elections. Accordingly, boards of elections must instruct precinct elections officials on how to comply with these requirements.

2. Use of Form 12-D for Wrong Precinct but Correct Polling Place

Under Ohio law, a provisional ballot cast in the wrong precinct of a multi-precinct polling location may be eligible to be counted if the precinct election official did not notify the voter that they were in the wrong precinct.

If a voter refuses to cast a ballot in the correct precinct, they must be permitted to cast a provisional ballot and advised that a ballot cast in the wrong precinct cannot be counted. To document the fact that the voter was directed to the correct precinct but opted to cast a provisional ballot in the wrong precinct, a precinct election official must complete Form 12-D and attach it to the provisional voter’s provisional ballot envelope.

If a precinct election official does not complete and attach Form 12-D to the provisional envelope, the board must remake and count the provisional ballot for any contest in which the voter would be eligible to vote if the voter were to cast a ballot in the correct precinct.

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14 R.C. 3505.181(C).
15 R.C. 3505.181(C)(1).
16 R.C. 3505.181(C)(1).
17 R.C. 3505.181(C)(2).
IDENTIFICATION

Ohio law requires that every voter, upon appearing at the polling location to vote on Election Day, must announce their full name and current address and provide proof of identity.\(^{18}\)

The forms of identification that may be used by a voter who appears at a polling location to vote on Election Day include:

- An unexpired Ohio driver license or state identification card with present or former address so long as the voter’s present residential address is printed in the official list of registered voters for that precinct;
  
  **Note:** An Ohio driver license or state identification card with an old or former address IS ACCEPTABLE as a valid form of identification necessary to cast a regular ballot when the voter’s current address is printed in the Signature Poll Book.

- A military identification;
  
  **Note:** Military identification cards or copies of such cards must be accepted whether or not they contain the voter’s name or address.

- However, it still must allow a precinct election official to determine that it is the military ID card of the person who is presenting it for the purpose of voting.

- A photo identification issued by the United States government or the State of Ohio, that contains the voter’s name and current address and that has an expiration date that has not passed;

- An original or copy of a current utility bill with the voter’s name and present address;
  
  **Note:** A utility bill is a statement of fees owed and/or paid for services. It may be a printout of an electronically transmitted statement for services owed, paid, or a regular paper copy. A utility bill includes, but is not limited to, water, sewer, electric, heating, cable, Internet, telephone and cellular telephone services.

- An original or copy of a current bank statement with the voter’s name and present address;

- An original or copy of a current government check with the voter’s name and present address;

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\(^{18}\) R.C. 3505.18
☐ An original or copy of a current paycheck with the voter’s name and present address; or

☐ An original or copy of a current other government document (other than a notice of voter registration mailed by a board of elections) that shows the voter’s name and present address.

For utility bills, bank statements, government checks, paychecks, and other government documents, “current” is defined as within the last 12 months. “Other government document” includes license renewal and other notices, fishing and marine equipment operator’s license, court papers, or grade reports or transcripts. “Government office” includes any local (including county, city, township, school district and village), state or federal (United States) government office, branch, agency, commission, public college or university or public community college, whether or not in Ohio.

For additional information on voter identification, please see Directive 2008-80.

The following forms of identification are not acceptable for voting purposes:

1. Driver license or photo identification card issued by a state other than Ohio;
2. Social Security card;
3. Passport;
4. Birth certificate, unless the voter still lives at the house where they resided at birth and the birth certificate contains that home address, in which case this is acceptable as an “other government document”;
5. Insurance card; or
6. Any registration acknowledgment notice from the county board of elections.

**DETERMINING VOTER BALLOT TYPE**

**REGULAR BALLOTS**

If a voter meets all of the following criteria, the voter is to be provided a regular ballot:

☐ The voter’s name and address are listed in the Signature Poll Book; and

☐ The voter provides a form of valid identification that conforms to the information in the Signature Poll Book.

☐ The voter changed their name and provides proof of the legal name change (e.g., a marriage license, a court order, or other document that includes both the voter’s current and prior names), the voter may complete and sign a Notice of Change of Name (Form 10-L) and cast a regular ballot, as long as the voter is registered to vote in that precinct.
If the voter changed their name and does not have proof of the legal name change, they must cast a provisional ballot.

If a voter moved within the precinct, they must also complete a Voter Registration Form in order to change their address in the county’s voter files and vote a regular ballot.

**PROVISIONAL BALLOTS**

The reasons that a voter must cast a provisional ballot are:

a. The voter’s name is not in the Signature Poll Book or on the Supplemental Voter List.

   **Note:** Before a precinct election official issues a provisional ballot for this reason, they must make sure that the voter is in the correct precinct and is not eligible to cast a regular ballot in a different precinct or polling location. If the voter is in the wrong precinct, the precinct election official must direct the voter to the correct precinct.\(^{19}\)

b. The voter does not provide or is unable to provide proper or valid identification.

c. The voter has moved from one precinct to another without updating their voter registration by the registration deadline (30 days prior to the election).

d. The voter has changed their name and moved to a different precinct without updating their voter registration by the registration deadline (30 days prior to the election).

e. The voter has changed their name and does not have proof of the legal name change.

   **Note:** A voter who changes their name and fails to update their registration may be eligible to cast a regular ballot if that voter presents one of the following to the precinct election officials on Election Day and completes and signs Form 10-L:

   - Court order;
   - Marriage license; or
   - Proof of legal name change that includes both the voter’s former and current names.\(^{20}\)

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\(^{19}\) R.C. 3505.181(C)(1)

\(^{20}\) R.C. 3503.16(B)(1)(b)
f. The voter’s signature does not match the signature on file with the board of elections (i.e., the signature in the poll book or displayed by the electronic poll book).

g. The voter has been challenged, and the challenge has been resolved against the voter.21

h. The notice of registration or acknowledgment notice has been returned to the board as undeliverable.

i. The voter requested an absentee ballot for the election.

j. The voter already has cast a provisional ballot.

For reasons h, i, and j, the voter should be marked or flagged in the poll book as needing to cast a provisional ballot.

For additional information on the casting and counting of provisional ballots, see Chapter 6 of this Manual.

SIGNING SIGNATURE POLL BOOK — PAPER OR ELECTRONIC

Once the precinct election officials have determined the type of ballot to be issued to the voter, the voter must sign or make their legal mark22 in the poll book (paper or electronic). The precinct election official who witnessed the voter mark the poll book then must write the voter’s name on the signature line in the Signature Poll Book following the voter’s mark.23

If the voter is physically unable to mark the poll book, the voter’s attorney-in-fact can sign the voter’s name for them. In order to have an attorney-in-fact, the voter must fill out and file the correct form with the county board of elections (Form 10-F or Form 10-G). If that voter has an attorney-in-fact form on file with the board of elections, the attorney-in-fact’s signature will be on file, and it will be noted in the Signature Poll Book or on the Poll List. The voter must have their attorney-in-fact accompany them to the polling location. The attorney-in-fact should be allowed to sign the voter’s name in the Signature Poll Book, in the presence and at the direction of the voter. The signature of the attorney-in-fact should be examined, and if it appears on its face to conform to the attorney-in-fact’s signature pre-printed in the Signature Poll Book, the voter should be given a regular ballot.24

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22 R.C. 3501.011.
23 R.C. 3505.18.
24 R.C. 3501.382.
Please note that an attorney-in-fact is different from a power of attorney. In order for a person with power of attorney to sign election forms for another person, a valid appointment as an attorney-in-fact must be on file with the county board of elections.

**ISSUING REGULAR BALLOT / AUTHORITY TO VOTE**

If the right of the elector to vote is not then challenged, or, if being challenged, the elector establishes the elector’s right to vote, the elector shall be issued an Authority to Vote slip for their correct precinct and/or split and be allowed to proceed to use the voting machine. If voting machines are not being used in that precinct, the precinct election official in charge of ballots shall then detach the next ballots to be issued to the elector from Stub B attached to each ballot, leaving Stub A attached to each ballot, hand the ballots to the elector, and call the elector’s name and the stub number on each of the ballots. The precinct election official shall enter the stub numbers opposite the signature of the elector in the poll book. The elector shall then retire to one of the voting compartments to mark the elector’s ballots. No mark shall be made on any ballot which would in any way enable any person to identify the person who voted the ballot.

**CURBSIDE VOTING**

Curbside voting is the process followed when a person who is physically unable to enter a polling location can send another person into the polling location to inform precinct election officials of their desire to vote.

When precinct election officials are made aware of the name of a voter who is physically outside of the polling location, but is physically unable to enter the polling location, the following should be done:

- One of the election officials checks the Signature Poll Book for the name of the voter.
- If the voter is a qualified elector and in the correct precinct, the election official places the voter’s name and address on a blank sheet of paper.
- Two election officials of different political parties take the sheet containing the voter’s name and address outside the polling location to the voter.
- The voter confirms the name and address are correct.
- The voter provides appropriate identification for voting purposes.
- The voter’s identification is examined.
- The voter signs the sheet containing their name and address.
- The two election officials return the sheet containing the voter’s signature to the polling location and attempt to verify the voter’s signature in the Signature Poll Book.
☐ The two election officials should verify that the voter’s signature substantially conforms to the voter’s signature in the Signature Poll Book.

☐ The two election officials record next to the voter’s name in the Signature Poll Book “Curbside Voter.”

☐ The two election officials determine the type of ballot to be issued to voter.

☐ The two election officials obtain the paper ballot and the appropriate ballot envelope or secrecy sleeve (an envelope provided in the precinct election supply kit which is labeled: “Curbside Ballot Envelope or secrecy sleeve” for voted regular curbside ballots or “Provisional Curbside Ballot Envelope” for voted provisional curbside ballots).

☐ The two election officials take the appropriate ballot (regular or provisional) and corresponding envelope or secrecy sleeve to the voter located outside the polling location.

☐ The two election officials provide instructions to the voter on how to mark the ballot.

☐ The voter marks the ballot and places it in the appropriate envelope or secrecy sleeve (if a provisional ballot, the voter must complete the Identification Envelope – Provisional Affirmation (Form 12-B) and be given a copy of the Provisional Ballot Notice (Form 12-H)).

☐ The two election officials take the appropriate envelope or secrecy sleeve containing the corresponding voted ballot back into the polling location and place it in the appropriate ballot container.

☐ If a voter who wishes to utilize the curbside voting process is unable to sign their name:

☐ The two election officials witness the voter’s mark on the sheet containing the voter’s name and address that was taken outside the polling location.

☐ The two election officials return the sheet containing the voter’s mark to the polling location.

☐ The two election officials record next to the voter’s name in Signature Poll Book “Curbside Voter – Unable to Sign.”

If a voter who wishes to utilize the curbside voting process is unable to mark their ballot:

☐ The two election officials follow the procedures for a voter who wishes to cast a ballot (regular or provisional) and is unable to mark their ballot.
Section 1.05  Marking the Ballot

TIME TO MARK BALLOT

The permissible time limit for a voter to occupy a voting compartment or use a voting machine is 10 minutes. However, a voter should be given a reasonable amount of time to mark and check their ballot. The 10-minute time limit does not apply to any voter requiring the use of an accessible voting machine.25

If a voter seems to be taking an unusually long period of time while in the voting compartment, two precinct officials of different political parties may inquire, in a polite and professional manner, if the voter requires assistance.

REPLACEMENT BALLOTS

If a voter tears, soils, defaces, or erroneously marks a paper ballot, the voter may return it and receive a replacement. Replacement ballots are not necessary for an electronically-displayed ballot on a voting machine, because the voter has the ability to change their selections before casting the ballot.

The following procedure must be followed when issuing a replacement ballot:26

☐ If a voter tears, soils, defaces, or erroneously marks a ballot, the voter may return it to a precinct election official, and a second ballot must be issued to the voter. Before a voter turns in a torn, soiled, defaced, or erroneously marked ballot, the voter must fold it to conceal any marks the voter made.

☐ If the voter tears, soils, defaces, or erroneously marks a second ballot, the voter may return it to the precinct election official, and a third ballot must be issued to the voter. In no case may more than three ballots be issued to a voter.

☐ When a precinct election official receives a returned torn, soiled, defaced, or erroneously marked ballot, they must write “Defaced” on the back of the ballot and place the stub and the ballot in the separate containers provided by the board of elections.

☐ No voter voting a paper ballot may leave the polling location until they return to a precinct election official every ballot issued to them, regardless of whether or not the voter has made any marks on the ballot.

25 R.C. 3505.23
26 R.C. 3505.23
“FLEEING VOTERS”

If a voter begins a voting session on a voting machine and does not cast their ballot by pressing the ‘cast ballot’ button before leaving the polling location, two precinct election officials, each of different political affiliations, must cancel that voter’s ballot.

If a voter is issued an optical scan paper ballot and leaves without feeding it into the scanner (or the scanner rejects the ballot due to an over-vote or blank ballot and the voter does not correct the over-vote or override the error notice), two precinct election officials, each of different political affiliations, must place that voter’s ballot in the spoiled ballot container.

In both cases, with a voting machine or optical scan ballot, the precinct election officials must make a notation of their action for ballot-reconciliation purposes.

LIST OF WRITE-IN CANDIDATES AVAILABLE UPON REQUEST

The board of elections must provide each precinct polling location with a list of the names of candidates who have filed a declaration of intent to be a write-in candidate for the election.

The list of write-in candidates should not be posted in a precinct polling location, but it must be shown to voters if they request to see it. Additionally, a board may, but is not required to, post a list of write-in candidates on its website.

Section 1.06 Assisting Voters

Under both state and federal law, Ohio polling locations are required to be accessible to people with disabilities. The Help America Vote Act requires that all voters must have the ability to independently cast a private ballot.

The Americans with Disabilities Act sets standards for ensuring that people with disabilities have equal access to public services and facilities, including polling locations.

No person should be denied the right to vote because of mobility, vision, speech, cognitive, intellectual, or hearing impairments.

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27 R.C. 3505.24
Any voter with a disability may ask for assistance in marking the ballot. Voters who require assistance may have a person of the voter’s choice or two precinct election officials – each from a different political party – assist them. The voter may choose anyone they want to provide assistance other than the voter’s employer, an agent of the voter’s employer, or an officer or agent of the voter’s union, if any, or any candidate whose name appears on the ballot.28

Boards of elections must train their precinct election officials on the rights of voters with disabilities and how to assist and communicate effectively and politely with all voters. The Secretary of State’s office publishes a Precinct Election Official Manual prior to each major election. It provides precinct election officials with guidelines for communicating and assisting a voter who has a disability.

Section 1.07 Challenge of Elector by Precinct Election Official

On Election Day, a voter may be challenged only by a precinct election official or the voting location manager and only for the following reasons:

- The voter is not a resident of the precinct;
- The voter is not a resident of Ohio;
- The voter is not a U.S. citizen; or
- The voter is not of legal voting age.29

If challenged by a precinct election official for one of the four reasons, above, the prospective voter should complete the Affidavit Oath Examination of Person Challenged (Form 10-U).

- If the voter completes Form 10-U and a majority of the precinct election officials is able to determine that the voter is eligible to cast a ballot, the voter must be given a regular ballot.
- If the voter refuses to complete Form 10-U, the voter must vote a provisional ballot, and the precinct election official will need to make a note on the Precinct Elections Officials Problems and Corrections page or Precinct Election Officials Notes page that is included in the precinct election official kit.

28 R.C. 3505.24
If a majority of the precinct election officials is unable to determine the person’s eligibility to cast a ballot, the precinct election officials shall provide a provisional ballot to the person.\(^{30}\)

### Section 1.08 Observers

**GENERAL RULES**

**QUALIFICATIONS**

All observers (except recount observers) must be qualified electors in the State of Ohio. However, observers do not need to be registered to vote in the particular county where they are appointed to observe.

**PERSONS NOT ELIGIBLE TO OBSERVE**

The following people are not permitted to serve as observers at an in-person absentee voting location, at a board office prior to the official canvass, or at a precinct on Election Day:\(^{31}\)

- Uniformed peace officer;
- Uniformed state highway patrol trooper;
- Uniformed member of any fire department;
- Uniformed member of the armed services or the organized militia;
- No person wearing any other uniform; or
- No candidate, unless the candidate is also a member of the party controlling committee, or if the candidate is appointed to observe an official canvass, recount, or election audit.

**COMPENSATION**

An observer may not accept compensation from a county, city, village, or township for serving as an observer.\(^{32}\)

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\(^{30}\) R.C. 3505.20

\(^{31}\) R.C. 3505.21(B)

\(^{32}\) R.C. 3505.21(F)
OATH

Every observer is required to take an oath prior to observing. The oath is prescribed by law as follows:

“You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and/or that you will not disclose or communicate to any person how any elector has voted at such election.”

For observers on Election Day, a precinct election official must administer the oath. For all other types of observers, an election official, director, or deputy director may administer the oath. When an observer is observing over the course of multiple days, it is not necessary to administer the oath every day. It is sufficient for the observer to affirm to an election official each day that the observer understands that they are still under oath.

WATCHING AND INSPECTING

The role of observers is limited to observing the proceedings of an election. Accordingly, while observers are permitted to watch and inspect, observers are never permitted to handle any election materials.

Observers are permitted to move freely about the polling location or any area where ballots are being cast, processed, counted, or recounted at a board of elections office, as applicable, to the extent that they do not engage in any prohibited activity. A board may deny an observer access to parts of its office where ballots are not being cast, processed, counted, or recounted.

OBSERVER COMMUNICATION

Communication with Election Officials

Observers may not interfere with election officials administering the election. While observers are permitted to engage election officials in casual conversation during less busy times, even to gather information about the process, their statutory purpose is to watch. Observers may not enforce the law or advocate on behalf of voters. However, they may leave the voting area to contact the board of elections to raise concerns, which the board might address when appropriate.

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33 R.C. 3505.21(F).
34 Observers at a precinct are permitted to “watch every proceeding of the precinct election officials from the time of the opening until the closing of the polls.” Observers are also permitted to “inspect the counting of all ballots in the polling location or board of elections from the time of the closing of the polls until the counting is completed and the final returns are certified and signed.” R.C. 3505.21.
Audio and video devices

Observers may not use any electronic or communication device or any audio/visual recording device in any manner that impedes, interferes with, or disrupts an election, or in any way intimidates a voter, risks violating the secrecy of the ballot or voter privacy. Observers using a cellular or digital telephone, walkie-talkie, or any other wired, wireless, or satellite audio communication device to discuss the election or a perceived problem with the administration of the election may not do so inside a polling location. Absent harassment,35 nothing in this section shall be interpreted to prevent an observer from collecting or transmitting information from the registration lists posted throughout the day in each precinct.36

Observers may use communication devices and audio/video devices in and about the polling location subject to the following conditions:

- The devices must be set to produce no noise (low volume vibration settings are permitted);
- The observer may send and receive text messages, email communications, instant messages, and similar other non-verbal, electronic communications using a communications device or audio/video device;
- The devices may not be used to take photographs, videos, or to record or transcribe any conversations inside the polling location (a camera, including a cell phone camera, is considered a device for purposes of these instructions);
- The observer may not engage in an audible conversation inside the polling location using a communications device or audio/video device;
- The observer may not use the communications device or audio/video device in any manner that creates a disruption or disturbance within the polling location; and
- The observer may not use the communications device or audio/video device in any manner that is intended or perceived to impede, interfere with, or disrupt an election, or in any way intimidate a voter, or risk violating a voter’s privacy or the secrecy of a voter’s ballot.

35 As defined by R.C. 3501.90.
36 R.C. 3503.23(B).
LIMITATIONS

Statutory Prohibitions

- Although observers may freely move about the location at which they are observing, certain behavior is prohibited, including:
  - Engaging in any kind of election campaigning;
  - Hindering or delaying an elector in reaching or leaving the polling location;
  - Impeding, interfering with, or disrupting the election in some manner;
  - Intimidating, harassing, or attempting to influence voters or precinct election officials;
  - Carrying a firearm or other deadly weapon; or
  - Violating the secrecy of the ballot or the privacy of voters.
- Observers may not serve as enforcers of the laws nor act as advocates for voters before the precinct election officials.

REMOVAL

Ohio law provides that election officials have a responsibility to permit the presence of observers throughout the election process. That responsibility carries with it a connected right to remove observers from their posts under very limited circumstances, including behavior inconsistent with Ohio law or Secretary of State Directive, or that interferes with, impedes, or disrupts an election.

Only the voting location managers, directors, deputy directors, and appointing authorities have the authority to administratively remove observers from their posts. Law enforcement officials have the statutory duty to remove observers at the order of one of the above-listed election officials.

If the observer is removed, the person removing the observer may request their certificate of appointment and return it to the board office with a notation that the observer was removed from the polling location.

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37 Unless specifically exempted by law, all observers are subject to the statutory prohibitions in Title 35 of the Revised Code.
38 R.C. 3501.33; R.C. 3505.21.
39 R.C. 3501.33; R.C. 3505.21.
WHO MAY APPOINT OBSERVERS

Generally, the following “appointing authorities” are permitted to appoint observers at any primary, special, or general election:

1. Any political party (county or state) that is supporting candidates to be voted upon at that election.
2. Any group of five or more candidates.
3. A ballot issue committee recognized by the board of elections pursuant to law as supporting or opposing a ballot issue. Any committee that in good faith advocates or opposes a ballot question or issue may file a petition with the county board of elections asking to be recognized as the committee entitled to appoint observers for the election. Such petitions must be filed no later than 4:00 p.m. on the 20th day before election. If more than one committee files to be the recognized committee advocating or opposing a measure, the board must decide which committee will be recognized as being entitled to appoint observers. The board must make this decision not less than 12 days prior to the election and send a notice via registered mail to each committee.

FORMS

The Secretary of State’s office prescribes forms for observer appointments. There are two forms for each of the six types of observers (Secretary of State prescribed Forms 214-220).

1. **Notice of Appointment and Amendment of Appointment**

   An appointing authority must first notify the board of elections in writing of the names and addresses of its appointees and the location(s) at which they will serve.

   Written amendments for a notification of appointment may be filed with the board of elections at any time until 4:00 p.m. the day before the observer is appointed to observe. An amendment may substitute one observer for another at the location identified in the original filing. However, an amendment cannot add a location that was not identified in the original filing. An amendment also cannot add additional observers at a location or expand the number of observers at a location beyond what is permitted by law.

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40 R.C. 3505.21
2. **Certificate of Appointment**

After filing a timely notice of appointment with the board of elections, the appointing authority is responsible for issuing a certificate of appointment to the observer.

The duly appointed observer will present their certificate of appointment to the appropriate election official at the time that the observer arrives at the location where they will observe.

Appointing authorities are encouraged to file original documents with a county board of elections in person. However, filing by facsimile transmission or by email with a PDF attachment is permissible. An appointing authority bears the risk of improper or incomplete transmittal of a notice of appointment or amendment for an observer.

**TYPES OF OBSERVERS**

There are six types of election observers in Ohio law. Keep in mind that one person is permitted to observe at multiple locations, as the observer may spend parts of Election Day at several different locations, or observe at different locations at different points in the election process.

1. **Observers at an In-Person Absentee Voting Location**;

An appointing authority is permitted to appoint one observer to the in-person absentee voting location. Depending on the county, the location will either be the board office or a separate, designated site.

Because in-person absentee voting occurs over multiple days, it may be prudent for a board to permit the substitution of observers on different days. However, an appointing authority cannot have more than one observer observing the casting of ballots at an in-person absentee voting location at any one time.

- **Timing of Notice of Appointment** - No later than 11 days before the start of in-person absentee voting.
- **Timing of Amendment** - No later than 4:00 p.m. the day before the observer is appointed to serve.

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41 R.C. 3505.21(A)
Chapter 7: Election Day Voting

2. **Observers at Precincts on Election Day;**

An appointing authority may appoint one observer to observe the casting and counting of ballots at one or more precincts on Election Day. An observer may be appointed to observe at multiple precincts, but no more than one observer may be appointed to each precinct.\(^{42}\)

**Note:** There are limitations on observers for ballot questions or issues. At any election, a precinct cannot have more than six total observers appointed by separate ballot issue committees. Where the number of observers exceeds six, the recognized ballot issue committees must agree on which observers will observe. If the committees fail to agree, the precinct election officials must choose six observers from the certified appointees in a manner that represents each side of the several issues.

Observers appointed to precincts on Election Day are permitted to be present from the opening until the closing of the polls, as well as after the polls close. Accordingly, an observer would be permitted to be present from one-half hour before the polling location opens through the time the precinct election officials in that precinct finish processing the ballots cast or collected in that precinct, complete all other post-closing responsibilities, and return the ballots and other supplies to the board of elections.\(^{43}\)

- Timing of Notice of Appointment - No later than 11 days before Election Day.
- Timing of Amendment - No later than 4:00 p.m. the day before Election Day.

3. **Observers at a Board of Elections Office prior to the Official Canvass;**

An appointing authority is permitted to appoint one observer to the board of elections office to observe the casting of provisional ballots at the board office after the close of registration, the casting and counting of ballots at the board of elections office on Election Day, and the processing of absentee ballots and provisional ballots leading up to the canvasses.\(^{44}\)

\(^{42}\) R.C. 3505.21
\(^{43}\) R.C. 3505.21; R.C. 3506.13
\(^{44}\) R.C. 3505.21
Under appropriate circumstances, a board of elections may choose to permit an appointing authority to appoint more than one observer to a board of elections office. For instance, where the processing of provisional ballots will take place over a number of days, it would be prudent for the board to permit an appointing authority to appoint multiple observers and/or permit the substitution of observers.

**Note:** An observer appointed to observe at the board office is permitted to observe at the board office and at any precinct in the county. An appointing authority may only have one observer who is permitted to observe at both the board office and at any precinct in the county. That observer shall file their certificate of appointment with the board of elections, and then shall take a copy of the certificate with them to present to the voting location manager at any of the designated precincts.

A board of elections must notify appointed observers of the times when the board will be processing and counting absent voters’ ballots. Likewise, a board of elections must notify all duly appointed observers of the times when the board will be determining the eligibility of provisional ballots to be counted.

- **Timing of Notice of Appointment**—No later than 11 days before the first date the observer is appointed to serve.
- **Timing of Amendment**—No later than 4:00 p.m. the day before the election or the first date the observer is appointed to serve.

### 4. Official Canvass Observers

Certain appointing authorities are permitted to designate a qualified elector to observe the official canvass:

- The county executive committee of each political party;
- Each committee designated in the petition nominating of an independent or nonpartisan candidate;
- Each committee designated in a petition to represent the petitioners for a ballot question or issue; or
- Any committee opposing a ballot question or issue that was permitted to have a qualified elector serve as an observer at the election.

Timing of Notice of Appointment - Prior to the start of the official canvass.

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45 R.C. 3505.32(B)
5. **Recount Observers**

Observers are permitted at recounts as follows:46

- **Candidate Recounts**
  
  Each candidate in a contest to be recounted may observe the recount and may designate one other person in addition to themself—not necessarily an elector—to also observe the recount on the candidate’s behalf. In the event that a county board of elections performs the recount at more than one station, the candidate may appoint a sufficient number of observers to have one observer at each station when that station is actively recounting ballots.

- **Question or Issue Recounts**
  
  The designated chairperson of a committee organized to support or oppose a ballot question or issue may observe a recount. Additionally, the committee may appoint legal counsel to observe the recount.

  **Timing of Notice of Appointment** - No later than 5 days following board notification of the date and time of the recount.

  A recount observer may freely observe the recount, but cannot interfere with the recount or touch the ballots. Because such challenges are reserved for a Contest of Election, observers at a recount may not challenge the board’s determination of whether or not a ballot or vote is counted during a recount.47

6. **Post-Election Audit Observers**

Any entity that appointed observers pursuant to R.C. 3505.21, or official canvass observers pursuant to R.C. 3505.32, may appoint observers to the post-election audit.

- **Timing of Notice of Appointment** - No later than 5 days after the board gives notice of the date and time of the post-election audit.

- **Timing of Amendment** - No later than the day before the post-election audit.

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46 R.C. 3515.03; R.C. 3505.21
47 OAG 1974-103
INTERNATIONAL OBSERVERS

Periodically, elected officials and government administrators from other countries come to the United States to learn more about our democratic processes and public institutions, usually under the auspices of the U.S. Department of State, an academic institution, or other similar organizations. In certain cases, such visits are obligations of international treaties entered into by the federal executive branch and ratified by the United States Senate.

However, state law limits the individuals who are permitted to be present in a polling location on Election Day. Only an election official, an observer, a police officer, a person reviewing the 6:30 a.m., 11 a.m. or 4 p.m. list of registered electors, a voter (including the voter’s children who are of non-voting age when accompanied by the voter), or a person assisting another person to vote shall be allowed to enter the polling location during the election. By not including “international observers” and others not specifically listed in state law, the Ohio General Assembly has prohibited their presence in a polling location on Election Day.

Section 1.09  Closing the Polls

Each board of elections must train its precinct election officials on how to close a polling location properly and on what steps need to be taken if voting hours are extended by court order.

All polls must close at 7:30 p.m., unless a court order extends the voting period. Beginning about a half hour before the close of polls, the precinct election officials (PEOs) should repeatedly announce the name of the precinct to voters waiting in line and make sure that all voters in line are in the correct polling location and precinct. PEOs should announce that the polls are closing shortly and that anyone in line will have the opportunity to cast a ballot.
ANNOUNCEMENT OF CLOSE OF POLLS

At 7:30 p.m., the official closing time, one precinct election official must announce that “The polls are closed!”51 If people are waiting to vote at closing time, they must be permitted to vote.52 To accommodate voters waiting in line, the PEOs must:

- Move the line inside the locked door of the polling location, if possible; or
- Place a PEO after the last person who is in line at 7:30 p.m. to prevent additional people from joining the line.

COURT ORDER

If there is a court order to keep a polling location open past 7:30 p.m., the PEOs need to know who the last person in line was at 7:30 p.m. They must then make sure of the following:

- Voters who were already in line at 7:30 p.m. get to vote a regular ballot.
- All voters who arrive at the polling location to vote between 7:30 p.m. and the court-ordered closing of the polling location must vote a provisional ballot.53
- These provisional ballots must be kept separate from other provisional ballots voted during the regular voting hours in case the court decision is later overturned. Note on each Identification Envelope - Provisional Ballot Affirmation (Form 12-B) that the provisional ballot was cast after 7:30 p.m. pursuant to a court order. To do so, the PEOs must write “After Close of Polls by Order of the Court” on the provisional envelope.

CLOSING THE POLLING LOCATION54

- Record all ballot statistics on the Balance/Reconciliation Sheet provided by the board of elections.
- Record/count the total number of regular ballots voted (per local BOE instructions).
- Count and record the total number of paper provisional ballots cast by voters who arrived between 6:30 a.m. and 7:30 p.m.
- In case of a court order only, count and record the total number of provisional paper ballots cast by voters who arrived after 7:30 p.m.

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51 R.C. 3505.26
52 R.C. 3501.32(A)
53 52 U.S.C.A. §21082(c).
54 R.C. 3505.26
☐ Count and record the total number of soiled or defaced paper ballots.

☐ Count and record the total number of unvoted paper ballots.

☐ Count and record the total number of signatures in the Signature Poll Book, or, if using electronic poll books, the PEOs must follow the instructions provided by the board for recording the number of signatures.

☐ Post precinct results at the polling location as directed by the board of elections.

☐ Double-check ballot statistics, and sign the Closing Certificate and Election Day Balance/Reconciliation Sheet.

**In precincts using electronic poll books, the PEOs must:**

☐ Transport any electronic poll book, any removable data storage unit, and any paper record produced by the poll book to the board office in the same manner in which all other election materials are transported to the board office.

☐ Seal each electronic poll book with a tamper-evident seal before returning it from the polling location to the board of elections’ office.

☐ If an electronic poll book uses a removable data storage unit or produces a paper record, seal the data storage unit and the paper record with a tamper-evident seal and place them in an appropriate storage container before returning them to the board office.

**Finally, in all precincts, the PEOs must:**

☐ Bring in the flags and take down signs inside and outside the polling location.

☐ Close out and pack up the voting equipment following the directions provided by the board of elections.

☐ Securely pack ballots and supplies and immediately return them to the board of elections or a designated drop off location as outlined in the following section.
SECURE RETURN OF BALLOTS AND ELECTION DAY SUPPLIES

At the close of polls, all ballots and election supplies (i.e., poll books, poll lists, tally sheets, election reports, and other materials) must be returned by a bipartisan team to the board of elections office or other location designated and staffed by the board. The bipartisan team must consist of the voting location manager and an employee or appointee of the board who is a member of a different political party than the voting location manager and “has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties [of promptly and securely transporting and delivering ballots and election supplies to the board of elections].”

When transporting ballots and election supplies, the bipartisan team must travel in the same vehicle. The board is permitted to have one or more additional persons, such as a law enforcement official, accompany the bipartisan team. One bipartisan team may transport the ballots and election supplies for an entire multi-precinct polling location.

Section 1.10  Partisan Primary Elections

CHALLENGES BASED ON PARTY AFFILIATION

Precinct election officials, board of elections members, directors, deputy directors, and clerks can only challenge the right to vote of any elector on the grounds that the voter is not affiliated with or is not a member of the political party whose ballot the person desires to vote, if that official has personal knowledge that the individual is a member of a different party.

Boards of elections may not require every voter, or every voter who previously voted a ballot for a different political party, to sign a “Statement of Person Challenged as to Party Affiliation” (Forms 10-W, X, or Z) before permitting that person to cast a ballot, either in person or by mail. Such blanket policies impose an affirmative duty on elections officials that is not contemplated in R.C. 3513.19, which reads “[i]t is the duty of any precinct election official, whenever any precinct election official doubts that a person attempting to vote at a primary election is legally entitled to vote at that election, to challenge the right of that person to vote.” (emphasis not in original) State law contemplates infrequent party challenges, based upon the election official’s personal knowledge, similar to infrequent challenges based on whether a person is a legally qualified elector and whether a person has received or been promised some

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55 R.C. 3505.31
valuable reward or consideration for the person’s vote. Any such challenge is serious and must not be subject to unilateral, blanket action.

Ohio’s primary process strikes a balance between the statutory deference to an individual voter’s participatory rights and the political parties’ associative rights. The prohibition against any precinct election official or board of elections member, director, deputy director, or clerk from challenging the right to vote of any elector on the grounds that the voter is not affiliated with or is not a member of the political party whose ballot the person desires to vote, unless that official has personal knowledge to the contrary, protects this balance. In these rare instances, either Form 10-W, X, or Z should be used, depending on the circumstance, pursuant to R.C. 3510.06(D) and R.C. 3513.20.

ISSUING A BALLOT DURING A PRIMARY ELECTION

When issuing a ballot during a primary election the precinct election official should ask the voter what type of ballot they would like – a political party ballot or an issues only ballot. If a voter asks what their choices are, the precinct election official should explain the political party ballot choices, if any. Once a voter indicates their choice of ballot, political party or issues only, the precinct election official must record the voter’s choice of ballot in the Signature Poll Book regardless of a change in political party or not by marking either 1) the appropriate political party for the ballot requested by the voter, or 2) that the voter requested an issues only ballot.

Next the precinct election official must give the voter the proper ballot or appropriate authority to vote slip/device and direct the voter to the appropriate voting location in the polling location.

Section 1.11 Required Postings

GENERALLY

The posting of a number of voting-related signs inside and outside the polling location is required.

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57 R.C. 3513.19(A)
SIGNS OUTSIDE

Precinct election officials must place one (large) flag at the entrance to the polling location.

Precinct election officials must place two (small) flags 100 feet from the entrance to the polling location. The placement of the flags establishes the “neutral zone” of the polling location. Permissible and prohibited conduct within the neutral zone of the polling location is discussed in Section 1.12.

Directional signs can be placed to lead voters from the parking lot or street to the entrance of the polling location.

SIGNS INSIDE

Boards of elections must direct PEOs to display several notices and signs where voters easily can see them:

- Precinct signs that identify the precinct, especially in multiple precinct polling locations, must be placed wherever a line might form;
- Voting Rights Information Poster;
- General information on federal and state laws regarding prohibitions on fraud and misrepresentation;
- Special Voting Instructions Poster that indicates how to cast a regular ballot and a provisional ballot;
- Official sample ballot;
- Full text of condensed ballot language for state or local question(s) or issue(s);
- Notice regarding voting more than once at the same election
- (Form 10-V); and
- Any other notice required by law.

One set of the notices and signs must be displayed at approximate eye level for voters who are seated or using a wheelchair. To ensure visibility for persons using wheelchairs, the tops of the signs should be about four feet from the floor.

Prior to each election, boards of elections must consult the Secretary of State’s website for the most-current list of signs and notices required for a polling location.
Section 1.12 Prohibitions

CONGREGATING, CAMPAIGNING, DISTRIBUTING FOOD, OR SOLICITING INSIDE A POLLING LOCATION

A polling location is a “neutral zone.” Accordingly, Ohio law imposes specific limitations on who may enter a polling location and what conduct is permissible therein. Only an election official, an observer, a police officer, a person reviewing the 6:30 a.m., 11 a.m. or 4 p.m. list of registered electors, a voter (including the voter’s children who are of non-voting age when accompanied by the voter), or a person assisting another person to vote shall be allowed to enter the polling location during the election.

Two small United States flags must be placed 100 feet from the entrance to each polling location on the thoroughfares or walkways leading to the polling location (or as near to 100 feet as possible). No one, other than an election official, observer, police officer, or an elector waiting to mark, marking, or casting their ballot, may “loiter, congregate, or engage in any kind of election campaigning” within this “neutral zone” or within 10 feet of any elector waiting in line to vote if the line of voters extends beyond the flags.

Ohio law prohibits anyone from soliciting or attempting to influence any elector’s vote at a polling location and from preventing or delaying an elector from entering or leaving a polling location.

Campaigning, displaying campaign material or distributing food inside of the neutral zone of a polling location is prohibited. However, nothing in Ohio’s election laws prohibit a person or entity from campaigning, displaying campaign material, or distributing food outside of the neutral zone of a polling location (i.e., outside of the flags marking the 100 foot barrier or beyond 10 feet from any elector waiting in line to vote, if the line to vote extends beyond the flags).

Ohio law prohibits anyone from procuring or offering “money or other valuable thing to or for the use of another, with the intent that it or part thereof shall be used to induce such person to vote or to refrain from voting.” Food, discounts, and other such inducements are “things of value” for purposes of the election law statutes on bribery.

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58 R.C. 3501.01(U). An “election official” includes the following individuals: (1) Secretary of State; (2) Employees of the Secretary of State serving in an elections-related capacity; (3) Members, Director or deputy director, and/or employees of a board of elections (including part-time and temporary employees); and (4) Voting location manager and other precinct election officials.
59 R.C. 3501.35(B).
60 R.C. 3501.30(A)(4).
61 R.C. 3501.35(A).
62 R.C. 3501.35(B); R.C. 3503.23(C).
63 R.C. 3599.01(A)(3); See also the prohibitions contained in R.C. 3599.02.
64 Even a professor’s award of extra credit to a student who votes in an election has been considered “a thing of value.” Ohio Attorney General Opinion No. 96-033.
COLLECTING SIGNATURES AT A POLLING LOCATION

Occasionally, groups may station persons outside of a polling location to gather signatures on a petition. Persons are not permitted to collect signatures inside of a polling location or within the “neutral zone” outside of the polling location (i.e., within the area marked by the placement of two small U.S. flags).65 However, there is no prohibition against collecting signatures outside the neutral zone.

PROBLEMS WITH CONDUCT AT A POLLING LOCATION

Boards of elections must instruct PEOs to contact the board office or the appropriate law enforcement official immediately if they experience a problem with the conduct of any person at a polling location.

UNLAWFUL POSSESSION OF BALLOTS

No PEO can possess or transfer possession of a ballot outside of their official Election Day duties.66

Section 1.13 Media Access to Polling Locations

MEDIA ACCESS INSIDE THE POLLS

Elections officials must grant members of the media reasonable access to polling locations. This mandate stems from a United States Court of Appeals decision, which held that the media must be granted “reasonable access *

* * for the purpose of news-gathering and reporting so long as [the members of the media] do not interfere with poll workers and voters as voters exercise their right to vote.”67

In its decision, the court did not define “reasonable access.” Therefore, a board of elections must consider the following factors to ensure that the voting process is not disrupted:

☐ Whether the media representative is credentialed (i.e., is the person from an accredited media source);68

☐ The length of time the media is present at a polling location;

☐ The length of voter lines at the polling location;

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65 R.C. 3501.35(A). United Food & Commercial Workers Local 1099 v. City of Sidney (6th Cir. 2004), 364 F.3d 738 (circulators were not deprived of their free speech rights when they were prohibited from collecting signatures within the “campaign-free zone”).

66 R.C. 3505.25.


68 A board of elections does not issue credentials to a member of the media. A member of the media already should possess press credentials. These credentials are sufficient to grant the member access to a polling location.
The size and layout of the polling location;
Protecting voter secrecy during the media’s presence;
The conduct of the media representative; and
The effect of the presence of the media on voters and election officials.

No person – including a representative of the media – may disrupt the voting process, interfere with the election, intimidate voters, or jeopardize the secrecy of any ballot. If a member of the media interferes with the administration of the election, intimidates a voter, or jeopardizes the secrecy of a ballot, they may be removed from the polling location. The media must respect a voter’s right to privacy by requesting the voter’s permission prior to recording the voter or the voter’s actions while in or about the polling location.

No person may attempt to subvert the statutory observer process by attempting to gain access to a polling location as member of the media.

PEOs should inform the director and deputy director if the media visits a polling location.

EXIT POLLING AT A POLLING LOCATION

Exit polling is not electioneering and is therefore permissible within 100 feet of the entrance to a polling location (i.e., within the area marked by the placement of two small U.S. flags). 69

Persons conducting exit polls may not enter a polling location, interfere with or disrupt the election, or otherwise violate the law. Further, persons conducting exit polls at a polling location may not wear anything that may be construed as campaigning for or against any candidate or issue on the ballot.

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Chapter 8: CANVASSING THE VOTE

Directive 2019-16

Section 1.01 Permitted Activities Prior to the Close of Polls

PROCESSING ABSENTEE BALLOTS

Boards of elections may begin processing, but not tabulating, absentee ballots not earlier than the day after the close of voter registration. Please refer to Chapter 5, section 1.06 for details on what constitutes “processing” of absentee ballots.

COUNTING ABSENTEE BALLOTS

Please refer to Chapter 5, Absentee Voting, Section 1.07 for the Mandatory step-by-step process for counting absentee ballots.

REMINDEERS

All boards of elections must apply these following practices when reviewing voter-identifying fields on absentee ballot identification envelopes, as a companion to the instructions for administering absentee voting found in Chapter 5.

1. Date of Birth

   As long as a board can still identify the voter, technical mistakes in providing one’s date of birth (such as accidental transposition of month and year numerals, mistakenly writing the current date, or inverting digits) are not valid reasons to reject a ballot.

   In any instance of deficiency, the board must carefully review its voter registration records to determine if an error on the part of the board of elections is the cause of the deficiency before rejecting the ballot.

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1 Instructions for administering absentee voting are found in Chapter 5.
2. **Address**

As long as a board can still identify a voter, technical mistakes in providing one's address are not valid reasons to reject a ballot.

3. **A candidate, question, or issue choice that has been circled by the voter;**

When reviewing addresses, remember that the U.S. Postal Service may assign a delivery address (e.g., Columbus) that is not the same as the political subdivision (i.e., City, Village, or Township) in which the voter resides (e.g., the City of Bexley). The political subdivision, ZIP Code, and/or city (as assigned by the USPS) are generally not relevant to this determination.

The voter’s address is sufficient when the number and street is in the county (e.g., 2598 Ruhl Avenue) regardless of the City and ZIP code (except when the same address exists in two different precincts within the same county).

The following examples assume the ballots were cast by voters in Franklin County:

<table>
<thead>
<tr>
<th>Street No. &amp; Name</th>
<th>City / ZIP</th>
<th>Political Subdiv.</th>
<th>In County?</th>
<th>Valid?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2598 Ruhl Ave.</td>
<td>Columbus, 43209</td>
<td>Bexley</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>2598 Ruhl Ave.</td>
<td>Bexley, 43209</td>
<td>Bexley</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>63 Pinebrooke</td>
<td>Westerville, 43082</td>
<td>Westerville</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

**Under no circumstances shall a board of elections use any database other than the county’s voter registration system (CVRS) or the statewide voter registration database (SWVRD) when determining whether or not the address on an absentee ballot identification envelope is valid.** Specifically, boards of elections may not use the property records of a County Auditor or County Treasurer or any maps of a County Engineer to determine whether or not an absentee ballot identification envelope is valid.

4. **Identification**

A voter is not required to provide the same form of identification on an absentee ballot identification envelope that they provided when registering to vote.

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2 Instructions for administering absentee voting are found in Chapter 5.
Under no circumstance shall a board of elections use any database other than the CVRS or SWVRD when determining whether or not identification provided on an absentee ballot identification envelope is valid. Specifically, boards of elections may not use any online search tool on the website for the Ohio Bureau of Motor Vehicles when determining whether or not an absentee ballot identification envelope is valid.

In all other matters relative to voter identification, boards of elections are reminded to follow the requirements of Directive 2008-80.

5. Data Fields with Null Values

If a data field in the CVRS or SWVRD is “null” (i.e., no data is present, or the field has a placeholder value, such as “1/1/1800” for date of birth), the voter has satisfied the requirement when the voter provides the relevant information on the absentee ballot identification envelope. Information contained on an absentee ballot identification envelope, provided under penalty of falsification, may be entered into the CVRS to complete the voter’s record both in the CVRS and SWVRD.

All absentee ballots returned by the close of polls on Election Day, whether returned in person or by mail, must be included in the unofficial results if the ballots meet all other requirements of law.

Valid absentee ballots received after the close of polls on Election Day through the 10th day after the election, including ballots in which the identification envelopes were insufficient but were cured by the 7th day following the election, must be included in the official canvass.

For additional instructions and guidance on processing and counting of absentee ballots, please see Chapter 5 of this manual.

DETERMINING WHICH BALLOTS MAY BE REMADE

To enable board members to efficiently and effectively confirm which ballots must be remade, designated teams, consisting of an equal number of board employees from each major political party, may sort ballots with similar problems into separate categories for board members to review. For example, one category might include all ballots that were marked correctly, but are torn or mutilated. Another category might include ballots on which all the ovals were consistently circled, rather than filled in. The board members must review the categories of ballot to determine which ballots to remake.
CATEGORIES OF BALLOTS TO BE REMADE

1. Folded, Torn, and Mutilated Ballots and/or Ballots with Technical and Printing Deficiencies

If a designated team determines that a voter marked the ballot in accordance with the instructions printed on the ballot, but the automatic tabulating equipment is unable to read the ballot because the ballot is folded, torn or mutilated, or the ballot has technical or printing deficiencies (e.g., timing marks on the ballot are misaligned, improperly cut ballots causing skew, etc.), the designated team may remake the ballot in anticipation of the board’s determination. The remade ballot must continue to be segregated, along with the original ballot, and uncounted until the board of elections acts.

2. Voter Failed to Follow Instructions: Determining Voter Intent

A board of elections has statutory authority to determine the intent of a voter who marked the entire ballot contrary to the instructions provided and to remake the ballot to reflect that intent. If a voter failed to mark any of the ballot according to the instructions printed on the ballot, the board of elections, by majority vote in public session, must determine voter intent before remaking the ballot. Voter intent is determined by examining the ballot for a mark that was consistently made, contrary to voting instructions.

If a voter marked the entire ballot contrary to the instructions provided, the board must follow the guidelines set forth in R.C. 3506.21(B)(1) to determine voter intent on that ballot:

(B)(1) any of the following marks, if a majority of those marks are made in a consistent manner throughout an optical scan ballot, shall be counted as a valid vote:

- A candidate, question, or issue choice that has been circled by the voter;
- An oval beside the candidate, question, or issue choice that has been circled by the voter;
- An oval beside the candidate, question, or issue choice that has been marked by the voter with an “x,” a check mark, or other recognizable mark; or
- A candidate, question, or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

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3 R.C. 3506.21
After a majority of board members determine voter intent, the board shall follow the procedures for remaking the optical scan ballot set forth in this chapter. If three of the board members do not agree as to how any part of the ballot shall be counted, only that part of the ballot on which three board members do agree shall be counted.\(^4\)

If a voter’s intent for any one contest on a ballot is indeterminate, a board is prohibited from remaking the ballot when any part of the ballot is correctly marked and is able to be scanned by automatic tabulating equipment.\(^5\) In such a case, the board shall tabulate the ballot using the automatic tabulating equipment, which will record only the votes that the voter marked in accordance with the instructions.

**PROCEDURES FOR REMAKING BALLOTS**

If the board has determined that a ballot needs to be remade because 1) it is folded, torn and/or mutilated, or the ballot has technical and/or printing deficiencies, or 2) because the voter marked the entire ballot contrary to the instructions, then a designated team remakes the ballot using one of the procedures below:

**MANUAL REMAKE**

- One team member must read aloud the voter’s choice for a particular office or question/issue.
- Another team member, of the opposite political party, must fill in the corresponding oval consistent with the voter’s choice.

  **Note:** Both members of the team should verify that the remade ballot was marked consistent with the voter’s choice.

- The team must mark the original ballot with an identifying mark or code, such as “OVB1” (Original Voted Ballot 1).
- The team shall mark the remade ballot with an identifying mark or code to identify this remade ballot with the original ballot, such as “RB1” (Remade Ballot 1).

  **Note:** Place the identifying mark or code in an area on the ballot that will not interfere with the tabulation process.

- After all the eligible ballots have been remade, the ballots shall be tabulated.

\(^4\) Tie votes on voter intent are not submitted to the Secretary of State. **R.C. 3505.27**

\(^5\) **R.C. 3506.21(B)(2)**
No remade ballot shall be tabulated unless and until a majority of board members has confirmed or determined its eligibility.

**RETENTION OF ORIGINAL AND REMADE BALLOTS**

Boards of elections remaking any ballots under these procedures shall keep both the original voted ballot and the remade ballot for the duration of the applicable records retention period. See “Records Retention” later in this chapter for the applicable retention period.

**REMAKE USING SOFTWARE**

Using the software provided with the board’s certified voting system, a bipartisan team must locate the ballot that needs to be remade. The image of the ballot that the board needs to remake must be displayed during an open board meeting. Any remade ballot and any votes must be verified and accepted by the board before the ballot and the votes contained on the ballot are counted or committed by the bipartisan team.

The log or report should be placed with each batch of ballots that are remade so that information is readily available for inspection or review. The log or report that is generated by the system to document the remake must be printed and retained for the duration of the applicable retention period.

**PUBLIC TESTING OF AUTOMATIC TABULATING EQUIPMENT**

Each board of elections must test its automatic tabulating equipment prior to the start of the unofficial canvass, and again at the conclusion of the canvass to ensure the accurate counting of the votes cast for all offices and on all questions and issues.6

R.C. 3506.14(B) provides as follows:

Prior to the start of the count of the ballots, the board of elections shall have the voting machine or automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all questions and issues. Public notice of the time and place of the test shall be given by proclamation or posting as in the case of notice of elections. The test shall be conducted by processing a pre-audited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and issue, and shall include for each office one or more ballots that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes. In that test a different number of valid votes shall be assigned to each candidate for

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6 R.C. 3506.14(B)
an office, and for and against each question and issue. If an error is detected, the cause for the error shall be ascertained and corrected and an errorless count shall be made and certified to by the board before the count is started. The tabulating equipment shall pass the same test at the beginning and conclusion of the Election Day count before the election returns are approved as official. On completion of the Election Day count, the programs, test materials, and ballots shall be sealed and retained as provided for paper ballots in section 3505.31 of the Revised Code.

Each board of elections must follow the instructions outlined in the section on “Public Tests” in Chapter 4 of this manual when conducting its public pre- and post-election tests on its voting machines (i.e., DREs, iVotronics, etc.) and tabulating equipment.

DUTIES OF PRECINCT ELECTION OFFICIALS AT CLOSE OF POLLS

Each board of elections must train its precinct election officials (PEOs) on how to close a polling location properly and on what steps need to be taken if voting hours are extended by court order. All polls close at 7:30 p.m. unless a court order extends the voting period. Beginning about a half hour before the close of polls, the PEOs should repeatedly announce the name of the precinct to voters waiting in line and make sure that all voters in line are in the correct polling location and precinct. PEOs should announce that the polls are closing shortly and that anyone in line will have the opportunity to cast a ballot.

1. Announcement of Close of Polls
   At 7:30 p.m., the official closing time, the voting location manager must announce that “The polls are closed!” If people are waiting to vote at closing time, they must be permitted to vote. To accommodate voters waiting in line, the PEOs must move the line inside the locked door of the polling location, if possible; or place a precinct election official after the last person who is in line at 7:30 p.m. to prevent additional people from joining the line.

2. Court Order
   If there is a court order to keep a polling location open past 7:30 p.m., the PEOs need to know who the last person in line was at 7:30 p.m. They must then make sure of the following:
   - Voters who were already in line at 7:30 p.m. get to vote a regular ballot.

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7 R.C. 3501.32(A)
8 R.C. 3505.26
9 R.C. 3501.32(A)
All voters who arrive at the polling location to vote between 7:30 p.m. and the court ordered closing of the polling location must vote a provisional ballot.¹⁰

These provisional ballots must be kept separate from other provisional ballots voted during the regular voting hours in case the court decision is later overturned. PEOs should note on each Identification Envelope - Provisional Ballot Affirmation (Form 12-B) that the provisional ballot was cast after 7:30 p.m. pursuant to a court order by writing “After close of polls by order of the court” on the provisional envelope.

3. **Closing the Polling Location**¹¹

*In precincts using DREs (touch screens), the PEOs must do all the following:*

- Record all ballot statistics on the Election Day Balance/Reconciliation Sheet provided by the board of elections.
- Record the total number of regular ballots voted on the DREs using the public count.
- Count and record the total number of paper provisional ballots cast by voters who arrived between 6:30 a.m. and 7:30 p.m.
- **In case of a court order only**, count and record the total number of provisional paper ballots cast by voters who arrived after 7:30 p.m.
- Count and record the total number of soiled or defaced paper ballots.
- Count and record the total number of unvoted paper ballots.
- Count and record the total number of signatures in the Signature Poll Book, or, if using electronic poll books, follow the instructions provided by the board for recording the number of signatures.
- Post precinct results at the polling location as directed by the board of elections.
- Double-check ballot statistics, and sign the Closing Certificate and Election Day Balance/Reconciliation Sheet.

*In precincts using optical scanners, the PEOs must do all of the following:*

- Count and record the total number of regular paper ballots voted.

¹⁰ 52 U.S.C.A. §21082(c).
¹¹ R.C. 3505.26
☐ Count and record the total number of paper provisional ballots cast by voters who arrived between 6:30 a.m. and 7:30 p.m.

☐ In case of a court order only, count and record the total number of provisional paper ballots cast by voters who arrived after 7:30 p.m.

☐ Count and record the total number of soiled or defaced paper ballots.

☐ Count and record the total number of unvoted paper ballots.

☐ Count and record the total number of signatures in the Signature Poll Book, or, if using electronic poll books, the PEOs must follow the instructions provided by the board for recording the number of signatures.

☐ Post precinct results at the polling location as directed by the board of elections.

☐ Record all ballot statistics (e.g., regular, provisional, soiled and defaced, unvoted) on the Election Day Balance/Reconciliation Sheet provided by the board of elections.

☐ Double-check ballot statistics and sign the Closing Certificate and Election Day Balance/Reconciliation Sheet.

**In precincts using electronic poll books, the PEOs must:**

☐ Seal each electronic poll book with a tamper-evident seal before returning it from the polling location to the board of elections office.

☐ If an electronic poll book uses a removable data storage unit or produces a paper record, seal the data storage unit and the paper record with a tamper-evident seal and place them in an appropriate storage container before returning them to the board of elections office.

**Finally, in all precincts, the PEOs must:**

☐ Bring in the flags and take down signs inside and outside the polling location.

☐ Close out and pack up the voting equipment following the directions provided by the board of elections.

☐ Securely pack ballots and supplies and immediately return them to the board of elections or a designated drop off location as outlined in the following section.
SECURE RETURN OF BALLOTS AND ELECTION DAY SUPPLIES

At the close of polls, all ballots and election supplies (i.e., poll books, poll lists, tally sheets, election reports, and other materials) must be returned by a bipartisan team to the board of elections office or other location designated and staffed by the board. Transport any electronic poll book, any removable data storage unit, and any paper record produced by the poll book to the board office in the same manner in which all other election materials are transported to the board office.

The bipartisan team must consist of the voting location manager and an employee or appointee of the board who is a member of a different political party than the voting location manager and “has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties [of promptly and securely transporting and delivering ballots and election supplies to the board of elections].”

When transporting ballots and election supplies, the bipartisan team must travel in the same vehicle. The board is permitted to have one or more additional persons, such as a law enforcement official, accompany the bipartisan team. One bipartisan team may transport the ballots and election supplies for an entire multi-precinct polling location.

Section 1.02 Unofficial Canvass

The unofficial canvass of an election must be conducted on Election Night in accordance with state law. The unofficial canvass must be conducted in full view of the members of the board of elections and any observer appointed in accordance with R.C. 3505.21. The counting of ballots for the unofficial canvass must be continuous.

The unofficial canvass must include all ballots that the board of elections has determined to be eligible to be counted on Election Night; i.e., all regular ballots cast at polling locations using the county’s primary voting system, any back-up paper ballots, and all valid absentee ballots received before the close of polls.

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12 R.C. 3505.31.
13 R.C. 3505.27 (counting regular ballots that were cast at precinct polling locations); R.C. 3505.28 (regular ballots not counted); R.C. 3509.06 (counting absentee ballots); R.C. 3509.07 (absentee ballots not counted); R.C. 3511.11-3511.13 (uniformed service and overseas voter absentee ballots).
14 R.C. 3505.27.
15 R.C. 3505.27, R.C. 3505.30.
16 R.C. 3505.27-3505.28, R.C. 3509.06-3509.07, R.C. 3511.11-3511.13.
The unofficial canvass must not include ballots that are ineligible, as defined by state law, to be counted on Election Night; i.e., provisional ballots, absentee ballots rejected due to a statutory deficiency, and absentee ballots that were timely mailed but which had not been received as of the close of polls.\footnote{R.C. 3505.183(F) & (G); R.C. 3505.32; R.C. 3509.05(B)(1)}

State law requires that all boards of elections provide regular periodic election results for specified contests to the Secretary of State’s office.\footnote{R.C. 3505.27(C)} When the Secretary determines periodic Election Night reporting is required for specified contests (e.g. president, statewide offices, or statewide issues) instructions for reporting and uploading results will be provided.

Boards of elections must provide “supplemental statistics” when final results are reported or shortly thereafter. Boards of elections should not delay in reporting vote totals solely because the supplemental statistics are not yet available. In these cases, boards of elections should submit final results, then submit the supplemental statistics when ready. Likewise, vote totals and supplemental statistics should not be delayed because the board has not yet completed its ballot reconciliation procedures.

Supplemental statistics must be submitted before the board and its employees disband following completion of the unofficial canvass.

**PROCESSES AND PROCEDURES**

**PRE- AND POST-ELECTION TESTING OF TABULATING EQUIPMENT**

Each board of elections must test its automatic tabulating equipment prior to the start of the unofficial canvass to ensure the accurate counting of the votes cast for all offices and on all questions and issues\footnote{R.C. 3506.14(B)} and must follow the instructions outlined in the section on “Public Tests” in Chapter 4 of this manual when conducting its public pre- and post-election tests on its voting machines (i.e., DREs, iVotronics, etc.) and tabulating equipment.

After the board successfully tests its automatic tabulating equipment, the board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots as follows:

1. **Optical Scan - Precinct Count (ballots tabulated in the precincts)**

   Verify that the memory card(s) and a corresponding report of results from each precinct are received. Tabulate votes cast that are stored on each memory card.
Any ballot, other than a provisional ballot, that was cast at the precinct, but was not fed into the precinct-based optical scanner, should be processed or scanned in the manner described below for central-count ballots, including inspecting and remaking a ballot as outlined previously (e.g., a curbside ballot or a ballot placed into the emergency slot of the ballot box during rare instances that the precinct-based scanner was offline, etc.).

2. **Optical Scan - Central Count (ballots tabulated at the board of elections)**

Beginning the day after close of voter registration, absentee ballots may be scanned, but must not be tabulated.

Inspect every ballot that the tabulator rejects to determine the cause(s) of rejection, including the following:

- The ballot is folded, torn, or mutilated.
- The ballot contains misaligned timing marks.
- The voter consistently failed to follow marking instructions.
- The ballot contains one or more over-votes.

State law provides standards and definitions to ensure uniform application for ballots that were rejected by the central-count tabulator such that any of the following marks, if made in a consistent manner throughout an optical scan ballot, must be counted as a valid vote:\footnote{R.C. 3506.21}

- A candidate, question, or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been marked by the voter with an “x,” a check mark, or other recognizable mark; or
- A candidate, question or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

Remake any ballot where the marks noted above are made in a consistent manner, so that the ballot may be processed by a tabulator. Refer to the instructions at the beginning of this chapter for more information on the proper procedures to remake an optical scan ballot.

- An over-vote exists when the board determines the tabulator rejected the ballot because the voter marked the ballot more than the permissible

\footnote{R.C. 3506.21}
number of times for a particular contest. No vote is tallied from that ballot for that contest. However, the board must examine the ballot to identify any other reason for tabulator rejection.

☐ An over-vote does not exist if the board determines that a voter filled in the oval next to a candidate for an office and also cast a write-in vote for that same candidate for the same office by filling in the oval next to the blank space provided for write-in candidates. That ballot should be set aside and remade in accordance with the instructions in section “Procedure for Remaking Ballot.”

3. **Processing and Tabulating Instructions for DREs**

Verify that removable memory devices, and a corresponding report, are received from each precinct or polling location. Tabulate votes cast that are stored on the removable memory devices.

**Note:** The seal on the canister or the tape on the voter verified paper audit trail (VVPAT) shall not be broken to determine unofficial results. If the seal must be broken for any reason other than for recount purposes or a statewide post-election audit as prescribed by the Secretary of State, board personnel must notify the Secretary of State’s Elections Division before proceeding.

**UNOFFICIAL CANVASS OF WRITE-IN CANDIDATES**

Ballots containing potential write-in votes should be segregated for inspection. Inspection and tabulation of potential write-in votes should be made by a designated team or teams consisting of election officials, not more than half of whom on any given team is of the same political party.

If the voter has written in an eligible write-in candidate’s first and last names, the board of elections must count this as a valid write-in vote. In this case, the board shall follow the **manual hand count instructions explained in Chapter 9**.

If the voter has written in part of an eligible write-in candidate’s name, the board of elections must count a vote in which a voter has written in only the first or last name of the candidate, if there is only one eligible write-in candidate with that first or last name. In either case, or if there are two or more write-in candidates with the same first or last name, the voter must provide sufficient information for election officials to determine the voter’s intent in order for the vote to be counted.

**When conducting hand counts of ballots, boards of elections must follow the instructions provided in Chapter 9.**

A board may report as its unofficial canvass for write-in candidates the write-in vote totals reported by the voting system, which is a count of the number of times write-in
votes for that contest were recorded, regardless of whether the vote was for an eligible write-in candidate. However, the unofficial canvass must include only valid write-in votes for eligible write-in candidates when:

- The only candidates for a given contest are write-in candidates and there are more write-in candidates than the number of candidates to be elected; or
- The number of times write-in votes for that contest were recorded, regardless of whether it was recorded for an eligible write-in candidate, is greater than or equal to the number of votes recorded for a candidate whose name is printed on the ballot.

1. **Write-In Candidates on Optical Scan Ballots**

A voter’s selection of a candidate whose name is printed on the ballot and the selection of, and the writing in of, the name of a write-in candidate (other than an optical scan ballot that is to be centrally counted), invalidates the voter’s vote in that contest, as the voter has over-voted by marking more choices than permitted for a particular contest. See previous section in this chapter on remaking an optical scan ballot.

2. **Write-In Candidates on DREs**

To tally the number of votes for eligible write-in candidates, the board of elections may use the summary reports produced by each individual DRE or group of DREs, additional reports created by the PEOs as may be required by the board of elections, or may upload to the central tabulation system the removable electronic storage media from the voting machines.

**FINAL REPORTS**

1. **Reporting Summary Results for Multi-County Jurisdictions**

A board of elections of a less populous county (i.e., an overlapping county) of a multi-county jurisdiction (for an office, question or issue) must report its county’s results to the board of elections of the most populous county of the jurisdiction before closing its office. The board of the less populous county must report the results by email. It is imperative that the board of the less populous county make a final report to the board of elections of the most populous county of the jurisdiction before the board members of the less populous county separate or adjourn.

The board for the most populous county of a multi-county jurisdiction (for an office, question or issue) must file an aggregated final unofficial canvass by the
date and time ordered by the Secretary of State in advance of the election. The board may use a report from their central tabulating system, create a report outside of their central tabulating system, or use a reporting form that will be provided by the Secretary of State’s office for this purpose. The report must include the total number of votes recorded for the office, question or issue from each county in the multi-county jurisdiction and the sum total for all counties.

**Note:** The board of elections in the most populous county must initiate contact with the other boards of elections in the multi-county jurisdiction to pre-arrange the method of reporting, the email address for reporting, and exchange after-hours office numbers to reach the other board(s) during tabulation and the cell phone number for the director, deputy director, and board chairman. If the most populous county fails to initiate contact before Election Day, the other board(s) of elections in the multi-county jurisdiction must contact the most populous county for the information above.

2. **Final Unofficial Summary Reports**

   **Even-numbered election year**

   All final summary reports must be transmitted to the Elections Division of the Secretary of State’s office. A signature form, which must be signed by the director, deputy director, and each board member present for the unofficial canvass, will be provided in advance of the election. The board may not authorize the use of digital or stamped signatures for these reports.

   - On Election Night, after a board has completed its unofficial canvass, it must email the Secretary of State’s office and attach a copy of the unofficial vote total summary report generated by the board’s voting system. This report must be clearly labeled “<County>‘s Unofficial Canvass” and it must contain only vote totals for that county.

   - Each board of elections must submit a tally of valid votes for write-in candidates, if applicable, by the day and time specified by the Secretary of State’s office and using a reporting form that will be provided in advance of the election.

   - The board of the most populous county of any multi-county district must generate a separate summary report showing the combined vote totals for its county and each overlapping county that report to the most populous county for that contest. This report must be clearly labeled “<County>‘s

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22 R.C. 3505.30
Unofficial Canvass – Majority County” and be submitted to the Secretary of State’s office by a date and time provided to the board in advance of the election. The board may use its voting system, the Secretary of State Form, or some other method to provide this information.

- The board of the most populous county of any multi-county district, with write-in candidates described above, must submit a tally of the combined valid votes for write-in candidates from its county and each overlapping county that report to the most populous county for that contest. The day and time for this submission will be provided to the board in advance of the election. The contest(s) for which a board is the most populous county must be marked to clearly identify it as a contest containing vote totals from other counties.

**Odd-numbered election years**

Except in odd-numbered years in which state issues appear on the ballot, all final reports must be transmitted to the Elections Division via email to the email address provided by the Secretary of State’s office in advance of the election.

- After a board has completed its unofficial canvass, it must email the Secretary of State’s office and attach a copy of the unofficial vote total report generated by the board’s voting system. This report must be clearly labeled “<County>’s Unofficial Canvass” and it must contain only vote totals for that county.

- The board of the most populous county of any multi-county district must generate a separate report showing the combined vote totals for its county and the overlapping counties that report to the most populous county. This report must be clearly labeled “<County>’s Unofficial Canvass – Majority County.” The board may use its voting system, Secretary of State Form or some other method to provide this information.

**Section 1.03 Required Activities Prior to the Official Canvass**

**PROVISIONAL BALLOT REVIEW**

The board must verify the eligibility of persons who cast provisional ballots and the validity of the required provisional voter statements in preparation for the official canvass. Procedures for determining the validity of provisional ballots are provided in Chapter 6. To aid in the efficiency of the official canvass, during the 10 days following the election, board personnel determining the preliminary eligibility of provisional ballots may group provisional ballots by category to be later voted upon by the board.
REMINDERS:

1. Boards of elections must determine the eligibility of every provisional ballot cast in that county before the board may open and canvass any provisional ballots.\(^{23}\)

2. Observers may be present, as provided by law, while the board determines the eligibility of provisional ballots.\(^{24}\)

3. All boards of elections must apply these following practices when reviewing voter-identifying fields on provisional ballot affirmations, as a companion to the instructions for administering provisional voting found in Chapter 6.

   - **Date of Birth**\(^{25}\)

     As long as a board can still identify the voter, technical mistakes in providing one’s date of birth (such as accidental transposition of month and year numerals, mistakenly writing the current date, or inverting digits) are not valid reasons to reject a ballot.

     Prior to rejecting any provisional ballot because the date of birth on the envelope does not match the date of birth in the voter file,\(^{26}\) the board must take a public vote at a meeting noticed for that purpose. (For administrative economy, a board of elections may instruct its staff to group “like” ballots together and vote on each group rather than each individual ballot). If three board members agree that the provisional ballot is in all other respects valid and sufficient (i.e., cast by an otherwise qualified elector who provided name, address, signature, and a valid form of identification), the ballot shall be counted.

     When a provisional ballot is otherwise valid and the sole deficiency is that a voter has provided something that purports to be a date of birth that does not match the voter’s date of birth in the voter file, the board must count the ballot. As explained in R.C. 3505.183(B), if the space provided for the voter to write the voter’s date of birth is blank, the ballot cannot be counted.

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\(^{23}\) R.C. 3505.183(F).

\(^{24}\) R.C. 3505.183(F); R.C. 3505.21.

\(^{25}\) Instructions for administering provisional voting are found in Chapter 6.

\(^{26}\) R.C. 3505.183(B)(3)(e)(i). State law permits a board of elections to count a provisional ballot when the any of the exceptions exist: a.) the month of birth and day of birth on the provisional envelope match the voter file, but the year of birth is different (e.g., the voter wrote the current year “2016” instead of voter’s year of birth as recorded in the voter file) or b.) the voter’s date of birth in the voter file is “1/1/1800;” or c.) the board of elections has found, by a vote of at least three of its members, the voter has met all of the other statutory requirements for counting a provisional ballot.
In any instance of deficiency, the board must carefully review its voter registration records to determine if an error on the part of the board of elections is the cause of the deficiency before rejecting the ballot.

- **Address**

  As long as a board can still identify a voter, technical mistakes in providing one’s address are not valid reasons to reject a ballot.

  When reviewing addresses, remember that the U.S. Postal Service may assign a delivery address (e.g., Columbus) that is not the same as the political subdivision (i.e., City, Village, or Township) in which the voter resides (e.g., the City of Bexley). The political subdivision, ZIP Code, and/or city (as assigned by the USPS) are generally not relevant to this determination.

  The voter’s address is sufficient when the number and street is in the county (e.g., 2598 Ruhl Avenue) regardless of the City and ZIP code (except when the same address exists in two different precincts within the same county).

  The following examples assume the ballots were cast in a polling location in Franklin County:

<table>
<thead>
<tr>
<th>Street No. &amp; Name</th>
<th>City / ZIP</th>
<th>Political Subdiv.</th>
<th>In County?</th>
<th>Valid?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2598 Ruhl Ave.</td>
<td>Columbus, 43209</td>
<td>Bexley</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>2598 Ruhl Ave.</td>
<td>Bexley, 43209</td>
<td>Bexley</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>63 Pinebrooke</td>
<td>Westerville, 43082</td>
<td>Westerville</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Under no circumstances shall a board of elections use any database other than the county’s voter registration system (CVRS) or the statewide voter registration database (SWVRD) when determining whether or not the address on a provisional ballot affirmation is valid. Specifically, boards of elections may not use the property records of a County Auditor or County Treasurer or any maps of a County Engineer to determine whether or not a provisional ballot is valid.

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27 Instructions for administering provisional voting at found in Chapter 6.
• **Identification**

A voter is not required to provide the same form of identification on a provisional ballot affirmation that they provided when registering to vote. Under no circumstance shall a board of elections use any database other than the CVRS or SWVRD when determining whether or not identification provided on a provisional ballot affirmation is valid. Specifically, boards of elections may not use any online search tool on the website for the Ohio Bureau of Motor Vehicles when determining whether or not a provisional ballot is valid.

In all other matters relative to voter identification, boards of elections are reminded to follow the requirements of Directive 2008-80.

• **Data Fields with Null Values**

If a data field in the CVRS or SWVRD is “null” (i.e., no data is present, or the field has a placeholder value, such as “1/1/1800” for date of birth), the voter has satisfied the requirement when the voter provides the relevant information on the provisional ballot affirmation. Information contained on a provisional ballot affirmation, provided under penalty of falsification, may be entered into the CVRS to complete the voter’s record both in the CVRS and SWVRD.

**DOCUMENT REVIEW**

Prior to the 11th day after an election, a board of elections must examine its poll books, poll lists or signature poll books, and tally sheets, and compare the information contained in those documents to the summary statements prepared by the PEOs. The board must note and reconcile any error, defect, or omission that it detects during its examination of those records.

**Section 1.04 Official Canvass**

**TIMELINE**

Boards of elections may begin the official canvass of an election no earlier than the 11th day after the election, and must begin no later than the 15th day after the election. Each board of elections must complete its official canvass and certify the results no later than the 21st day after the election.
PROCESS AND PROCEDURES

ALL VOTING SYSTEMS

All valid ballots cast in an election – including eligible ballots cast at the polling locations on Election Day, eligible provisional ballots, and eligible absentee ballots – must be included in the official canvass.

Each board of elections must test its automatic tabulating equipment before starting the count and after concluding the count, to verify the central tabulation system’s accurate count of the votes cast for all offices and on all questions and issues. Each board of elections must follow the instructions outlined in the section on “Public Tests” in Chapter 4 of this Manual when conducting its public pre- and post-election tests on its voting machines and tabulating equipment.

TABULATION INSTRUCTIONS FOR BALLOTS CONTAINING VOTES NOT INCLUDED IN THE UNOFFICIAL CANVASS

The board of elections first must tally all eligible ballots that were not included in its unofficial canvass. Those ballots include the following: Provisional ballots; absentee ballots postmarked on or before the day before Election Day that had not been received by the close of polls, but were received no later than 10 days after Election Day; timely mailed UOCAVA ballots that had not been received as of the close of polls, but were received not later than 10 days after Election Day, and challenged ballots the board has determined are eligible.

The board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots in accordance with the inspection and tabulation instructions for central-count optical scan ballots provided in the previous unofficial canvass section of this chapter.

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30 R.C. 3506.14(B).
31 R.C. 3505.32(C).
32 R.C. 3505.183(F).
33 R.C. 3509.05(B).
34 R.C. 3511.11(G).
35 R.C. 3503.24(D)(1); R.C. 3505.27.
TABULATION OF RESULTS FOR THE OFFICIAL CERTIFICATION

After tabulating all ballots that were not included in the unofficial canvass, the board of elections must continue the official canvass process as follows:

1. **Optical Scan Ballots**

   The board must:
   - Upload the memory cards containing votes that were centrally-counted during the unofficial canvass or re-import the data from a saved location if results are directly written to a hard drive.
   - Upload the precinct/polling location memory cards containing votes that were counted during the unofficial canvass, if applicable.
   - Verify the count matches the unofficial count.
   
   If the count does not match the unofficial count, the board must contact a Secretary of State’s Elections Administrator before continuing the canvass.
   
   If the counts match, the board must combine the results of the re-run memory card tabulation of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

2. **Direct Recording Electronic Voting Machines (DREs)**

   The board must:
   - Upload the data on the removable memory devices containing votes that were counted during the unofficial canvass.
   - Verify the count matches the unofficial count.
   
   If the count does not match the unofficial count, the board must contact a Secretary of State’s Elections Administrator before continuing the canvass.
   
   **Note:** The seal on the canister or the tape on the voter verified paper audit trail (VVPAT) shall not be broken to determine official results. If the seal must be broken for any auditing reason, other than for recount purposes or a statewide post-election audit as prescribed by the Secretary of State, the board must notify the Secretary of State’s Elections Division before proceeding.
   
   If the counts match, the board shall combine the re-run results of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.
RESOLVING TIES

If, after canvassing all votes, more than the number of candidates to be nominated or elected to an office received the largest and an equal number of votes, the chair of the board of elections, in the presence of a majority of the board members at a properly-noticed public meeting of the board, must break the tie by lot\(^{36}\) and declare the winner before the board certifies the results of the election for that office and orders a recount.\(^{37}\)

A majority of the board members must sign the declaration, which must be dated. The board may not authorize the use of digital or stamped signatures for this declaration. The board must post a copy of the declaration in a conspicuous, accessible place in the board office for at least five days.\(^{38}\)

REPORTS

Templates for reporting results to the Secretary of State’s office and, in some instances, to other boards of elections or public agencies will be provided by the Secretary of State’s office in advance of the election.

All certifications and reports must be signed by the appropriate board personnel before being submitted to the Secretary of State’s office, to another board of elections, or to another public entity. The board may not authorize the use of digital or stamped signatures for these reports. Each board of elections must submit the signature form, which will be provided under separate cover, for the purpose of certifying the official election results including valid write-in vote totals, the supplemental reports for absentee ballots and provisional ballots and the ballots cast by precinct to the Secretary of State’s office.

1. **Certification of Official Summary Results to the Secretary of State**\(^{39}\)

   - After a board has completed its official canvass, it must email the Secretary of State’s office and attach a copy of the official vote total summary report generated by the board’s voting system. This report must be clearly labeled "<County>‘s Official Canvass" and must contain only vote totals for that county.

   - The board of elections for the most populous county of any jurisdiction must generate a separate report from its voting system, create a report

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\(^{36}\) R.C. 3505.33. Examples of methods used to break a tied candidate race “by lot” include, but are not limited to, the chair flipping a coin, drawing straws, picking a name written on paper out of a hat, or cutting cards.

\(^{37}\) By contrast, a board does not break a tie in the case of a ballot issue that received an equal number of votes for and against the issue; that issue failed by operation of law, because it did not receive a majority of affirmative votes. A tie in an issue election results in the failure of the issue.

\(^{38}\) R.C. 3505.33

\(^{39}\) R.C. 3505.33, R.C. 3505.36
outside of its voting system, or use a reporting form that will be provided under separate cover for this purpose. This report must be clearly labeled “<County>‘s Official Canvass – Most Populous County.” The report must include the total number of votes recorded for the office, question or issue from each county in the multi-county jurisdiction and the sum total for all counties.

The contest(s) for which a board is the most populous county must be marked to clearly identify it as a contest containing vote totals from other counties.

2. **Certification of Official Summary Results to Senate President**

Each board of elections must send to the President of the Senate a copy of the board’s general election official results for the joint offices of Governor and Lieutenant Governor, and the offices of Attorney General, Auditor of State, Secretary of State, Treasurer of State, and Justices of the Ohio Supreme Court. Also, official election results must be sent to the President of the Senate whenever a state issue(s) appears on the ballot.

In addition, the most populous county of a district contest for U.S. House of Representatives must send a copy of its official, district-wide results for that district contest to the President of the Senate.

Official results for the President of the Senate must be sent to:

President of the Ohio Senate
Ohio Statehouse
1 Capitol Square, 2nd Floor
Columbus, Ohio 43215

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40 R.C. 3505.33
3. **Certification of Official Summary Results for Local Liquor Option Questions and Local Questions and Issues**

Each board of elections must send a completed copy of Secretary of State Form 126-B to the Secretary of State’s Election Division via email and a copy of the completed form to the Ohio Division of Liquor Control via email to:

LiquorLicensingMailUnit@com.state.oh.us or mail to the following address:

Division of Liquor Control
6606 Tussing Road
Reynoldsburg, Ohio 43068-9005

Depending on the type of question or issue, a board of elections also must send certification of results to other offices. For the board’s convenience, the Secretary of State’s office has prescribed forms for the certification of results for some types of questions and issues. The master list of forms and the prescribed forms are available to boards of elections on the Secretary of State’s website.

Only the most populous county for a multi-county question or issue must provide certification to the other offices listed below.

- The board of elections must certify the results of an election on tax levies and bond issues to the following offices and agencies:
  - The county auditor of each county in which the election was held.
  - The fiscal officer of the subdivision in which the election was held.
  - The Tax Commissioner of the State of Ohio at:
    Tax Equalization Division
    30 E. Broad St., 21st floor
    P. O. Box 530
    Columbus, OH 43216-0530
  - The Secretary of State.

- The board of elections must certify the results of an election on a school district income tax on Form 125-A to the following offices and agencies:
  - The board of education that placed the issue on the ballot.

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41 R.C. 4301.39(A)
4. **Absentee and Provisional Ballot Supplemental Reports**

   Additionally, because state law requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted, each board of elections must provide supplemental data for absentee and provisional ballots. The reporting form will be provided by the Secretary of State’s office.

5. **Electronic Precinct-Level Official Abstract**

   In even-numbered election years and whenever a state issue appears on the ballot, each board of elections must upload an electronic precinct-level abstract of votes to the Secretary of State on a date to be specified for that election. The upload tool will allow you to do this efficiently and without data entry errors. You must use the file format provided by Secretary of State’s office.

   Additionally, boards of elections are required to provide, via email, a separate report from the county’s central tabulating system detailing turnout by precinct.

**VOTER HISTORY**

For purposes of assigning voter history, a voter record should be marked as having voted in an election, only if any of the following are true:

- The voter signed the signature poll book on Election Day.
- The voter timely returned the voter’s identification envelope (including UOCAVA and Federal Write-In Absentee Ballot (FWAB)), regardless of whether the ballot was eligible to be counted.
- The voter is an eligible elector of the state of Ohio and cast a provisional ballot, regardless of whether the ballot was eligible to be counted.

Following each primary election, a board of elections must program its county voter registration system to reflect a voter’s party affiliation in accordance with R.C. 3513.05.
TIMELINE FOR REPORTS

The Secretary of State’s Elections Division must receive each board of elections’ properly-completed certification, signature form, report forms, electronic precinct-level abstract via upload (if applicable), and electronic turnout detail by precinct via email (if applicable) on the date specified.

Every board of elections must maintain at its office a copy of each of its completed certification and report forms.

CERTIFICATES OF NOMINATION / ELECTION

No certificate of nomination or election shall be issued to a person, and no person elected shall enter upon the performance of the duties of the office, until that person or that person’s campaign committee, as appropriate, has fully complied with the campaign finance reporting laws.44

1. Certificates of Nomination

A board of elections must issue certificates of nomination to each person who the board had declared nominated at a primary election, except as follows:

- Board of elections in the most populous county of a multi-county district issues the certificates of nomination for that district.

- The Secretary of State issues certificates of nomination for statewide offices, and for the offices of representatives to congress.45

Boards of elections issue and deliver a certificate of election to persons elected as a member of a party controlling committee.46 The board of elections in the most populous county of a multi-county district issues the certificates of election for members of the party controlling committee for that district.

Certificates of nomination or elections should not be issued before the expiration of the time by which applications for recounts may be made. Boards of elections may not issue a certificate of nomination or election in a contest for which a recount is requested, or conducted automatically, until after the recount is complete.

Number of Write-In Votes Required for Nomination

In no event shall a write-in candidate be nominated as a political party’s candidate for any contest in which the only candidates are write-in candidates

44 R.C. 3517.11(D).
45 R.C. 3513.22(E).
unless the total number of votes cast for the write-in candidate receiving the highest number of votes is equal to or greater than the number of petition signatures that would have been required for printing that write-in candidate’s name on the primary ballot.47

2. **Certificates of Election for Even-Numbered Year Elections**

Boards of elections must issue certificates of election to each person who the board had declared elected at a general election, except that:

- The board of elections in the most populous county of a multi-county district issues the certificates of election for that district.
- The Secretary of State issues certificates of election for statewide offices, offices of representatives to congress, and offices of state board of education members.

Certificates of election should not be issued before the expiration of the time by which applications for recounts may be made. Boards of elections may not issue a certificate of election in a contest for which a recount is requested, or conducted automatically, until after the recount is complete.

3. **Certificates of Nomination for Odd-Numbered Year Primary Elections**

In odd-numbered years when no primary election is held, the election officials whose duty it would have been to provide for and conduct the primary election shall declare each of the party candidates to be nominated as of the 90th day before the primary election, issue appropriate Certificates of Nomination ([Form 155-A](#)) to them, and certify their names to the proper election officials, in order that their names may be printed on the official ballots provided for use in the next general election in the same manner as though a primary election had been held and such persons had been nominated at such election.48

4. **Governor’s Commissions**

Holders of certain public elective office cannot perform any duty pertaining to their offices without first having obtained from the governor a commission. The officers required to be commissioned by the governor are the state executive officers, county officers, and judges of any court of record, including a county court. Each such officer who receives compensation shall pay a fee to the Secretary of State for making, recording, and forwarding the commission.

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47 R.C. 3513.23(B).
48 R.C. 3513.02
Judges of the county courts pay a $2 commission fee; all other officers and judges pay a $5 commission fee.

Note: “County court” is defined in R.C. 1907.01 and is not the same as a court of common pleas; therefore, a judge of a court of common pleas pays the $5 commission fee.

When the result of the election of any such officer is officially known to the board of elections of the proper county, the board responsible for issuing the certificate of election shall not deliver that certificate to the officer- or judge-elect. Instead, the board shall collect from the officer- or judge-elect the appropriate commission fee and shall immediately forward by mail to the Secretary of State the officer-elect’s certificate of election and the appropriate commission fee.  

5. Amendments

The board of elections may amend its election results until the 81st day following the date of an election. In the event a board of elections finds it necessary to amend its election results and any such amendment would make a material change to information previously submitted to the Secretary of State or would change the ultimate outcome of a contest, the director must contact the Secretary of State’s office. When providing amended results to the Secretary of State’s office, the board must clearly indicate the office or question or issue results they are amending. The Secretary of State may specify an earlier date upon which the election results are deemed final, if so required by federal law.  

Section 1.05 Records Retention

GENERALLY

Records in the board’s custody must be retained for time periods in accordance with law establishing specific retention periods, and in accordance with retention periods or disposition instructions established by the state records administration and the county records commission. Please contact your county records commission for the proper procedures and forms before destroying any records.
The county records commission is composed of a county commissioner, prosecuting attorney, auditor, recorder and clerk of court of common pleas. The commission meets at least every six months. The commission creates rules for retention and disposal of county records, reviews and revises retention schedules, and ensures proper procedures are followed for disposal of county records.

The Secretary of State has a retention schedule for all election-related documents and forms. A board of elections must adhere to the retention schedule issued by the Secretary of State for all records and forms included in the schedule. If a board has a record that is not listed in the Secretary of State retention schedule, it should refer to the county retention schedule. If neither schedule references the record, the board should contact its legal counsel, the county prosecuting attorney, for advice on how long to retain the record.

A copy of the most recent retention chart for board of elections is available in Chapter 16 Additional Resources of this manual.

The Secretary of State’s office does not have the authority to advise a board of elections on how to respond to a request for public records. A board should consult with its legal counsel regarding any request for public records before it responds to the request. Additionally, any questions regarding how to dispose of a public record should be directed to the board’s legal counsel.

**BALLOTS, POLL BOOKS, AND PROVISIONAL ENVELOPES SEALED FOLLOWING AN ELECTION**

Ballots are not subject to disclosure or inspection pursuant to a request for public records and must remain under seal until any possible recount or election contest is completed. A court order may require ballots to remain under seal for a longer period of time.

Poll books are not subject to disclosure or inspection pursuant to a request for public records and must remain under seal until the board has completed its official canvass of the election. A court order may require poll books to remain under seal for longer period of time.

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52 “[B]allots includes any forms in which a record of a vote exists.” 2004 OAG 050, p. 4
53 2004 OAG 050
54 2004 OAG 050
Provisional ballot envelopes are not subject to disclosure or inspection pursuant to a request for public records and must remain under seal until any possible recount or election contest is completed. A court order may require provisional ballot envelopes to remain under seal for a longer period of time.

A board of elections also is prohibited from releasing information through the free access system established pursuant to R.C.3505.181(B)(5)(b) to anyone other than the voter to whom that information pertains.

If a board receives a request for copies of a ballot, poll book, or provisional ballot envelope during the time period in which it must remain under seal, the board is encouraged to consult with its legal counsel.

**BALLOTS – PAPER AND ELECTRONIC**

After the time for any possible recount or election contest has passed, a board still must retain all ballots created for use in an election. All ballots (both used and unused) prepared for a federal election must be retained by the board for at least 22 months following the election. All ballots (both used and unused) prepared for a non-federal election must be retained by the board for at least 60 days following the election. Please be advised that a court order or pending litigation might require a board to retain ballots for a longer period.

R.C.3505.31 provides as follows:

The board shall carefully preserve all ballots prepared and provided by it for use in an election, whether used or unused, for sixty days after the day of the election, except that, if an election includes the nomination or election of candidates for any of the offices of president, vice-president, presidential elector, member of the senate of the congress of the United States, or member of the house of representatives of the congress of the United States, the board shall carefully preserve all ballots prepared and provided by it for use in that election, whether used or unused, for twenty-two months after the day of the election.

Election data stored on the internal memory of a voting machine, memory card, and tabulation servers must be treated as a ballot and retained either for 60 days or 22 months, depending on the type of election. A board may transfer data from its tabulation server or memory cards to another storage source before the expiration of the retention period as long as the board provides public notice of at least two business days of the time and place of the transfer. Please note that the CD-ROM/DVD/USB

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55 2011 OAG 012
56 2011 OAG 012

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memory device containing the transferred voting information must be kept by the board for a period of six years from the date of the election at which the records were initially created.

A board is not permitted to clear the internal memory of any voting machine used in an election before the expiration of the retention period for ballots unless the board conducts a re-canvass of the election and transfers the data to another source. **R.C.3505.31** (3rd paragraph) provides as follows:

In counties where voting machines are used, if an election is to be held within the sixty days immediately following a primary, general, or special election or within any period of time within which the ballots have been ordered preserved by the Secretary of State or a court of competent jurisdiction, the board, after giving notice to all interested parties and affording them an opportunity to have a representative present, shall open the compartments of the machines and, without unlocking the machines, shall recanvass the vote cast in them as if a recount were being held. The results shall be certified by the board, and this certification shall be filed in the board’s office and retained for the remainder of the period for which ballots must be kept.

After preparation of the certificate, the counters may be turned back to zero, and the machines may be used for the election.

A board must adhere to the following procedures in conducting the re-canvass:

- Public notice of the re-canvass must be provided at least five business days prior to the re-canvass.
- The re-canvass must be open to the public.
- Before transferring data retained on DRE internal memory, the board must:
  - Create a separate election data file on its tabulation server,
  - Download the data from the internal memory onto a memory card(s),
  - Download the voting results from the cards into the separate election data file on its tabulation server,
  - Re-run (tabulate) the voting results contained on the cards,
  - Verify the count matches the unofficial certification count, and
  - Certify the results of the re-canvass.

Note: If the count does not match, the board must compare the original voting results still contained on the voting machine internal memory to the unofficial results on the tabulation server and determine the cause of the difference.
The seal on the canister or the tape on the verified voter paper audit trail (VVPAT) must not be broken for the re-canvass. If the VVPAT seal must be broken for any auditing reason other than for recount purposes, the board must notify the Elections Division of Secretary of State’s office.

After the data has been downloaded from the internal memory of the machine, the board must ensure the data has been retained on the tabulation server before clearing the memory of the machine. Please note that, the board must keep the data that has been transferred onto the tabulation server for 60 days after the day of an election for a non-federal election, or 22 months after the day of an election for a federal election.
Chapter 9: POST-ELECTION ACTIVITIES

Directive 2019-30

Section 1.01 Definitions

Post-Election Audit: A post-election audit is a comprehensive review of one or more contests in an election to ensure that the results reported by the board of elections are accurate. Audits are conducted following each general election in an even-numbered year and after each presidential primary election in accordance with procedures prescribed by the Secretary of State and set forth in this chapter.

Contest of Election: A contest of election is a court action to challenge the nomination or election of any person to any public office or the results of any ballot question or issue submitted to the voters.

Recounts: The process of recounting all ballots counted in the official canvass and re-examining the reconciliation of the records for a specific contest in an election.

Section 1.02 Recounts

WHEN A RECOUNT MUST BE CONDUCTED

There are two types of recounts: automatic and requested.

1. Automatic Recount

   An automatic recount must be conducted when the difference between votes cast for a declared winning nominee, candidate, question, or issue, and the declared losing nominee, candidate, question, or issue is equal to or less than a certain percentage of the total votes cast in the candidate contest, question, or issue as described below.

   a. Board of Elections Declared Automatic Recounts for Elections Conducted Exclusively Within the County

      A board of elections must order the automatic recount for any county, municipal, township, school district race, local question, or issue election wholly contained within the county when the difference between votes

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1 R.C. 3515.011
Chapter 9: Post-Election Activities

cast for a declared winning nominee, candidate, question or issue, and a declared losing nominee, candidate, question or issue is equal to or less than one-half of one percent (0.5%) of the total votes cast in the candidate contest, question, or issue. The calculation involves multiplying the vote totals by 0.005. See examples in Section B., Automatic Recounts.

A board of elections that orders an automatic recount must conduct the recount of the contest in question according to the procedures outlined in this chapter. The board of elections must notify the Secretary of State’s office of the race, question or issue subject to the recount, as well as the date, time, and location of the recount.

b. Secretary of State Declared Automatic Recounts of Multi-County District Elections

The Secretary of State must order the automatic recount of any multi-county district race, question, or issue when the difference between votes cast for a declared winning nominee, candidate, question or issue, and a declared losing nominee, candidate, question or issue is equal to or less than one-half of one percent (0.5%) of the total votes cast in the candidate contest, question, or issue. The calculation involves multiplying the vote totals by 0.005. See examples in Section B., Automatic Recounts.

The most-populous county of the subdivision or district must notify the Secretary of State’s office of the official results (i.e., the vote totals from each county as well as the grand total for the race, question or issue) and request the Secretary of State to order the automatic recount. After receiving the notification from the most-populous county, the Secretary of State will order the automatic recount via letter.

Each board of elections of the multi-county district must do the following:

- Schedule the recount to occur within time period stated in the order from the Secretary of State’s office;
- Issue notice of the recount to all individuals required to receive notice of the recount;
- Inform the Secretary of State’s office of the date, time, and location of the recount;
- Conduct the recount; and
- Report the results of the recount to the most-populous county.

The most-populous county then must report the results of the recount from each county in the multi-county district to the Secretary of State’s office.
c. Secretary of State Declared Automatic Recounts in Statewide Elections

The Secretary of State must order the automatic recount of any statewide election when the difference between votes cast for the declared winning nominee, candidate, question, or issue and the declared defeated nominee, candidate, question, or issue is equal to or less than one-fourth of one percent (0.25%) of the total votes cast in the race or issue.

When the Secretary of State orders an automatic recount of a statewide contest, each board of elections must conduct a recount in its county for the contest in question according to the procedures provided in this chapter. Each board of elections shall report the results of its recount directly to the Secretary of State’s office.

2. Requested Recount

A requested recount may be conducted only when an automatic recount of a race or issue is not mandated by R.C. 3515.011. The recount of a candidate contest may be requested by any candidate who was not declared nominated or elected. The recount of a question or issue may be requested by any group of five or more qualified electors who declare that they voted for a question or issue that was defeated, or against a question or issue that passed.

a. Requested Recounts of Elections Within a County

Any defeated candidate, nominee, or issue group may file a written application with the board of elections for a recount of the votes cast in the race, question, or issue in any precinct in which the race, question, or issue appeared on the ballot. A board of elections that receives a valid recount application must promptly notify the Elections Division of the Secretary of State’s office.

b. Requested Recounts of Multi-County District Elections

Any defeated candidate, nominee or issue group may file with the board of elections of the most-populous county of the district a written application for a recount of the votes cast in the race, question or issue in any precinct in any of the counties in which the contest appeared on the ballot. A board of elections that receives a valid recount application must promptly notify the Elections Division of the Secretary of State’s office.

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2 R.C. 3515.01
c. Requested Recounts in Statewide Elections

Any defeated candidate or nominee for statewide office, or any group formed to support or oppose a statewide question or issue, may file a written application with the Secretary of State’s office for a recount of the votes cast in the race or issue in any precinct in any county.

AUTOMATIC RECOUNTS

1. When One Candidate is to be Elected or Nominated

Where there are two or more candidates for a single office but only one candidate is to be elected, add the votes for all candidates in that race together to obtain the total vote. For example:

Candidate A  2,845 votes (declared elected or nominated)
Candidate B  2,815 votes (declared defeated)
Candidate C  2,795 votes (defeated)

The total vote for the office is 8,455. One-half of one percent of 8,455 is 42.275 (8,455 x 0.005); do not round.

Candidate A defeated Candidate B by 30 votes, which is less than 42.275. Because the difference between the declared winning candidate and the declared defeated candidate is less than one-half of one percent, in this example the board orders an automatic recount and recounts the votes cast for each of the three candidates in the contest.

2. When Several Candidates are to be Elected or Nominated

In a case where several candidates are to be elected, the term "declared winning candidate" in the statute is interpreted to mean the candidate whose nomination or election is disputed, rather than all of the candidates for the particular office.

Using the example below, if five candidates seek nomination or election, with three to be nominated or elected, only the votes cast for Candidates 3, 4, and 5 are regarded as the “total votes” cast for the third seat in computing the margin for an automatic recount. For example:

Candidate 1  4,200 votes (elected or nominated)
Candidate 2  2,301 votes (elected or nominated)
Candidate 3  2,300 votes (declared elected or nominated)
Candidate 4  2,275 votes (declared defeated)
Candidate 5  2,250 votes (defeated)

Do not include the votes cast for Candidates 1 and 2 to compute the total vote for the third seat because their nomination or election is not in dispute.

The votes cast for Candidates 3, 4, and 5 total 6,825. One-half of one percent of 6,825 is 34.125 (6,825 x 0.005); do not round.

Candidate 3 defeated Candidate 4 by 25 votes, which is less than 34.125. Because the difference between the declared elected and the declared defeated candidates is less than one-half of one percent, the board orders an automatic recount. Only the votes cast for Candidates 3, 4, and 5 are recounted in the contest.

3. **Tied Contest Triggers Automatic Recounts**

Any contest that was tied according to the results of the official canvass triggers an automatic recount. Any candidate contest that was tied according to the results of the official canvass should have been resolved by lot at the end of the board’s official canvass. In the event that the board neglected to resolve a tie in a candidate race at the end of its official canvass as required by law, it must break the tie by lot before starting the recount. The board may only resolve a tie by lot during a public meeting with a majority of the board members present.

**REQUESTED RECOUNTS**

1. **Written Application for a Requested Recount**

A recount of the election results certified by a board of elections may only be requested within five days after the board of elections or the Secretary of State declares the official results of the election.

If a contest (candidate, question, or issue) was wholly contained within a county, the application is filed with that county’s board of elections.

If a contest (candidate, question, or issue) appeared on ballots in a multi-county district, the application is filed with the board of elections for the most-populous county of the district.
If the contest (candidate, question, or issue) was statewide, the application is filed with the Secretary of State’s office.

a. Candidate Nomination or Election

A candidate who was not declared nominated or elected in a race may make written application to the appropriate election officials for a recount of votes cast in that contest in some or all of the precincts where that contest was submitted to the voters.

b. Question or Issue Election

A group of five voters who voted opposite to the certified result (i.e., if the question or issue passed, they had voted against it; if the question or issue failed, they had voted for it) may file a written application with the appropriate election officials for a recount of votes cast on that question or issue in all or some of the precincts where that question or issue was submitted to the voters. The group filing the application for recount must designate one of its members as chairperson to receive all notices concerning the recount.

2. **Deposit**

   a. **Amount**

   Applicant(s) for a recount must file a deposit of $60.00 per precinct to be recounted in cash, bank money order, bank cashier’s check, or certified check.

   b. **Special Depository Fund**

   The board shall deposit all funds received from an applicant in a special depository fund with the county treasurer. It is advisable for this to be an active line item in every fiscal year budget to ensure the prompt deposit of funds. The expenses of the recount and refunds shall be paid from that fund upon order of the board of elections. Any balance remaining in that fund that has not been spent for the recount or refunded to the recount applicant shall be paid into the general fund of the county.

   c. **Purpose**

   The deposit serves as security to cover the cost of the recount. If all requested precincts are not counted, any unused balance must be refunded to the applicant(s).

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7 R.C. 3515.03; R.C. 3515.072
3. **Assessing Recount Charges**

   a. **Calculating the Charges**

   The board of elections calculates the charges for the recount. It should include all expenses the board incurs because of the application, other than the regular operating expenses the board would have incurred regardless of whether the application had been filed.

   The total amount of charges so calculated and fixed, divided by the number of precincts listed in the application and for which votes were actually recounted, shall be the charge per precinct for the recount. The charges per precinct shall not be more than $60.00, or less than $5.00, for each precinct in which the votes were recounted.

   The board shall deduct the charge per precinct from the money deposited by the applicant, and shall refund to the applicant the balance of the money so deposited.

   b. **When Charges Are Not To Be Assessed**

   No charge per precinct shall be deducted from the recount deposit upon the completion of the recount of a candidate nomination or election or issue election in any precinct, if either of the following occurs:

   - The total number of votes cast in such precinct for the applicant, as recorded by the recount, is more than 4 percent larger than the number of votes for the applicant in that precinct recorded in the original certified abstract; or
   - The candidate applicant is declared nominated or elected, or the result of the issue election is declared to be opposite to the original declaration of result.

**PREPARING FOR THE RECOUNT**

1. **Scheduling a Recount and Providing Written Notice**

   a. **Scheduling**

   After the appropriate board of elections or the Secretary of State has ordered an automatic recount, or an application requesting a recount has been filed, each board of elections participating in the recount shall promptly fix the time, method, and place at which the recount will occur.
The recount shall take place not later than 10 days after the day such application is filed or such order is made. After each Board schedules its recount, it must notify the board of elections for the most populous county, in the case of a multi-county district race or issue recount, or the Secretary of State’s office, in the case of a statewide race or issue recount, of the date scheduled for its recount.

b. Notice

At least five days before the date of its scheduled recount, the board of elections must give written notice by certified mail of the time and place of the recount to the following persons:

☐ Each person for whom votes were cast in the contest that is the subject of the recount.

☐ For question or issue elections, the chairperson of the group of electors that applied for the recount and/or the taxing authority or petitioners that submitted the question or issue to the board of elections.

c. Waiver of Notice

The requirement to mail notice may be waived if the board receives a written waiver from each person entitled to receive such notice. Please keep in mind that, even if all persons entitled to receive written notice of a recount waive their right to that notice, the board still must schedule its recount no earlier than the fifth day after the board completes its official certification.

2. Observers

During a recount, ballots may be handled only by boards of elections members, directors, deputy directors, or other designated employees of the boards. Ohio law provides that duly-appointed observers may be present for any recount. Please refer to Chapter 7, Section 1.08 Observers, for details on recount observers.

Representatives of the media are permitted to attend a recount.

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10 R.C. 3515.03
11 R.C. 3515.03
STOPPING AN AUTOMATIC RECOUNT

1. **Before an Automatic Recount Starts**<sup>12</sup>

At any time after an automatic recount is ordered, but before the recount commences, the declared defeated candidate or the issue chairperson for a losing side may file a written request to stop the recount. If more than one declared defeated candidate is entitled to the recount (see above for the definition of candidates who are “declared defeated”), each of the declared defeated candidates must file a written request to stop the recount. If each losing candidate entitled to the recount requests the recount be stopped, the board must grant the request.

2. **After an Automatic Recount Starts**<sup>13</sup>

At any time during a recount, the declared losing candidate or candidates or the issue chairperson for the losing side may file a written request to stop the recount.

If the board finds that results of the recount at that point will not change the official results (i.e., the margin of victory for the declared elected candidate is unchanged or has increased), the recount must be stopped. If the board finds otherwise, the board must deny the request to stop the recount, and the recount must continue until all ballots from the precincts involved have been recounted.

PROCEDURES FOR RECOUNT<sup>14</sup>

1. **All Voting Systems**

   - The recount must be conducted by teams of elections officials equally divided among the state’s two major political parties.
   
   - A recount team of at least two election officials must compare the total number of votes cast in the candidate contests and question or issue elections being recounted to the number of voters listed in the poll book, poll list, or signature poll book records. If more votes in a precinct appear for a particular contest than the number of marked names in the poll book, poll list, or signature poll book records (showing voters who voted, including absentee and provisional voters), such occurrence must be documented.

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<sup>12</sup> R.C. 3515.03
<sup>13</sup> R.C. 3515.04
<sup>14</sup> R.C. 3515.04  R.C. 3506.18  R.C. 3501.05
• Any chain of custody logs for the ballots, poll worker reconciliation results, and board of elections reconciliation results should also be reviewed for each precinct being recounted.

• Sealed ballot envelopes must remain sealed; the actual ballot contained within the envelope shall not be viewed.

• Ballots must be checked to verify that each candidate’s contest, question or issue was properly displayed on the ballots.

• The board will randomly select precincts whose vote totals for the race, question, or issue to be recounted equal at least 5 percent of the total vote in the race to be recounted.

• For the purposes of these procedures, “randomly select” means the following:
  o Whole precincts shall be selected for the recount.
    "Note: Each precinct’s ballots shall include for the recount all relevant regular ballots (voter verified paper audit trail and/or optical scan paper ballots), provisional ballots, and absentee ballots of all types that were tallied and recorded as part of the official certification.

  o Enough precincts shall be selected for the recount whose total votes cast, when taken together, equal at least 5 percent of the total votes cast in the election at issue. To calculate this percentage, the number of total votes cast in the election at issue is multiplied by 0.05 and then rounded up to the next whole number, if necessary.

The board shall employ a method that ensures that every precinct in the jurisdiction to be recounted has the same chance of being selected as any other precinct. Acceptable methods include casting multi-colored die with each different color representing a different numeral of the precinct number or drawing slips of paper from a container. If the latter is employed, the board must allow the slips of paper and the container to be inspected by appointed observers prior to commingling them inside the container for purposes of the drawing.

Because an applicant requesting a recount must name each precinct to be recounted, the definition of “randomly select” only applies to requested recounts in situations where the total number of voters who voted on the race or issue to be recounted in the precincts named in the application exceeds 5 percent of the total vote cast in the election to be recounted.
Random selection of precincts to be counted may occur before the scheduled recount takes place. However, the selection must occur during a public meeting of the board of elections, and the candidates or the question/issue group chairperson must be notified of the time and place at least 24 hours before the meeting so that they may observe the drawing of precincts.

**Note:** It is important that every board of elections preparing for a recount take care that its preparations do not inadvertently become pre-counting, either in fact or in perception.

2. **Manual Hand Count Procedures**

Prior to a manual hand count being conducted:

- Ballots must be inspected for mutilations and other irregularities not accounted for by ballot remakes.
- Ballots must be checked for proper candidate position and to verify that each candidate or issue has been properly identified.

The manual hand count shall begin in public session of the board of elections. The board may then recess, allowing its employees to perform the manual hand count in the presence of credentialed media, observers, and any board members who wish to attend. A majority of board members is not required when the recounting occurs. Once the recount is complete and a majority of the members are present, the board shall return to public session.

**Counties Using Optical Scan Ballots as Primary Method of Voting**

- Construct a team(s) of at least two individuals, with the team being evenly divided between individuals from each major political party. The two individuals must document and keep track of the votes by marking on the in-house Hand Count Tally Reporting Form.
- Prepare copies of an in-house Hand Count Tally Reporting Form for tabulating the official manual hand count of the actual ballots.
  - List the candidates, questions, and issues, or the specific race or issue to be manually hand counted, as well as the type of ballot, i.e. regular or provisional ballot voted at the precinct or absentee ballot. Overvoted and blank voted offices or issues shall also be recorded and noted as such (e.g., “OV” for overvote and “BL” for blank when no votes are cast for a contest).

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**R.C. 3515.03**
Once the manual hand count is completed the Democratic and Republican members of the board who are responsible for conducting the manual hand count shall affix their signatures and the date of the manual hand count on the in-house Hand Count Tally Reporting Form.

- Verify that the number of each type of optical scan ballots which includes regular, provisional and absentee optical scan ballots matches the board’s records of each of those types of ballots cast in the race or issue involved.

- Sort the ballots by type using the stack method, and then count the votes cast for each candidate, question and/or issue in each stack. Further utilize the stack method as follows:
  - Create stacks by type, sorting by candidate, yes or no or for or against vote, and by overvote or blank vote. Do this for each contest to be manually hand counted.
  - A separate stack may also be compiled of those ballots with disputed or votes in question relating to voter intent, and these ballots may be marked with a paper clip or post-it note at the point on the ballot where the question arises. Please remember to include these ballots in subsequent stacks for a hand count for another race or issue.

### Counties Using Direct Recording Electronic (DRE) Voting Machines as Primary Method of Voting

- Construct a team(s) of at least four individuals, with the team being evenly divided between individuals from each major political party. One from each party will unroll the voter verified paper audit trail (VVPAT) and read the results. The other two people will document and keep track of the votes by marking on the in-house Hand Count Tally Reporting Form.

- Prepare copies of in-house Hand Count Tally Reporting Forms, one per voting machine per precinct for tabulating the manual hand count of the actual ballots, and a separate in-house Hand Count Tally Reporting Form for any optical scan ballots to be manually hand counted for the precinct.
  - List the candidates, questions, and/or issues, or the specific race or issue to be manually hand counted, as well as the type of ballot, i.e., regular (as noted above by type and voting machine) or provisional ballot voted at the precinct or absentee ballot. Overvoted and blank voted offices shall also be recorded and noted as such (e.g., “OV” for overvote and “BL” for blank when no votes are cast for a contest).
  - Once the manual hand count is completed the Democratic and Republican members of the board who are responsible for conducting
the manual hand count shall affix their signatures and the date of the manual hand count on the in-house Hand Count Tally Reporting Form.

- Verify that the number of each type of ballots to be manually hand counted, which includes regular ballots (VVPAT and DRE backup optical scan ballots) and provisional and absentee optical scan ballots, matches the board’s records of each of those types of ballots cast in the race or issue involved.

- Hand count the votes on the VVPAT for the selected voting precincts by voting unit, listing voting machine serial number on the tally sheet. Tally the votes on the in-house Hand Count Tally Reporting Form. Overvoted and blank voted offices shall also be recorded and noted as such (e.g., “OV” for overvote and “BL” for blank when no votes are cast for a race or issue).

- Any one or combination of the following events would indicate that the VVPAT cannot be used for a manual hand count of ballots for a DRE voting machine:
  - The printer on the DRE failed to print.
  - The paper jammed, causing the printer to print repeatedly over the same area of paper, preventing the reading of votes recorded on that part of the VVPAT roll.
  - Election officials installed the paper roll in such a way that it did not record the votes of a voter using that DRE.
  - The VVPAT is lost or damaged beyond recovery.

- Procedures for proceeding when VVPAT cannot be used: R.C. 3506.18 provides that the VVPAT shall serve as the official ballot to be recounted of ballots cast on a DRE. If, in the course of conducting a manual hand count, it appears that a VVPAT cannot be used as the official ballot because it either does not exist or has been damaged beyond repair, all the members of the board of elections shall meet in public session, examine the VVPAT in question and determine whether or not it can be used as the official ballot for votes cast on the DRE to which that VVPAT was affixed.

- If a majority of the board members determine that the VVPAT cannot be used as the official ballot, the board members shall immediately designate board personnel, equally divided between the two major political parties, to proceed as follows.
Process 1

The designated board personnel shall produce a readable paper trail from the voting machine whose VVPAT is unusable. After a readable paper trail is printed, the board shall inspect the summary of results printed thereon for the election that is to be manually hand counted and compare them with the electronic results, if any, of the canvass (unofficial or official as the case may be). If the summary of results on the paper trail matches the results of the canvass, if any, the board shall use the paper trail as the official ballot for the manual hand count.

Process 2

If the designated board personnel are unable to produce a paper trail from the voting machine following Process 1, they shall immediately proceed to upload the votes recorded on the DRE’s removable memory device for the election that is to be manually hand counted and print a report of those votes. After printing the report from the DRE’s removable memory device, the board members shall inspect the results printed thereon for the election that is to be manually hand counted and compare them with the electronic results, if any, of the canvass (unofficial or official as the case may be). If the results on the paper report produced under this process match the results of the canvass, if any, the board shall use this paper report for the manual hand count.

Process 3

If the designated board personnel are unsuccessful in retrieving the votes recorded on the DRE removable memory device following Process 2, they shall immediately proceed to upload the votes recorded on the DRE’s hard drive or internal flash memory for the election that is to be manually hand counted and print a report of those votes. After the report is printed from the DRE’s hard drive or internal flash memory, the board members shall inspect the results printed thereon and compare them with the electronic results, if any, of the canvass (unofficial or official as the case may be). If the results on the paper report produced under this process match the results of the canvass, if any, the board shall use this paper report for the manual hand count.

If the board has questions about this process, or if, after following the three procedures set forth, the board is unable to produce a usable paper report for the manual hand count, please contact the Secretary of State Elections Division at 614.466.2585.

- Hand count provisional ballots (if for an official canvass, recount, or audit), and DRE backup paper ballots.
• Sort the provisional ballots (if for an official canvass, recount or audit), and
DRE backup paper ballots by type using the stack method, and then count
each stack. Further utilize the stack method as follows:
  o Create stacks by type, sorting by candidate, yes or no or for or against
    vote, and by overvote or blank vote. Do this for each contest.
  o A separate stack may also be compiled of those ballots with disputed or
    votes in question relating to voter intent, and these ballots may be
    marked with a paper clip or post-it note at the point on the ballot where
    the question arises. Please remember to include these ballots in
    subsequent stacks for a hand count for another race or issue.

3. Optical Scan Voting Machines

• Preparations – Optical Scan Ballots

  Recount preparation includes the following steps for reconciliation of paper
  ballots for precincts randomly selected for the recount and/or for all ballots
  cast, where applicable:
  o Select the precincts to be used in the recount; see procedures above for
    making random selection. In the event that there are both VVPAT and
    optical scan paper ballots for the same named precincts for the recount,
    only one selection process is necessary.
  o Make available for inspection, upon request of appointed observers, any
    and all documentation regarding the election.

• Test the Program

  Test the voting system in the same manner in which the board performed
  its pre-election and pre-canvass public tests.\textsuperscript{16} Reset vote totals to zero
  after completing the test to ensure the recount totals are correct.

• Verify Ballots
  o Select the paper ballots to be compared with the electronic results for
    the precincts randomly selected for the recount.
  o Inspect the selected ballots to verify that each race, question or issue
    that is subject of the recount was properly displayed on the ballots.
  o Inspect the selected ballots for mutilations and other irregularities not
    accounted for by ballot remakes.

\textsuperscript{16} R.C. 3506.14
• The Recount

  - For each candidate contest or question or issue election to be recounted, a hand count of the votes cast on the optical scan paper ballots for each randomly selected precinct must be made by physical examination and hand count of the ballots using the procedures for conducting a manual hand count herein. All types of ballots must be included in the hand count (regular, absentee of all types, and provisional, including remakes for any of these types of ballots).

  **Note:** Except as may be otherwise unavoidable (such as a recount of single-precinct local liquor option), the bipartisan teams conducting the hand count should not have access to the previously certified official results of the candidate contest, question or issue election results for that precinct.

  **Note:** State law defines a valid mark for optical scan ballots. In the event of a tie vote of the board regarding the validity of such a mark, the matter is not submitted to the Secretary of State.

  - Optical scan counties using DRE voting machines in an election must also include a hand count of the VVPAT for DREs used in the election in question, described later, in the hand count of the precinct(s) randomly chosen for the initial 5 percent.

  - At the conclusion of the hand count, the board shall run the ballots through the tabulator and compare the electronic results with the hand count tally. If the electronic results and the hand count tally are identical, each ballot from each precinct on which the candidate contest, question or issue to be recounted appears shall be run through the tabulator again using the electronic voting system. It is not sufficient to re-upload media from the official canvass. A recount must start anew, as if no ballots have been scanned or tabulated.

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17 R.C. 3506.21
18 R.C. 3505.27
If the electronic results and the hand count tally are not identical, the board must ascertain whether the error is a result of the hand tally or the electronic tally. If, after three rounds of hand-tallying the ballots for the randomly selected precincts still do not match, all ballots on which the candidate contest, question or issue to be recounted appears shall be hand-tallied. If the contest is a local liquor option election or another single precinct election, the hand tally shall suffice and an electronic re-tabulation is not necessary.

In any case where the final electronic tabulation or hand tally of all ballots differs from the official certified results of that group of precincts, the official certified results shall be amended consistent with the applicable re-counted results, as discussed later in this chapter.

If the optical scan ballots used in the election being recounted have been run through the tabulator during the recount, the program must be re-tested using the pre-marked test deck at the conclusion of the recount.

4. **Direct Recording Electronic (DRE) Voting Machines**

   • Preparations – DRE Ballots

   Recount preparation includes the following steps for verifying the ballot production for direct recording electronic, AutoMark, and optical scan (whether precinct-based or central count) vote tabulation machines for precincts randomly selected for the recount:

   o Select the precincts to be used in the recount; see procedures above for making random selection. In the event that there are both VVPAT and optical scan paper ballots for the same named precincts for the recount, only one selection process is necessary.

   o Make available for inspection, upon request of observers, any and all documentation regarding the election.

   • Test the Program

   Test the voting system in the same manner in which the board performed its pre-election and pre-canvass public tests. Reset vote totals to zero after completing the test to ensure the recount totals are correct.

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19 R.C. 3505.27
• Verify Voter Verified Paper Audit Trail
  o After the board has randomly selected one or more precincts, the sum of whose total votes cast equals at least 5 percent of the total votes cast for the candidate contest or the question or issue election being recounted, the board shall select the VVPAT to be compared with the electronic results for the precincts randomly selected for the recount.

  **Note:** VVPAT serves as the official ballot to be recounted for the ballots cast on a DRE voting machine. Sealed VVPAT canisters may be opened for the purposes of conducting the recount.

  o Check the VVPATs to verify that each candidate’s contest, question or issue has been properly identified.

  o Check the public counters to verify that the numbers on those counters correspond to the numbers on the VVPAT and the poll book, poll list, or signature poll book records.

  o Inspect the VVPAT for mutilations and other irregularities.

• Verify Optical Scan Ballots Cast by Absentee and Provisional Voters
  DRE counties must complete the steps in the optical scan section, above, for the optical scan ballots cast in the precincts randomly selected for the recount and must include the results of the hand count of those optical scan ballots in the recount as discussed next.

• The Recount
  o Perform a hand count of the VVPAT in the randomly selected precincts using the procedures provided herein.

  **Note:** Except as may be otherwise unavoidable (such as a recount of single-precinct local liquor option), the bipartisan teams conducting the hand count should not have access to the previously certified official results of the candidate contest, question or issue election results for that precinct.

  o At the conclusion of the hand count of the VVPAT, the board must upload to the central tabulation system the removable media (smart cards, compact flash memory cards, etc.) from each DRE for which a VVPAT was inspected. The board must generate a report for only those precincts that were randomly selected for the recount. If the electronic results and the tally from the hand count are identical, the board must
upload to the central tabulation system all removable media (smart cards, compact flash memory cards, etc.) from each DRE at any voting location in the county at which a voter was eligible to vote on the candidate, question or issue election to be recounted and generate a report.

- If the electronic results for one machine and the hand count tally of the VVPAT from that same machine are not identical, the Board must ascertain whether the error is a result of the hand or the electronic tally. If, after three rounds of hand tallying, the VVPAT for that DRE still does not match, the final hand tally of the VVPAT for that DRE shall be the recounted tally for that candidate contest, question, or issue.

- In any case where the final electronic tabulation or hand tally of all VVPATs/DREs differs from the official certified results of that group of precincts, the Board shall amend the official certified results consistent with the applicable re-counted results, as discussed later in this chapter.

POST-RECOUNT CONSIDERATIONS

1. Regarding Ties

In the event that the result of the official canvass in any candidate contest was a tie, and the result of the recount in that same candidate race remains a tie, the candidate declared the winner as decided by lot at the end of the official canvass remains the declared winner after the recount. The board must not break the tie by lot again. The original result stands.

In the event that the result of the official canvass of any candidate contest or issue was not a tie, but the recount results in a tie, the board will break the tie in the recount by lot. When submitting the amended abstract for the recount, boards should indicate the method used to break the tie.

2. Amended Abstract

Upon completion of the recount, or upon stopping the recount pursuant to a written request from the candidate(s) involved, the board of elections shall promptly prepare and certify an amended abstract showing the votes cast in each precinct in which the race or issue appeared on the ballot. The amended abstract shall reflect the recounted votes of the precincts involved in the recount. The board shall mail copies of the certified amended abstract to such other boards of election or the Secretary of State’s office as it was required to

\[21 \text{R.C. 3515.05}\]

Chapter 9: Post-Election Activities
do in the case of the original abstract and shall retain the original certified amended abstract. An amended abstract must be submitted to the Secretary of State’s office even if the vote totals do not change as a result of the recount. The board shall make an amended declaration of the result of such election in the same manner the board made its original declaration of the result of such election.

3. **Remedies by Candidates or Issue Groups Affected by Requested Partial Recounts**

   If, following a requested recount, the amended declaration of the results of the election shows the result to be contrary to the originally declared result, a person who was originally declared nominated or elected, or any group of five voters that filed a statement with the board, may file an application with the board of elections or the Secretary of State’s office, whichever is appropriate, within five days after the date of the amended declaration of the result. The application must be accompanied by the appropriate deposit per precinct for a recount of the votes cast at such election in any precinct for which ballots have not already been recounted. Any such recount shall be conducted in the manner provided herein.

**CONCLUSION**

The procedures described herein are the minimum requirements for conducting a recount. If a majority of the members of a board of elections believes the results warrant further investigation at any time during the conduct of the recount, the board may institute more rigorous procedures. If the board adopts procedures that are more rigorous than those prescribed herein, it shall: 1) adopt those procedures in public session, 2) document the procedures, and 3) retain that documentation with the ballots and other information relating to the recount. Any additional procedures adopted by the board must build upon the minimum requirements in state law or established by the Secretary of State’s office and may not weaken any of these requirements.

**Section 1.03 Post-Election Audit Procedures**

A post-election audit is a comprehensive review of the results of one or more contests in an election to ensure that the results reported by the board of elections are accurate. Audits are conducted following each general election in an even-numbered year and after each presidential primary election in accordance with procedures prescribed by the Secretary of State and set forth in this chapter.

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22 R.C. 3515.06
Chapter 9: Post-Election Activities

TIMELINE

Each board of elections must conduct a post-election audit beginning no sooner than six business days after the board certifies the official election results, unless there is an automatic recount (declared by the board or declared by the Secretary of State in the case of a statewide or multi-county district election) or the board has received a valid application for a recount. If a recount is conducted, the post-election audit shall begin immediately after the board certifies the results of the recount. A board of elections must not conduct the audit before the board’s certification of its official canvass of the election. The board must complete the post-election audit no later than 21 days after certifying the official results of the election unless a recount must be conducted. If a recount is conducted, the post-election audit must be completed no later than 14 days after the board certifies the recount results.

OBSERVERS

The post-election audit must be open to the public, the media and to duly appointed observers. Each board of elections must give public notice of the time and place of the post-election audit in the same manner that the board notifies the public of a board of elections meeting.

1. Throughout the audit, ballots may be handled only by boards of elections members, directors, deputy directors, or other designated employees of the board. No other person, including an observer, may handle a ballot under any circumstances.

2. Authorized appointing authorities may appoint observers to the post-election audit. Please refer to Chapter 7, Section 1.08 Observers, for details on audit observers.

3. The general public may observe the post-election audit and, to the extent practicable, must be given the same access as statutory observers, subject to the limitations below. Observers are permitted to observe the precinct selection process and to observe the count.

4. Depending on the number of individuals who may be appointed or desire to observe the post-election audit and the available resources of the board (i.e., physical space, number of counting stations, etc.), the board may limit the number of observers. However, statutory observers must be allowed to participate regardless of board resources. If the board must limit the number of observers, at least two members of the general public, randomly selected from those expressing an interest to observe must also be allowed to observe the audit. As a general rule, boards must do their best to accommodate the general public to the extent practicable.
5. Representatives of the media are permitted to attend any portion of the post-election audit.

**PREPARATIONS FOR THE POST-ELECTION AUDIT**

1. Boards of elections will audit at least three contests as follows:
   - The “top of the ticket” contest (i.e., President or Governor);
   - At least one other statewide contest to be selected at random by the Secretary of State’s office after Election Day;
   - At least one non-statewide candidate contest to be selected by the board of elections, except that the board shall exclude any contest in which the number of candidates for that contest (including eligible write-in candidates) does not exceed the number of candidates to be elected or nominated in that contest when making its selection. This must be a countywide candidate contest. A countywide question or issue may be used if you have no non-statewide candidate contest.

2. No later than the time the board meets to certify the official results of the election, the board must determine whether it will conduct its post-election audit by precinct, by polling location, or by individual voting machine (herein collectively referred to as “units to be audited”), the date and location that the selection of units to be audited will take place, and the date and place that the audit will commence. It is preferable to audit the smallest unit available to the board. A board should conduct a post-election audit by polling location only if:
   - In a DRE county, if the voting machines in a multiple-precinct polling location were not precinct-specific on Election Day (i.e., the machines were programmed to display a ballot from any precinct or split in the multiple-precinct polling location so that a voter could cast their ballot on any voting machine without regard to the precinct in which the voter was registered to vote), or
   - In a paper ballot county, the scanners were not precinct-specific on Election Day (i.e., the scanners were programmed to read a ballot from any precinct or split in the multiple-precinct polling location and the voter could scan their ballot in any scanner without regard to the precinct in which the voter was registered to vote).

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21 Here, “voting machine” means automatic tabulating equipment, central counting station, voting machines, and direct recording electronic voting machines as defined in R.C. 3506.01.
3. On the date the board selects the units to be audited, the board must randomly select a sufficient number of units to be audited until the number of votes cast (i.e., machine public count) on all selected units to be audited equals at least 5 percent of the total number of votes cast for the county (i.e., countywide voter turnout).

- If the board is auditing by precinct, and the randomly selected precinct’s public count is greater than or equal to 5 percent, the board must randomly select one additional precinct to be audited.
- If the board is auditing by polling location, and the public count from the selected polling location is greater than or equal to 5 percent, the board must randomly select one additional polling location to be audited.

**Note:** While it is reasonable for the board to organize its materials and ballots between the date the selection is made and the date the audit begins (i.e., because it may take time to sort through commingled absentee ballots to segregate those from the selected precincts, etc.), the board should both allow observers to be present during these preparations and take great care to prevent a pre-audit from inadvertently taking place, either in fact or in perception, before the actual audit.

4. In General:

- When determining the public count, the board must include all relevant categories of ballots, including regular ballots (VVPAT and/or optical scan paper ballots), counted provisional ballots, and counted absentee ballots of all types for the precinct or polling location. The board is permitted to open sealed VVPAT canisters for the purpose of conducting the post-election audit, even if there is not a recount in the precinct.
- Selection of units to be audited must be random (meaning that each possible unit to be audited has the same chance of being selected). The board need not follow any particular method to ensure random selection of units to be audited. The casting of differently colored multi-sided die (with each die representing a different numeral in the precinct number) or drawing numbered slips of paper from a transparent container are both acceptable methods.
- A board of elections may choose to audit a universe greater than 5 percent.
- Elections records generally are public records and must be available for public inspection, including to observers during a post-election audit. Records that may be of interest to observers, and that should be available for inspection, include documents showing the number of ballots ordered...
and received by the board; the number of ballots that were voted, remade, spoiled, and uncounted; the number of absentee and provisional ballots issued, returned, validated, and invalidated; poll worker and board reconciliation sheets; and chain of custody logs. Boards of elections should consult their county prosecuting attorney for questions regarding public records.

CONDUCTING THE POST-ELECTION AUDIT

Boards are required to use either a simple, percentage-based post-election audit or a risk-limiting audit. Risk-limiting audits are recommended.24

1. The post-election audit must be conducted by teams of elections officials equally divided between the state’s two major political parties (e.g., two, four, six, etc.).

2. A post-election audit team of at least two election officials must compare the total number of votes cast in the contests being audited to the number of voters listed in the poll book, poll list or signature poll book. If more votes appear for a particular contest in a precinct (including precincts contained in multi-precinct polling locations) than the number of marked names in the poll book, poll list or signature poll book (indicating which electors voted, including absentee and provisional voters), such discrepancy must be documented.

3. Ballots must be checked to verify that each contest has been properly identified on the ballot. Observers and members of the public may observe the inspection of the ballots but may not handle ballots.

   Note: “Ballot” refers to both:
   - A paper ballot that is optically scanned and counted at the precinct polling location or centrally tabulated; and
   - The VVPAT produced by any DRE.

4. For each contest to be audited, the board must physically examine and hand count the ballots for each randomly selected unit to be audited and must hand count the votes cast on the ballots. The board then must compare the hand count to the recorded electronic summary of the votes contained in the official certification of the votes for that contest in that precinct or polling location. The board must make a record of the comparison for each precinct (including

24 The Cuyahoga County Board of Elections received a grant from the United States Elections Assistance Commission to develop and document processes and best practices for coordinating quality and cost-effective (1) voting system pre-election logic and accuracy testing (L&A) and (2) post-election audits. The procedures and best-practices developed by the Cuyahoga County Board of Elections for risk-limiting audits are available by contacting the board at Cuyahoga@OhioSoS.gov.
precincts contained in a polling location if conducting the audit by polling location) included in the post-election audit. The board shall document this process using the audit reporting work book.

**Note:** If any comparison of the hand count and official certification tally as noted above results in a difference between the hand count and the official certified tally, the board must determine if a mistake occurred in the hand count. If the board determines that no hand-counting mistake occurred, the hand count of the ballots shall be taken to be the accurate count. The board shall provide written notification to the Secretary of State of any such discrepancy.

5. At the conclusion of the post-election audit, the board must calculate the individual accuracy rate of each contest included in the audit by taking the sum of any discrepancies for each contest audited and dividing it by the sum of all ballots audited for that contest, then subtracting the resulting number from 1 (or 100 percent) to return the accuracy rate as a percentage.

**Note:** The board should use the absolute value of each discrepancy so that offsetting discrepancies (a one vote gain and a one vote loss) do not net out as zero discrepancies.

6. A county is required to escalate the audit if its accuracy rate is less than 99.5 percent in a contest with a certified margin that is at least 1 percent (calculated as a percentage of ballots cast on which the contest appeared), or less than 99.8 percent in a contest with a certified margin that is less than 1 percent. Escalation entails drawing a second random sample of at least 5 percent of votes cast, selected from units that were not audited in the original sample, and auditing the ballots (using the same procedures) with respect to any such contest. If, after the second round of auditing, the accuracy rate from the two samples is below 99.5 percent, the county shall investigate the cause of the discrepancy and report its findings to the Secretary of State’s office within the same time for completing the post-election audit. In such cases, the Secretary of State’s office may require a 100 percent hand-count.
REPORTING RESULTS AFTER THE POST-ELECTION AUDIT IS COMPLETE

If the post-election audit results in a change of vote totals reported in the official canvass, the board shall amend its certification of the official results of the affected contest in the same manner required for making of the original official declaration of the result of such election.25

After completing the post-election audit, the board must file its final results from the audit, using the audit reporting workbook, with the Secretary of State’s office.

The board must transmit its post-election audit results no later than five days after completion of the post-election audit to the Secretary of State’s office - Elections Division via email (subject: Post-Election Audit) at elections@OhioSoS.gov.

Section 1.04 Contests of Elections26

The contest of election is a court action to challenge the nomination or election of any person to any public office or the results of any ballot question or issue submitted to the voters. A contest of election is generally filed when one or more election irregularities are alleged to have occurred, and one or more of the irregularities are alleged to have affected enough votes to change or make uncertain the result of the election being contested.

The procedure and requirements for a contest of election are provided in R.C. 3515.08-3515.16. The board of elections has no jurisdiction or control over a contest of election. An individual interested in bringing a contest of election should seek the advice of private legal counsel. Neither a board of elections or the Secretary of State’s office can advise a person regarding a contest of election.

If a contest of election is filed within your county, you are encouraged to notify immediately the board’s legal counsel, their county prosecuting attorney.

Note that the nomination or election of a person to a federal office is not subject to a contest of election under the provisions of the Ohio Revised Code.

Contests to the nomination or election of any person to a federal office must be conducted in accordance with the applicable provisions of federal law.27

25 R.C. 3505.32(A)
26 R.C. 3515.08 – R.C. 3515.16
27 R.C. 3515.38(A)
INITIATING A CONTEST OF ELECTION

The results of an election may be contested by the filing of a petition with the clerk of the appropriate court within 15 days after the results of the election have been ascertained or announced or within 10 days after the results of a recount have been ascertained and announced. The petition must be signed by at least 25 voters who voted at the election for or against a candidate for the office being contested; for or against the issue being contested; or by the defeated candidate for nomination or election. The petition must be verified by an oath of at least two of the petition signers or the oath of the defeated candidate.

A bond with surety in a sum sufficient to cover the costs of the contest (determined by the clerk of court) must be filed with the petition.\textsuperscript{28}

An individual interested in initiating a contest of election should consult with private legal counsel regarding the appropriate court with which to file the petition.

HEARING AND JUDGMENT ON A CONTEST OF ELECTION

The court shall fix a time for hearing the contest, which shall not be less than 15 nor more than 30 days after the filing of the petition.\textsuperscript{29} The hearing shall be under the control and direction of the court which shall determine the matter without a jury.\textsuperscript{30}

The court shall render a judgment in the contest of election.\textsuperscript{31} The judgment may be appealed within 20 days to the Ohio Supreme Court.\textsuperscript{32}

\textsuperscript{28} R.C. 3515.09
\textsuperscript{29} R.C. 3515.10
\textsuperscript{30} R.C. 3515.11
\textsuperscript{31} R.C. 3515.14
\textsuperscript{32} R.C. 3515.15
Chapter 10: VOTING SYSTEMS AND SECURITY

Directive 2019-31

Section 1.01 Definitions

**Critical Infrastructure** is defined in federal law as “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.”¹ Since 2017, the United States Department of Homeland Security has designated United States election systems as part of the nation’s critical infrastructure.

The **U.S. Election Assistance Commission** (EAC) is a federal, independent, and bipartisan commission established by the Help America Vote Act of 2002 (HAVA). It is charged with developing guidance for states to meet the requirements of HAVA, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information on election administration. EAC also accredits testing laboratories, certifies voting systems, and audits the states’ use of HAVA funds.²

The **Ohio Board of Voting Machine Examiners** (BVME) is a bipartisan, four-member board charged with examining and approving voting equipment for use in Ohio elections.³ A voting system is defined by the EAC as “a specific combination of mechanical, electromechanical, and electronic equipment used to define ballots, cast and count votes, report or display election results, connect the voting system to the voter registration system, and maintain and produce any audit trail.” EAC oversees a comprehensive testing program for voting systems and assigns a certification number only to those voting systems that meet the standards it has adopted. Information on each system tested and certified by the EAC can be found on the EAC’s website.

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¹ 42 U.S.C. § 5195c(e)
² [www.eac.gov/about_the_eac/](http://www.eac.gov/about_the_eac/)
³ R.C. 3506.05
Voting machines are part of a voting system. Voting machines are defined in Ohio law as “mechanical or electronic equipment for the direct recording and tabulation of votes.”

A Direct Recording Electronic (DRE) machine is a touchscreen voting machine “that records votes by means of a ballot display provided with mechanical or electro-optical components that can be actuated by the voter, that processes the data by means of a computer program, and that records voting data and ballot images in internal or external memory components.”4 DRE machines contain a Voter Verified Paper Audit Trail (VVPAT), which is “a physical paper printout on which the voter’s ballot choices, as registered by a direct recording electronic voting machine, are recorded.”5

A Precinct Count Optical Scanner (PCOS) is a portable optical scanner that reads a voter’s marks on a paper ballot and records the results. The voter feeds their ballot into the scanner, and the ballot is deposited into a locked ballot box. One or more PCOS are deployed in each precinct in a county that utilizes an optical scan voting system.

An electronic poll book (epollbook) is defined by Ohio law as “an electronic list of registered voters for a particular precinct or polling location that may be transported to a polling location.”6 In Ohio, electronic poll books must be tested by an independent testing authority, examined by the BVME, and certified by the Secretary of State.

VOTING SYSTEMS IN OHIO

Each county selects the voting system for the county to use in all elections. The voting system and its machines may be selected by the board of elections, the county commissioners upon the recommendation of the board of elections, or by a vote of the county’s electors.7 The voting equipment may be purchased or leased by the county.8

Each county board of elections is responsible for contracting for the procurement and maintenance of its voting system and voting equipment and for any and all support arrangements between the board of elections and the vendor of the equipment. A board of elections is encouraged to consult with its legal counsel, the county prosecuting attorney, before it procures a voting system or voting equipment. The board’s legal counsel or county procurement department should be able to assist the board with the bid process (when necessary) and contract terms and negotiation.

Each county board of elections is responsible for the proper storage and security of its voting equipment. The Secretary of State has guidelines for the storage and security of voting equipment and supplies. That guidance can be found in Chapter 2 of this manual.

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4 R.C. 3506.01(F).
5 R.C. 3506.01(H).
6 R.C. 3506.05(A)(1).
7 R.C. 3506.02.
8 R.C. 3506.03.
Any questions on these guidelines can be directed to the Elections Division of the Secretary of State’s office.

The BVME examines voting systems and voting equipment to ensure that each meets the applicable requirements of Ohio law before it can be used in Ohio elections. If the BVME is satisfied that a voting system or voting equipment meets the requirements of Ohio law, it recommends that the Ohio Secretary of State certify it for use in Ohio elections. A current list of voting systems and voting equipment that have been certified by the Ohio Secretary of State may be obtained by contacting the Elections Division of the Secretary of State’s office.

LAWS GOVERNING THE SALE, TRANSFER, OR DISPOSAL OF VOTING EQUIPMENT

R.C. 307.12 governs the sale or donation of county personal property by a board of county commissioners. A board that wishes to transfer by sale or donation or otherwise dispose of voting equipment should therefore consult with both the county prosecutor and the board of county commissioners to develop a transfer or disposal plan.

R.C. 3599.27 prohibits any unauthorized person from possessing a voting machine that may be owned or leased by any county or any of the parts or keys thereof. The law also prohibits any unauthorized person from possessing “any marking device, automatic tabulating equipment, or any of the parts, appurtenances, or accessories thereof.” A violation of this law is a fifth degree felony. Therefore, the Secretary of State prohibits selling or donating voting equipment to private individuals, non-governmental entities, or governmental entities other than county boards of elections. Voting equipment may be transferred via sale, loan, or donation only to another county board of elections within the State of Ohio.

If a board of elections has a voting system that involves DRE machines, the board of elections must maintain the minimum quantity of DRE machines required by R.C. 3506.22. The minimum quantity of DRE machines must be calculated according to the formula set forth in R.C. 3506.22.

FEDERAL REQUIREMENTS RELATED TO HAVA FUNDS

EAC Funding Advisory Opinion 08-006 provides that election jurisdictions may sell voting equipment purchased with HAVA funds and use the revenue from the sale to finance costs of replacement voting equipment and other items or activities authorized under HAVA. Funding Advisory Opinion 08-007 provides additional clarification on the proper sale or disposal of voting equipment purchased with HAVA funds. Opinion 08-
007 states that items of equipment with a current per-unit fair market value of less than $5,000 may be sold or disposed of with no further obligation. Items with a current per-unit fair market value of $5,000 or more may be sold, but a share of the proceeds from the sale equal to the proportion of HAVA funds used to purchase the items must be reserved for the purchase of voting equipment or other HAVA-authorized activities or deposited to the State Election Fund.

The opinion further states that for purposes of determining the value of equipment, individual voting machines and supporting equipment, as well as components that support a voter registration system, should be valued collectively as a voting system and not on the basis of the value of each item of equipment. Therefore, any proceeds from the sale of this type of equipment must be proportionally allocated in the same manner as equipment with a fair market value of $5,000 or more unless the entire system has a fair market value of less than $5,000. Boards should consult with the county auditor to determine fair market value of the system using generally accepted accounting principles for depreciation based upon life cycle, condition, and usability of the system when compared to similar equipment.

SECRETARY OF STATE’S POLICY ON THE SALE, TRANSFER, OR DISPOSAL OF VOTING EQUIPMENT

The Ohio Secretary of State has a duty to ensure election security and is responsible for administering state and federal grants used in the purchase of voting equipment. Therefore, boards of elections must follow the policy set forth below before transferring or disposing of any voting equipment, which includes voting machines, marking devices, automatic tabulating equipment, electronic poll books, or other voting system equipment. Boards must notify the Elections Division of the Ohio Secretary of State’s office and receive its authorization prior to the sale, donation, or disposal of equipment. The proper procedure and necessary forms for receiving approval are described in detail below.

Boards should always consult with both their county prosecuting attorney and the board of county commissioners before engaging in any sale or donation of county-owned voting equipment. Such a sale or donation may be subject to approval of the board of county commissioners.
WIPING DATA AND OTHER SECURITY CONCERNS

A board of elections must pulverize or wipe data from voting equipment’s memory prior to any sale, transfer, or disposal. The destruction or data wipe mechanism used must be compliant with National Institute of Standards and Technology 800-88 Media Sanitization standards. These standards can be found at https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf

The Ohio Secretary of State’s office advises boards to work with IT professionals to ensure all data is wiped. If the voting equipment will not be used by another county board of elections, the EAC advises that “all equipment should be taken back to the condition of a non-functioning piece of hardware with no software or firmware remaining on the equipment.” Before any data is destroyed, a county board of elections should determine whether any of the information stored in the voting equipment must be preserved to comply with record retention schedules.

A board of elections may recycle voting equipment that is no longer in working condition by contracting with recycling company that has expertise in electronic waste management.

1. Sale of Voting Equipment

A board must obtain authorization from the Secretary of State’s Office for the sale of voting equipment prior to any sale. To obtain authorization, the board of elections must complete the prescribed Form 426, Agreement of Permanent Transfer via Sale of Voting Equipment, listing the quantity of equipment, a description, and an estimated value, along with a statement of the intended use of the proceeds of the sale. The prescribed form must be kept on record in the event of relevant audits, claims, litigation, negotiations, or other proceedings regarding permanently transferred equipment.

The receiving entity benefiting from the permanent transfer via sale of voting equipment must sign Form 426. The cost and delivery of permanently transferred accessibility equipment is negotiable between the parties, but the cost of the equipment must be based on the current fair market value.

As explained above, if the equipment was purchased with HAVA funding, items of equipment with a current per-unit fair market value of less than $5,000 may be transferred without any obligations on the proceeds received in the transfer. Items of equipment with a current per-unit fair market value of $5,000 or more may also be transferred, but the proceeds from the transfer must be properly

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allocated. The board receiving proceeds from the sale must reserve a proportionate share of the proceeds equal to the share of HAVA funds used to purchase the equipment; the reserved funds must be used for the purchase of voting equipment or other HAVA-authorized activities.

For example, if a piece of voting equipment was purchased with 80 percent HAVA funds and 20 percent county funds, then 80 percent of the proceeds from the sale of that equipment must be reserved for HAVA purposes and the remaining 20 percent of the proceeds could be used at the discretion of the board of elections. If the equipment was purchased with 100 percent HAVA funds, then all proceeds from any sale must be reserved for HAVA purposes.

As a part of the authorization, prior to transferring by selling the equipment, the board should provide the Secretary of State with the proposed HAVA-qualifying expenditure for review and approval. The Secretary of State has the authority to direct the board of elections to return the HAVA share of any sale proceeds to the State Elections Fund.

2. Permanent and Temporary Transfers of Voting Equipment
   
a. Donation of Voting Equipment (only for equipment valued at less than $5,000)

   Pursuant to R.C. 307.12(D), a county may donate county property to another county. EAC Funding Opinion No. 08-007 indicates that voting equipment purchased with HAVA funds with a current per-unit fair market value of $5,000 or more must be sold (as outlined in Section 1) and may not be donated. Voting equipment with a current per-unit fair market value of less than $5,000 may be sold or donated. The Ohio Secretary of State recommends that voting equipment purchased with HAVA funds only be donated from one board of elections to another after it is determined that there is no willing and eligible buyer for the equipment.

   A board of elections must obtain authorization from the Secretary of State’s Office for the permanent transfer via donation of voting equipment prior to the transfer. To obtain authorization, the board must complete the prescribed Form 427, Agreement of Permanent Transfer via Donation of Voting Equipment, listing the quantity of equipment, a description, and an estimated value. The prescribed form must be kept on record in the event of relevant audits, claims, litigation, negotiations, or other proceedings regarding permanently transferred equipment.
Pursuant to this policy, a board that has excess voting equipment and that is no longer using this equipment may ONLY transfer that equipment via donation to another board within the State of Ohio. The board directors and chairs from both counties participating in a permanent transfer via donation of voting equipment must sign Form 427. The delivery of voting equipment permanently transferred via donation is to be negotiated between participating boards of elections.

b. Loan of Voting Equipment

A board of elections must obtain authorization from the Secretary of State’s Office for the temporary transfer (loan) of voting equipment prior to the transfer. To obtain authorization, the board of elections must complete the prescribed Form 428, Agreement of Temporary Transfer (Loan) of Voting Equipment, listing the quantity of equipment, a description, and an estimated value. The prescribed form must be kept on record in the event of relevant audits, claims, litigation, negotiations, or other proceedings regarding temporarily transferred equipment.

Pursuant to this policy, a board of elections that has excess voting equipment and that is no longer using this equipment to improve access to its polling locations may only transfer that equipment via loan to another board of elections within the State of Ohio. The board directors and chairs from both counties participating in a temporary transfer (loan) of voting equipment must sign Form 428. The delivery of temporarily transferred voting equipment is to be negotiated between participating boards of elections.

3. Disposal of Voting Equipment

A board must obtain authorization from the Secretary of State’s office for the disposal of voting equipment prior to disposal. A board that has voting equipment that is no longer in working condition due to age, malfunction, or damage may dispose of the equipment. To obtain authorization, the board of elections must complete the prescribed Form 429, Voting Equipment Disposal Form, describing the type of equipment, quantity, estimated value, and intended method of disposal. The Board of Elections Director and Chairman must sign Form 429 and keep the form on record in the event of relevant audits, claims, litigation, negotiations, or other proceedings regarding the disposal of equipment.
TESTING AND CERTIFICATION OF ELECTRONIC POLL BOOKS

Any electronic poll book used in an Ohio election must be approved by the BVME and certified by the Ohio Secretary of State. The approval and certification of electronic poll books is conducted in accordance with R.C. 3506.05 and standards adopted by the BVME.

Pursuant to these standards, each electronic poll book must undergo testing by an independent testing authority recognized by the National Institute of Standards and Technology (NIST). Once the electronic poll book has completed testing, the vendor may submit an application for examination of the electronic poll book to the BVME. The BVME then reviews the results of the testing completed by the independent testing lab and examines the functionality of the electronic poll book. If the BVME is satisfied with its review of the testing results and the functionality of the poll book, it votes to recommend that the Secretary of State certify the electronic poll book for use in Ohio elections. The Secretary of State’s office notifies boards and the vendor whether the electronic poll book is certified.

The standards for the testing and certification of electronic poll book are available upon request. A current list of electronic poll book that have been certified for use in Ohio elections may also be obtained by contacting the Elections Division of the Secretary of State’s office.

1. **Paper Precinct Poll List**

A board must provide at least one paper copy of the precinct poll list (i.e., a list of each elector assigned to vote in the precinct, the elector’s voter registration address, and a space for the elector’s signature) or signature poll book to each precinct that uses electronic poll books in an election. The paper copy of the poll list or signature poll book is to ensure that voting can continue in the event that an electronic poll book fails to operate as intended.

2. **Sealing of Electronic Poll Books**

Each electronic poll book must be sealed by the precinct election officials with a tamper-evident seal before being returned from the polling location to the board office. If the electronic poll book uses a removable data storage unit or produces a paper record, the data storage unit and the paper record must also be sealed with a tamper-evident seal in an appropriate storage container before being returned to the board.

Electronic poll books, any removable data storage unit, and any paper record produced by the electronic poll book must be transported to the board office in
the same manner in which all other election materials are transported to the board.

For additional guidance on the secure transport of election materials, please see Chapter 2 of this manual.

3. Retention of Records or Images Produced by Electronic Poll Books

All audit and transaction records generated by an electronic poll book must be retained by the board for at least six years. The image of an electronic signature captured by an electronic poll book must be archived by the board for at least six years.

4. Evaluation Prior to the Procurement of Electronic Poll Books

Prior to procuring an electronic poll book, a board must evaluate that electronic poll book. Such evaluation must include the following:

- A review of any repair and maintenance policies;
- A review of the training materials and user manuals;
- An explanation of the availability and cost of all consumables necessary to use the electronic poll book, along with a declaration of its supply chain;
- A demonstration of the electronic poll book’s compatibility with any hardware used with the poll book; and
- A demonstration of how the electronic poll book receives, processes, and transmits a voter record between other systems employed by the board.

5. Acceptance Testing by a Board of Elections

Upon procuring an electronic poll book, a board must conduct acceptance testing using the Acceptance Testing Matrix provided by the Secretary of State’s office. A copy of the Matrix is included in the Resources section of this Manual.

6. Notification

Finally, any board that acquires electronic poll books must notify the Elections Division of the Secretary of State’s office of the make/model and vendor of the poll books selected by the board.
Chapter 11: PETITIONS

Directive 2019-17

Section 1.01  Petitions Generally

The board of elections reviews candidate petitions and most issue petitions for validity and sufficiency. The Secretary of State prescribes certain candidate and issue petition forms as required by law and many other frequently used petition forms as a courtesy. The Secretary of State’s forms are provided in PDF format on the Secretary of State’s website. The board must ensure that, if it is providing petition forms to candidates or issue groups, it is providing the most current version of the prescribed form. Forms are updated promptly in response to law changes, so it is imperative that boards pull petitions directly from the Secretary of State’s website when providing them to the public.

CANDIDATE PETITIONS

The statutes prescribing the form of candidate petitions generally require substantial compliance.

When there is an error or omission on a petition form, the Secretary of State, in the case of a statewide candidate, or the board of elections, in the case of all other candidates, must determine whether the prospective candidate substantially complied with the form of the petition.

In determining whether a prospective candidate substantially complied with the form of the petition, the inquiry is typically fact-specific. The board should consult with its legal counsel, the county prosecutor, when reviewing petitions.

The board also should check municipal charters for additional requirements and qualifications for candidates seeking a municipal office.

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1 R.C. 3501.11(K).
2 R.C. 3501.38(U).
3 R.C. Chapter 3513.
LOCAL QUESTION AND ISSUE PETITIONS

The board must review, examine, and certify the sufficiency and validity of a local question and issue petitions. Sometimes the governing legal provisions vest another public office with the initial responsibility of certifying the sufficiency and validity of the petition before the petition comes to the board of elections. The board should check municipal charters for additional requirements and qualifications for initiated ordinances and referendums.

The Secretary of State’s office publishes two resources that help boards of elections, taxing authorities, and the public gain a general overview of the laws governing ballot questions and issues. The Ohio Ballot Questions & Issues Handbook: A Guide for Boards of Elections, Taxing Authorities and Political Subdivisions to Placing Questions and Issues on the Ballot, along with the Guide to Local Liquor Options Elections both contain summaries of the statutes relevant to different types of ballot questions and issues. Both resources are accessible via the Secretary of State’s website.

PETITION PRE-CHECKS

No board of elections shall pre-check any petition to determine the petition’s validity and sufficiency before such time as the original petition has been filed, along with the appropriate filing fee, with a board of elections, the Secretary of State’s office, or other public office as provided by law.4

While pre-checks may appear to be a public service that potential candidates might rely on to improve their chances of being certified to the ballot, in reality, pre-checks provide a false sense of security for candidates and issue groups. It is a well-established principle of Ohio election law that the candidate is solely responsible for ensuring that their own petition satisfies the requirements of law. Candidates and issue groups are obligated to investigate, learn, and know the law governing the election process.5

To assist prospective candidates and issue petitioners, the Secretary of State’s office provides uniform guidance through several free publications, including the Ohio Candidate Requirement Guide, the Guide to Local Liquor Option Elections, the Ohio Presidential Guide, the Ohio Ballot Questions & Issues Handbook, and the Campaign Finance Handbook. This office also prescribes many of the forms used by candidate and issue petitioners. Boards can, and should, be helpful to potential candidates and issue petitioners.

4 State ex rel. McMillan v. Ashtabula Cty. Bd. of Elections, 65 Ohio St.3d 186, 1992 -Ohio -85 (candidate’s reliance on the misinformation of the board employee does not stop the board from removing a candidate’s name from the ballot); State ex rel. Shaw v. Lynch (1991), 62 Ohio St.3d 174, 176-177 (estoppel does not apply against election officials in the exercise of governmental functions); State ex rel. Senn v. Cuyahoga Cty. Bd. of Elections (1977), 51 Ohio St.2d 173 (candidate could not file necessary part petition after having filed other petition papers); State ex rel. Svette v. Bd. of Elections (1965), 4 Ohio St.2d 16 (advice by board of elections deputy clerk that nominating petition appeared to be in order does not stop the board of elections from declaring such petitions to be invalid).

petitioners by providing them with copies of these guides as well as information about the process of filing and the process elections officials will follow once the filing deadline has expired. With this information, and the public access terminals provided by many boards of elections, candidates have the tools to check their own petitions.

However, it is imprudent for a board of elections to engage in a practice that allows any candidate or petitioner to believe that their petition is valid and sufficient before the petition is filed, because, if the board subsequently determines that the petition is invalid, then the board must reject it regardless of whether the board staff previously pre-checked the identical petition. The practice of pre-checking petitions has resulted in some boards of elections being accused of incompetence, political favoritism, and misconduct.

Section 1.02 General Rules for Verifying Candidate and Issue Petitions

REVIEWING DECLARATIONS OF CANDIDACY

As mentioned above, the statutes prescribing the form of candidate petitions generally require substantial compliance. When there is an error or omission on a petition form, the Secretary of State, in the case of a statewide candidate, or the board of elections, in the case of all other candidates, must determine whether the prospective candidate substantially complied with the form.

CANDIDATE NAME

If any person desiring to become a candidate for public office has had a change of name within five years immediately preceding the filing of the person’s declaration of candidacy, the person’s declaration of candidacy and petition shall both contain, immediately following the person’s present name, the person’s former names.6 This does not apply to a name change due to marriage.7

OFFICE

The declaration or statement of candidacy signed by the prospective candidate must identify the office sought so that both the electors signing the petition and the board of elections are able to ascertain from the petition which office the candidate seeks.


7 R.C. 3513.06

Chapter 11: Petitions
TERM
Ohio law requires each person filing a declaration of candidacy or a nominating petition as a candidate for the unexpired term of any office to designate the date on which that unexpired term ends.\(^8\)

DATE OF THE ELECTION
The purpose of the date of the election on a declaration of candidacy is to inform those signing the petition as to the election at which the candidate seeks to be on the ballot. The board must determine whether those signing the petition understand which election is at issue.\(^9\)

CANDIDATE SIGNATURE\(^{10}\)
A candidate must sign the declaration or statement of candidacy.\(^{11}\)

The question of whether the prospective candidate signed the statement of candidacy before the petition was circulated is a question of fact for the members of the board of election to decide.

It is only necessary for the candidate to sign one part-petition paper, but the declaration of candidacy so signed shall be copied on each other separate petition paper before the signatures of electors are placed on it.

NOMINATING PETITION PORTION
The question of whether the board may certify a prospective candidate’s petition when the “Nominating Petition” portion of the form is incomplete is a substantial compliance decision for the board of elections to make in consultation with its legal counsel, the county prosecuting attorney.

VERIFYING THE VALIDITY OF PART-PETITIONS
Prior to verifying the validity of individual signatures contained on a part-petition, the board of elections must verify the validity of that part-petition. Check each part-petition to determine whether the circulator’s statement on the last page of the part-petition has been properly completed. The entire part-petition is invalid if the circulator’s statement is not completed as required by law.

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\(^8\) R.C. 3513.08; R.C. 3513.28.
\(^9\) Hill v. Cuyahoga County Bd. of Elections, 68 Ohio St.2d 39 (1981); State ex rel. Stewart v. Clinton Cty. Bd. of Elections, 124 Ohio St.3d 584.
\(^{10}\) R.C. 3513.09.
\(^{11}\) Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.011; R.C. 3501.382(F) and related OAG 2015-012.
FULFILLING PUBLIC RECORDS REQUESTS

Boards of elections may receive one or more public records requests for copies of the part-petitions for particular candidate or issue. Boards should consult with their statutory legal counsel, the county prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

Section 1.03  Circulator Statements

QUALIFICATIONS OF CIRCULATORS:

☐ A circulator must be at least 18 years of age.12
☐ A circulator is not required to be an Ohio elector or an Ohio resident.
☐ Each circulator of a candidate petition must be a member of the political party named in the declaration of candidacy.

A board of elections will determine a circulator’s party affiliation as follows:

NOT AN OHIO ELECTOR:

☐ If the circulator is not an Ohio elector, the board of elections should accept as true the claim of political party membership that is included in the circulator’s statement, unless the board has knowledge to the contrary.

OHIO ELECTOR:

☐ An Ohio elector who circulates another person’s declaration of candidacy and petition for the nomination or election at a partisan primary must not have voted in any other party’s primary election in the preceding two calendar years.13 The board of elections should examine the circulator’s Ohio voting history using the statewide voter registration database. If the board determines that the circulator voted in another political party’s primary election during the prior two calendar years, then the part-petition is invalid.

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13 R.C. 3513.05.17
CANDIDATE AS CIRCULATOR

A candidate may circulate their own part-petition regardless of how they may have voted in the prior two calendar years. If the candidate does not hold an elective office, or if the candidate holds an elective office other than one for which candidates are nominated at a party primary, the candidate does not need to file any additional forms. If the candidate holds partisan public office, the candidate can still run for office for a different party, if the candidate has filed a Declaration of Intent to Change Political Party Affiliation (Form 10-Y).\(^\text{14}\)

CONVICTED FELONS

Some convicted felons are prohibited from circulating petitions.\(^\text{15}\) However, state law does not require a circulator to provide key data points (e.g., date of birth, Social Security number, driver license number, etc.) that constitute “satisfactory evidence” that the person that circulated a petition is the same individual who may be listed in a county’s local voter registration database as cancelled due to incarceration of a felony conviction.

Thus, when verifying petitions, boards of elections should presume that a circulator is qualified to circulate petitions, unless there is “satisfactory evidence” that the individual is not qualified.

CIRCULATOR’S STATEMENT ON EACH PART-PETITION\(^\text{16}\)

Each part-petition must contain a circulator’s statement that includes the following completed information:

- Circulator’s signature,\(^\text{17}\)
- The number of signatures witnessed by the circulator,
- And, for a statewide candidate or statewide issue petition:
  - Circulator’s name,
  - Address of the circulator’s residence,\(^\text{18}\) and
- [additional information]

\(^{14}\) R.C. 3513.191.
\(^{15}\) Ohio Attorney General Advisory Opinion 2010-002.
\(^{16}\) R.C. 3501.38(E)(1).
\(^{17}\) Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person's own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp.
\(^{18}\) State law does not define “permanent residence address” for purposes of circulating issue petitions. A board of elections should presume that the address provided by the circulator is the circulator's permanent residence as the statement is signed under penalty of election falsification, which is a fifth degree felony. To the extent that an entity other than the Board believes that the circulator’s written permanent residence address is not accurate, an informal objection or formal protest is not properly before a board of elections and should be filed with the Ohio Supreme Court as described in Section VI below.
• The name and address of the person employing the circulator to circulate the petition, if any.

Note: If the circulator is a qualified elector of Ohio, there is no requirement that the address of the circulator match the address on file with the board of elections. A board must not invalidate a part-petition solely because the address of the circulator in the circulator’s statement differs from the address on file with the board of elections.

The board must review each part-petition to determine that information required as a part of the circulator’s statement is entered on each part-petition. The board must accept the circulator statements of part-petitions at face value unless there are inconsistencies with the number of signatures witnessed (see below) or with information about the circulator across part-petitions reviewed within a single county (i.e., the circulator writes different permanent residence addresses on different part-petition).

Signature undercounting: If the number of signatures reported in the circulator’s statement is less than the total number of uncrossed-out signatures submitted on the part-petition (e.g., the circulator’s statement indicates 20 signatures witnessed, but there are 22 signatures on the part-petition, none of which were crossed out prior to the petition being filed), then the board must reject the entire part-petition.19

Note: In determining whether the number of signatures reported by a circulator of a non-statewide candidate’s part-petition matches the number of signatures on that part-petition, particularly with regard to crossed-out signatures, board of elections should take care so as to not make a determination that is “too technical, unreasonable, and arbitrary” given the unique fact set of that petition and information available to the board, if any.20

Signature over-counting: If the number of signatures reported in the circulator’s statement is greater than the total number of uncrossed-out signatures on the part-petition (e.g., the circulator’s statement indicates that the circulator witnessed 28 signatures, but there are only 5 signatures on the part-petition), then the board must reject the entire part-petition when the over-reporting of signatures on the circulator’s statement appears “systemic” and numerous on part-petitions filed by one or more circulators within the county, or across several counties, for the same petition,21 unless the exception below applies.

21 “Systemic overcounts * * * are an open invitation to fraud * * * and * * * a part-petition of this type is invalid because, on its face, the attestation of the circulator is false: they did not witness the number of signatures indicated.” Ohio Mfrs. Assn. v. Ohioans for Drug Price Relief Act, 149 Ohio St.3d 250, at ¶44.
Exception: The over-reporting error is the result of "minor or negligent miscounts"\textsuperscript{22} by the circulator "so long as there is no indication of fraud or material misrepresentation"\textsuperscript{23} or does not promote fraud. In this circumstance, the board must review the validity of each signature as usual.\textsuperscript{24}

For a statewide petition, if a circulator identifies an employer on the circulator’s statement but does not provide a corresponding address, the board must invalidate the entire part-petition.\textsuperscript{25} If no employer or address is provided or if both the name of the employer and an address are provided, that aspect of the circulator’s statement is presumed, on its face, to be valid and sufficient.

Section 1.04 Processing Voter Registration Forms

When processing a statewide petition, each county board of elections must process all new, valid voter registrations and changes of name and/or address to existing registrations received by the board or the Secretary of State’s office as of the date the petition was filed with the Secretary of State before verifying the signatures on the part-petitions.\textsuperscript{26}

For petitions filed with the board of elections, each board first must process all new, valid voter registrations and changes of name and/or address to existing registrations received by the board as of the date the petition was filed with the county board of elections’ office.

Section 1.05 Signers

QUALIFICATIONS OF SIGNERS

☐ Must be a qualified elector of Ohio.\textsuperscript{27}

☐ Must be registered to vote at the address provided on the petition as of the date that the petition was filed with the applicable office.\textsuperscript{28} For statewide issue petitions, the date the board of elections examines the petition.\textsuperscript{29}

☐ If signing a petition for a candidate seeking nomination in a partisan primary, must be a member of the political party of the candidate named on the declaration of candidacy. For purposes of signing candidate petitions for these

\textsuperscript{22} Ohio Mfrs. Assn. v. Ohioans for Drug Price Relief Act, 149 Ohio St.3d 250, at 144.
\textsuperscript{23} State ex rel. Curtis v. Summit Cty. Bd. of Elections, 144 Ohio St.3d 405, at 18, citing State ex rel. Schwarz v. Hamilton Cty. Bd. of Elections, 173 Ohio St. 321.
\textsuperscript{24} State ex rel. Citizens for Responsible Taxation v. Scioto Cty. Bd. of Elections, 65 Ohio St.3d 167.
\textsuperscript{25} R.C. 3519.05; R.C. 3519.06(A).
\textsuperscript{26} R.C. 3501.38(A); R.C. 3519.15.
\textsuperscript{27} R.C. 3501.38(A).
\textsuperscript{28} R.C. 3501.38(A).
\textsuperscript{29} R.C. 3519.15.
parties, the person signing is considered to be a member of a political party if the signer voted in that party’s primary election, or did not vote in any other party’s primary election, in the preceding two calendar years.30

☐ A 17-year old who will be 18 years old by the election at which the candidate or issue will appear on the ballot, and is properly registered to vote, may sign a petition.31

SIGNATURES 32

☐ Each signature must be an original signature of that voter.33

☐ The signature must match the signature on file with the board of elections.34 A board must not invalidate a signature because an elector signed using a derivative of their first name if the board can confirm the identity of the elector.35 Some acceptable examples include Jack for John or Peg for Margaret. Also, inclusion or omission of a voter’s middle initial is not a reason to invalidate a signature.

☐ For identification purposes, the elector may print their name on the petition in addition to signing in cursive their name to the petition.36

☐ The signature must be written in ink.37

☐ An elector’s signature must not be invalidated solely because “non-signature information” was completed by another person (e.g., the elector’s printed name, address, county, or the date of signing).

☐ Non-signature information may be added by a person other than the elector.38

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30 R.C. 3513.05, ¶7.
31 R.C. 3503.06(A).
32 R.C. 3501.011.
33 R.C. 3501.38(B). Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.011, R.C. 3501.382(F) and related OAG 2015-012.
34 If a board of elections has conducted a hearing concerning the consideration of signatures on a candidate or issue petition, it must not disregard evidence produced at that hearing. See State ex rel. Scott v. Franklin County Board of Elections, 139 Ohio St.3d 171; “if undisputed evidence shows a nonmatching signature to be genuine, then the board must count the signature even if it does not match the elector’s legal mark on the voter-registration record” State ex rel. Crowl v. Delaware Cty. Bd. of Elections, 144 Ohio St.3d 346 (O’Connor, C.J., concurring), State ex rel. Burroughs v. Summit Cty. Bd. of Elections, 145 Ohio St.3d 220.
36 R.C. 3501.38(B).
37 R.C. 3501.38(B). See also footnote 33.
No one may sign a petition more than once. If a person does sign a petition more than once, after the first signature has been marked valid, each successive occurrence of the signature must be invalidated.

**Note:** Most software systems deployed by county boards of elections are capable of electronically recording decisions on the validity or invalidity of each signature on a petition and tracking for duplicate signatures over time (including in those instances where petitioners are permitted to file supplemental petitions after an initial finding by the Secretary of State that the petition lacks sufficient signatures). These systems should be able to track more than one petition at a time. Additionally, these software systems should be able to produce an electronic file and a printed report of the names, addresses, and valid/invalid code for every signature reviewed by the board. If your county software system cannot provide any of these, or the board does not use that system component, please contact the Elections Division to determine a method that adequately and accurately records information to fulfill reporting and tracking standards.

**ADDRESS OF A SIGNER**

The petition must contain the elector’s voting residence address, including the house number and street name or Rural Free Delivery (RFD) number, and the appropriate city, village, or township.

- The elector’s ward and precinct are not required.
- The elector’s room or apartment number is not required.
- A post office box does not qualify as an elector’s residence address.
- If an elector’s address given on the petition differs from that on file with the board, then the board must invalidate that signature unless the signer has provided the elector’s residence information in a format that is consistent with postal regulations as opposed to the political subdivision on file with the board of elections (e.g., writing “Columbus” as the city when the elector’s political subdivision is “Perry Township”). A board must not reject a signature solely based on this difference.

**ATTORNEY IN FACT**

A registered elector who, by reason of disability, is unable to physically sign their name to a petition may authorize a qualified individual as an attorney in fact to sign the elector’s name to a petition as provided in law.39

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39 R.C. 3501.382
A qualified person who has been appointed as an elector’s attorney in fact may sign that elector’s name to the petition paper in the elector’s presence and at the elector’s direction.40 The board must compare the attorney in fact’s signature on the petition with the document on file with the board office (Form 10-F or 10-G).

In order to sign a petition on behalf of a registered voter as that person’s attorney in fact, the board must have a completed Form 10-F or 10-G on file. Other types of power of attorney documents, filed with a court or some other agency, will not allow an individual to sign election documents on another’s behalf. The proper documentation must be on file with the board of elections.

If a person, who has not been designated the attorney in fact for elections purposes, signs another person’s name to a petition, then the board must, at a minimum, invalidate that signature. If the board determines that the circulator knowingly allowed someone who they knew was unqualified to sign on another person’s behalf, then the entire part-petition must be invalidated.41

DATES

Each signature must be followed by the date it was affixed to the petition paper.42 The board must not invalidate a signature solely because its date is out of sequence with other signatures on the same part-petition.

A signature on a nominating petition is not valid if it is dated more than one year before the date the petition was filed.43

ILLEGIBLE SIGNATURE

The board must invalidate illegible signatures. A signature is illegible only if both the signature and address are unreadable, such that it is impossible for board personnel to query the board’s voter registration system to check the signature against a voter registration record.44

DITTO MARKS

Ditto marks may be used to indicate duplicate information, e.g., date, address, or county.45

40 R.C. 3501.382.
41 R.C. 3501.38(F).
42 R.C. 3501.38(C).
43 R.C. 3513.262; R.C. 3513.263.
44 State ex rel. Owens v. Brunner, 125 Ohio St.3d 130, 2010-Ohio-1374.
ONE COUNTY PER PART-PETITION

Each part-petition should contain signatures of electors of only one county. The board must invalidate signatures from any other county.46

NON-GENUINE SIGNATURES

A board of elections must not invalidate an entire part-petition based solely on the number of non-genuine signatures it contains. Only if a circulator knowingly allows an unqualified person to sign a petition, should the entire petition be invalidated.47

Section 1.06  Marking Signatures

If a signature is valid, place a check mark in the margin to the left of the signature on the petition paper.

If a signature is invalid, indicate why it is invalid by writing in the margin to the left of the signature the appropriate code symbol for the reason the signature is invalid as follows:

CIR  “Circulator.” Signed as an elector the part petition they were circulating. (This invalidates the circulator’s signature as a signer, but not the entire part petition.)

DUP  “Duplicate.” The person has signed more than one part petition or twice on the same part petition.

ILL  “Illegible.” Applies only if both the signature and address are unreadable, so that it is impossible to check the signature against a voter registration record.

NA  “No address.” The signer must have provided their complete address: house number and street name or RFD, and the appropriate city, village, or township. Failure to provide the name of the county of residence is not fatal if board officials can determine the county from the other information given. Ward and precinct information is not required.

ND  “No Date.” The petition does not indicate the date on which the signature was affixed. (However, acceptable are: month-date-year, month-date, date out of sequence with other signers’ dates, ditto marks.)

NG  “Not Genuine.” The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be, compared to the signature on file with the board of elections as of the date the board checks the petition.

46 R.C. 3513.05; R.C. 3519.10
47 R.C. 3501.38(F).
NR  “Not Registered.” The signer is not registered to vote. Each person who signs a petition paper must be a qualified elector as of the date the petition is filed or, for a statewide issue petition, as of the date that the board examines the petition.

NRA  “Not Registered Address.” The address provided on the petition paper is not the address on file with the board of elections as of the date petition is filed, or for a statewide issue petition, as of the date the board examines the petition.

OC  “Other County.” The signer is a resident of some other county. Do not cross out signature or address; instead, place code at left margin.

P  “Pencil.” The signature was written using a pencil.

WP  “Wrong Party.” The circulator or signer is of a different political party than the party listed on the declaration of candidacy.

It is advisable to use a red ink pen for making marks by the board.

After checking an entire part petition, write on the right side of the front page of each part-petition both the number of valid signatures and the initials of the board employee who checked the part-petition under the number.

Section 1.07  Filing

WHERE TO FILE DECLARATIONS OF CANDIDACY, NOMINATING PETITIONS, AND QUESTION OR ISSUE PETITIONS

For an office or issue submitted to electors throughout the entire state, including a petition for joint candidates for the offices of governor and lieutenant governor, petitions are filed with the Secretary of State’s office.

For an office or issue submitted only to electors within a county or within a district or subdivision or part thereof smaller than a county, petitions are filed with the board of elections of the county.

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48 R.C. 3513.05; R.C. 3513.261
For an office or issue submitted only to electors of a district or subdivision or part of a subdivision that overlaps into more than one county, petitions are filed with the board of elections of the county containing the major portion of the population. The most-populous county of districts for Congress, State Senate, State Representative, State Board of Education and Court of Appeals districts is listed at the end of the Candidate Requirement Guide. If an Educational Service Center (ESC) district overlaps into more than one county, the petitions are filed in the county in which the ESC’s administrative office is located.

UNFAIR POLITICAL CAMPAIGN ACTIVITIES NOTICE

At the time a person files a declaration of candidacy, nominating petition, or declaration of intent to be a write-in candidate, the Secretary of State or the board of elections shall furnish that person with a copy of R.C. 3517.21, which sets forth various unfair political campaign activities. Each person who receives the copy shall acknowledge its receipt in writing.⁴⁹

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PARTISAN CANDIDATE - DECLARATION OF CANDIDACY

A partisan (party) candidate is a person who seeks to be a political party’s nominee for an elective office for which candidates are nominated at a party primary. The person must file the proper declaration of candidacy with the appropriate election official not later than 4 p.m. of the 90th day before the primary election. The person’s name will appear on the primary ballot of the political party named in the person’s declaration of candidacy.

A person may be a candidate for nomination of any political party at a primary election (regardless of party affiliation established by voting in a prior partisan primary) if either of the following applies:

1. The person does not hold an elective office, or
2. The person holds an elective office other than one for which candidates are nominated at a primary election.

However, a person holding an elective office for which candidates are nominated at a party primary may become a candidate for a different political party if the person completes and files the Secretary of State’s prescribed Form 10-Y, Declaration of Intent to Change Political Party Affiliation, by 4 p.m. on the 30th day before the filing deadline for the primary election. The completed Form 10-Y must be filed with the same county board of elections with which the person is required to file their declaration of candidacy and petition.

A person may file such declaration of intent only once during a period of 10 years after filing a first declaration of intent.
INDEPENDENT CANDIDATE - NOMINATING PETITION

An independent candidate is a person who is not affiliated with a political party, but seeks to run for an office for which partisan candidates may be nominated at a primary election. Independent candidates must file the appropriate nominating petition no later than 4 p.m. the day before the primary election. The name of any certified independent candidate appears on the general election ballot.

An independent candidate must actually be unaffiliated from any political party, and the required claim of unaffiliation must be made in good faith for the candidate to be qualified to run as an independent candidate.

A non-judicial candidate who files a nominating petition may request in writing at the time of filing that the candidate be designated on the ballot as a “nonparty” candidate or as an “other-party” candidate, or may request that the candidate’s name be placed on the ballot without any designation. Any independent candidate who fails to request a designation either as a “nonparty” candidate or as an “other-party” candidate will have the candidate’s name placed on the ballot without any designation.

NONPARTISAN CANDIDATE - NOMINATING PETITION

A nonpartisan candidate is a person who seeks to run for an office that pursuant to Ohio law does not provide for the nomination of party candidates, such as state board of education, county court judge, township office, and offices in some municipal corporations. Although most of these candidates are nominated by petition, some municipalities hold nonpartisan primaries. The filing deadline for candidates for statutory nonpartisan offices generally is 4 p.m. on the 90th day before the general election. However, the board of elections should confirm the filing deadline for each nonpartisan office elected in its county.

In a statutory village with a population of less than 2,000, all candidates are nominated by petition unless the village voters adopted provisions to hold partisan primary elections. If the village has not adopted partisan elections, all candidates are designated as nonpartisan candidates.

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3 R.C. 3503.03; R.C. 3513.257; R.C. 3513.261; R.C. 3513.262; R.C. 3513.28
4 Morrison v. Colley, 467 F.3d 503 (6th Cir. 2006); Jolivette v. Husted, 694 F.3d 760 (6th Cir. 2012). See also State ex rel. Davis v. Summit County Board of Elections, 137 Ohio St.3d 222 (2013).
5 R.C. 1907.13; R.C. 3513.251; R.C. 3513.259; R.C. 3513.261
6 R.C. 3513.01
Candidates for municipal office will be nominated by petition as nonpartisan candidates unless one or more of the following applies:

1. The electors of the municipal corporation have petitioned to have partisan elections,
2. Previous municipal elections in that municipality were partisan, or
3. A municipal charter provides otherwise.

Candidates for nonpartisan office who want their names printed on the ballot will file nominating petitions.

**WRITE-IN CANDIDATES - DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE**

A write-in candidate is a person seeking elected office whose name is not printed on the ballot. The candidate must file a declaration of intent to be a write-in candidate not later than 4 p.m. of the 72nd day before the primary or general election. The board may only tally the votes of a write-in candidate who filed a valid declaration of intent to be a write-in candidate. A write-in candidate must meet all of the eligibility requirements of the office. The Secretary of State prescribes the form of the declaration of intent to be a write-in candidate.

A write-in candidacy is possible for most, but not all, elections. A board of elections cannot accept a declaration of intent to be a write-in candidate for nomination for a municipal office if, pursuant to R.C. 3513.02, no primary election is held.

**Section 1.02  Primaries and Nominations**

**CERTIFICATE OF NOMINATION ISSUED WHEN NO PRIMARY IS HELD R.C. 3513.02**

Partisan primary elections held in statutory municipalities in odd-numbered years are subject to the restrictions of R.C. 3513.02, which provides if and when nominations for certain offices will be submitted to the voters. No partisan primary election will be held in an odd-numbered year in a statutory municipality that nominates municipal office holders by partisan primary election if either of the following circumstances occurs:

1. No valid declaration of candidacy is filed for nomination as a candidate of a political party for election to any of the offices to be voted for at the general election to be held in such year; or

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2. The number of persons filing such declarations of candidacy for nominations as candidates of one political party for election to such offices does not exceed, as to any such office, the number of candidates which such political party is entitled to nominate as its candidates for election to such office.

**DUTIES OF ELECTION OFFICIALS WHEN PRIMARY ELECTION ELIMINATED**

If no partisan primary election is held in a municipality, the board of elections that would have conducted the primary election, declared the results, and issued certificates of nomination shall:

1. Declare to be nominated as of the ninetieth day before the primary election each person who would have been entitled to receive a certificate of nomination if the primary election had been held,

2. Issue appropriate certificates of nomination to each of them, and

3. Certify their names to the proper election officials, in order that their names may be printed on the official ballots provided for use in the succeeding general election in the same manner as though such primary election had been held and such persons had been nominated at such election.

**Section 1.03  Candidate Requirements**

**GENERALLY**

The Secretary of State prescribes candidate petitions as required by law. The Secretary of State’s forms are provided in PDF format on the Secretary of State’s website. The board must ensure that, when it is providing petition forms to candidates, it is providing the most current version of the prescribed form. Forms are updated in response to law changes, so it is imperative that boards pull petitions from the Secretary of State’s website when providing them to a candidate.

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* R.C. 3501.38(1)
QUALIFICATION FOR CANDIDACY

1. Filing for more than one office per election prohibited

A person whose candidacy was submitted to the voters at the primary election, but who was not nominated may file to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the general election held in the same year only for one of the following offices:

- Member of the state board of education,
- Member of a city, local, or exempted village board of education,
- Member of a governing board of an educational service center, or
- Township trustee.\(^9\)

A person who filed for candidacy on the primary ballot, but whose candidacy was not submitted to the voters, either because the person’s petitions were not certified or because the person withdrew as a candidate, can be a write-in candidate for the same office or some other office at the general election held in the same year.\(^10\)

The Supreme Court of Ohio has held that the primary election and general election are separate elections rather than two parts of the same election.\(^11\) In other words, “same election” in Chapter 3513 of the Revised Code does not mean “the same election cycle/the same election year.”\(^12\)

Additionally, the Ohio Supreme Court has clarified that because the word “seek” is limited in statute by the phrase “at a primary election,” “seek” means that the person attempting to become the party nominee actually appear on the ballot as a choice that can be selected by voters at the primary election.\(^13\)

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9 R.C. 3513.04.
10 R.C. 3513.041. If a person filed to be a candidate for nomination at the primary election but the person’s petitions were not certified or the person withdrew as a candidate and no primary election was ultimately required, the person can still be a write-in candidate for the same office or some other office at the general election held in the same year.
11 State ex rel. Brinda v. Lorain Cty. Bd. of Elections, 115 Ohio St.3d 299.
12 The Brinda interpretation of “same election” applies to all the statutes in R.C. Chapter 3513 that use the phrase “same election.”
2. Relevant Statutes

R.C. 3513.04 generally prevents persons who have unsuccessfully sought a party nomination at a primary election from running for the same or a different office at the following general election unless the person wants to run for office of member of a city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee. The statute provides in pertinent part:

No person who seeks party nomination for an office or position at a primary election by declaration of candidacy or by declaration of intent to be a write-in candidate shall be permitted to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the following general election for any office other than the office of member of the state board of education, office of member of a city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.

R.C. 3513.041 prohibits a person from being a write-in candidate if the person has already filed to be a candidate for the same election (and not timely withdrawn pursuant to the Coble decision, discussed below) or has become a candidate for the same election. The statute provides, in pertinent part:

A board of elections shall not accept for filing the declaration of intent to be a write-in candidate of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code. (Emphasis added.)

R.C. 3513.254 prohibits a board of elections from accepting a nominating petition of a person seeking to be a candidate for a city, local, or exempted village board of education if that person has already filed a declaration of candidacy to be a candidate for a municipal or township office at the same election (and not timely withdrawn pursuant to the Coble decision, discussed below). The statute provides in pertinent part:

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14 The prohibition in R.C. 3513.041 does not apply to a person seeking to run as a write-in candidate for a federal office.
15 See footnote 15.
16 See footnote 15.
(B) Nominating petitions shall be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election***. A board of elections shall not accept for filing a nominating petition of a person if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for any other position as a member of a city, local, or exempted village board of education or position as a member of a governing board of an educational service center, or for a municipal or township office. (Emphasis added.)

Therefore, R.C. 3513.04 prohibits a person whose candidacy was submitted to the electors at a primary election from filing to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the general election held in the same year unless the person is seeking to be a candidate for the state board of education, a city, local, or exempted village board of education, a governing board of an educational service center, or township trustee.17

In contrast, R.C. 3513.041 does not prohibit a person who filed a declaration of candidacy and petition or a declaration of intent to be a write-in candidate for the primary election, but whose candidacy was not submitted to the voters at the primary election, either because the person’s petition or declaration of intent to be a write-in was rejected or because the person withdrew as a candidate, to be a write-in candidate for the same office or some other office at the general election held in the same year.18

R.C. 3513.254 prohibits a board of elections from accepting the nominating petition of a person seeking to be a candidate for a city, local, or exempted village board of education if that person has already filed a declaration of candidacy to be a candidate for a municipal or township office at the same election. The primary and general elections are not the same election.

3. Effect of withdrawal of candidacy for purpose of refiling for same or different office for same election

Based on the Supreme Court’s decision in State ex rel. Coble v. Lucas County Board of Elections, 130 Ohio St.3d 132 (2011). 19 a candidate who timely withdraws that person’s candidacy prior to board action on their nominating
petition and prior to the filing deadline may file a new petition even if that petition is for the same office to be elected at the same election as the withdrawn petition as long as the board has not officially acted on the petition.

4. Candidate Disclosures
   a. Ethics Commission Financial Disclosure
      Any individual who becomes a candidate for or holds a state, county, or city elected office, or the position of school board member in a school district with more than 12,000 students average daily membership, is required to file a personal financial disclosure statement. For further information on the filing requirements and deadlines or to find a copy of a blank statement, visit the sites below:
      - Ohio Ethics Commission www.ethics.ohio.gov (Statewide, county, and city candidates, as well as candidates for a board of education)
      - Joint Legislative Ethics Committee www.jlec-olig.state.oh.us (Candidates for the Ohio House of Representatives or the Ohio Senate)
      - Ohio Supreme Court - Board of Professional Conduct www.bpc.ohio.gov/financial-disclosure-statements (Judges, judicial candidates, and magistrates)
      - U. S. Senate www.ethics.senate.gov/public/index.cfm/financialdisclosure?p=overview (Members and candidates for the U.S. Senate)
      - Federal Election Commission www.fec.gov (Candidates for U.S. President and Vice-President)
   b. Campaign Finance Reporting
      At the time candidacy petitions are filed, each candidate should receive materials from the board of elections about campaign finance reporting and compliance, including information about unfair political campaign activities. Each person who receives the copy must acknowledge its
receipt in writing. Additional information regarding campaign finance rules, reporting requirements, and filing deadlines may be found in the online Campaign Finance Handbook, Ohio Elections Calendar, and other publications located on the Ohio Secretary of State’s website at OhioSoS.gov. Also, please note that some charter municipalities have campaign finance disclosure and limitations in addition to those set forth in state law. Municipal candidates should contact the appropriate municipal authority for information on these local regulations, if applicable.

c. Specific Requirements for Certain Offices

Candidates are advised that certain offices (e.g., county sheriff, judge, coroner, etc.) have specific educational and professional requirements that must be met before the candidate can run for or hold the office. Candidates are encouraged to review the Candidate Requirement Guide published by the Secretary of State’s office and to consult with private legal counsel regarding any educational and professional requirements for an office.

d. Filing Fees

Each candidate who files for an office must pay a filing fee. The fee must be paid at the time of filing to the entity responsible for accepting the filing (i.e., the board of elections or, if the candidate files with the Secretary of State, the Secretary of State). The amount of the filing fee is prescribed by R.C. 3513.10 and dependent upon the office being sought. A filing fee is non-refundable.

There is no filing fee for a party office (i.e., delegate to a national convention, county central committee, or state central committee).

A board of elections is required to pay a portion of each filing fee it collects to the Ohio Elections Commission Fund. The amount of the fee paid to the Ohio Elections Commission Fund is listed in division (B) of R.C. 3513.10.

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20 R.C. 3513.33
21 R.C. 3513.10(F)(1)
22 R.C. 3513.10(C)
23 R.C. 3513.10(B)
Section 1.04 Protest of Certified Candidates

PROCEDURE

A protest is a written objection to the certification of a candidacy, issue or ballot. Protests of candidacies or nominating petitions are specifically provided for in the Revised Code.

Protests against the candidacy of any person must be in writing, must specify the legal ground(s) for the protest, and must be filed with the board of elections where the candidate filed their declaration of candidacy, nominating petition, or declaration of intent to be a write-in candidate. If the candidate filed with the office of the Secretary of State, the protest must be filed with the Secretary of State.

After a valid protest is filed, the board of elections or, if applicable, the Secretary of State, must promptly set a time and place for hearing the protest and give notice to both the person whose candidacy is being protested and the protestor. Both the protestor and the protested candidate, or their respective legal counsel, must be given an opportunity to address the board at the hearing.

When resolving a protest, a board is acting in a quasi-judicial capacity. A board should seek the guidance of its legal counsel, the county prosecutor, as soon as a valid protest is filed with the board. A board must also review the section on “Acting in Quasi-Judicial Capacity” in Chapter 2 of this Manual.

Note: In the absence of a timely filed protest, R.C. 3501.39(B) prohibits a board of elections from invalidating any declaration of candidacy or nominating petition after the 60th day before an election.

1. Partisan Primary Candidacy

Protests against any candidate in a partisan primary may be made by the controlling committee of that party, or by any qualified elector who is a member of the same party as the candidate and who is eligible to vote for the candidate whose petition is the subject of the protest. For purposes of protesting a candidacy for party nomination, an elector is considered a member of the candidate’s political party if the elector either voted only in that party’s primary in the current calendar year and last two calendar years, or did not vote in any other party’s primary in the current calendar year and last two calendar years.

24 R.C. 3513.041; R.C. 3513.05; R.C. 3513.262; R.C. 3513.263
26 R.C. 3513.05
The deadline to file a protest against any party candidate who filed a declaration of candidacy for the primary is 4 p.m. on the 74th day before the primary election.

2. **Write-In Candidacy**

   Any elector eligible to vote on the candidacy of a write-in candidate may protest that candidacy. The deadline to file a protest against a write-in candidate is 4 p.m. on the 67th day before the primary election for primary election write-in candidates or 4 p.m. on 67th day before the general election for general election write-in candidates.

3. **Independent Candidacy**

   Protests against the nominating petition of an independent candidate may be made by any qualified elector who is eligible to vote for the candidate. The deadline to file a protest against any candidate who filed a nominating petition as an independent candidate is 4 p.m. on July 30, or, if the primary election was a presidential primary election, not later than the end of the twelfth week after the day of that election.

4. **Nonpartisan Candidacy**

   Any elector eligible to vote for a candidate for nonpartisan office may protest that candidacy. The deadline to file a protest against any candidate who filed a nominating petition as a nonpartisan candidate is 4 p.m. on the 74th day before the general election.

5. **Hearing**

   At the hearing scheduled by the board, the members of the board of elections give both the protester and the candidate an opportunity to address the issues raised in the protest. The board then determines the merit of the protest and the validity of the petition. Such determination is final. The board must follow the procedures laid out in Chapter 2 under “Acting in Quasi-Judicial Capacity”.

**RE-CONSIDERATION OF A CANDIDATE NOT-CERTIFIED**

When a board of elections has not certified a candidate to the ballot based upon its determination of invalidity or insufficiency of one or more requirements of the petition process, the candidate in question may ask the board of elections to reconsider its determination. Unlike a protest hearing (where the protestor asserts that a candidate certified to the ballot by the board of elections should be removed), it is not mandatory

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28 R.C. 3513.041
29 R.C. 3513.262
30 R.C. 3513.263
for a board of elections to hold a reconsideration hearing. But having decided to conduct a hearing, the Ohio Supreme Court has determined it can be an abuse of discretion for the board to disregard evidence the hearing produces if the board decides the candidate or issue should remain off the ballot. Reconsideration hearings should be conducted in a similar manner to a protest hearing, including notice, representation, etc.

Section 1.05  Death of Candidate Prior to Primary Election

PARTISAN CANDIDATE DIES BEFORE THE PRIMARY ELECTION

Generally, if a person who filed a valid and sufficient declaration of candidacy dies prior to the primary election, the resulting vacancy on the ballot is not filled unless a charter provision provides otherwise. However, there are exceptions to that rule when only one valid declaration of candidacy has been filed for party nomination for an office.

1. Partisan candidate dies more than 10 days before the Primary

If only one valid declaration of candidacy is filed for nomination as a candidate of a political party for an office, and that candidate dies prior to the 10th day before the primary election, both of the following may occur:

- The political party whose candidate died may fill the vacancy so created, and
- Any major political party other than the one whose candidate died may select a candidate under either of the following circumstances:
  - No person has filed a valid declaration of candidacy for nomination as that party’s candidate at the primary election.
  - Only one person has filed a valid declaration of candidacy for nomination as that party’s candidate at the primary election, that person has withdrawn, died, or been disqualified under R.C. 3513.052, and the vacancy so created has not been filled.

A vacancy may be filled, and a selection may be made, by the appropriate political party committee in the same manner as the filling of vacancies that occur after the primary election, except that the required certification must be filed with the Secretary of State, with a board of the most populous county of a

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31 Scott v. Franklin County Board of Election, 139 Ohio St. 3d 171 (2014).
32 R.C. 3513.17; R.C. 3513.30.
33 R.C. 3513.30(A).
34 R.C. 3513.31(A)-(E).
district, or with the board of a county in which the major portion of the population of a subdivision is located, respectively, no later than 4 p.m. of the 10th day before the primary election, or with any other board later than 4 p.m. of the fifth day before the day of that primary election.

2. **Partisan candidate dies on or after the 10th day before the Primary**

   If only one valid declaration of candidacy is filed for nomination as a candidate of a political party for an office, and that candidate dies on or after the 10th day before the primary election, that candidate is considered to have received the nomination of that candidate’s political party at that primary election, and, for purposes of filling the vacancy so created, that candidate’s death is treated as if that candidate died on the day after the day of the primary election.

### Section 1.06 Death of Candidate Prior to General Election

#### MAJOR POLITICAL PARTY NOMINEE DIES AFTER THE DAY OF THE PRIMARY ELECTION MAJOR POLITICAL PARTY

If a person who was nominated in the party’s primary election dies, the vacancy so created may be filled by the appropriate party committee by certifying to the board of elections the name of the person selected to fill the vacancy at a meeting called for that purpose.

The committee’s chairperson must call a meeting and give each member of the committee at least two days’ notice of the time, place, and purpose of the meeting. If a majority of the members of the committee are present at the meeting, a majority of those present may select a person to fill the vacancy.

The chairperson and secretary of the meeting shall certify, in writing and under oath, the name of the person selected to fill the vacancy. If the candidacy appears in more than one county, the certification must be filed with the board of elections of the most populous county not later than 4 p.m. on the 10th day before the general election. If the candidacy appears in only one county or part of a county, the certification is filed with the appropriate board of elections not later than 4 p.m. of the fifth day before the general election. The certification must be accompanied by the written acceptance of the nomination by the person whose name is certified.

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35 R.C. 3513.30(B).
36 R.C. 3513.20; R.C. 3513.31.
37 R.C. 3513.31(G).
MINOR POLITICAL PARTY NOMINEE DIES AFTER THE DAY OF THE PRIMARY ELECTION

If a person nominated by a minor political party in a primary election or nominated by petition under section 3517.012 of the Revised Code as a minor party candidate for election at the next general election dies, the vacancy so created may be filled by the appropriate party committee in accordance with the party’s rules.

Certification must be made as in the manner provided for a major political party.

The chairperson and secretary of the meeting shall certify, in writing and under oath, the name of the person selected to fill the vacancy. If the candidacy appears in more than one county, the certification must be filed with the board of elections of the most populous county not later than 4 p.m. on the 10th day before the general election. If the candidacy appears in only one county or part of a county, the certification is filed with the appropriate board of elections not later than 4 p.m. of the fifth day before the general election. The certification must be accompanied by the written acceptance of the nomination by the person whose name is certified.

INDEPENDENT OR NONPARTISAN CANDIDATE

If a person nominated by petition as an independent or nonpartisan candidate for the next general election dies prior to the 10th day before the general election, the vacancy may be filled by a majority of the committee of five designated in the nominating petition.

To fill the vacancy, a member of the committee shall, not later than 4 p.m. of the fifth day before the day of the general election, file with the election officials with whom the petition nominating the person was filed, a certificate signed and sworn to under oath by a majority of the members, designating the person they select to fill the vacancy. The certification must be accompanied by the written acceptance of the nomination by the person whose name is so certified.

VACANCY ON GENERAL ELECTION BALLOT MAY TRIGGER OTHER RIGHTS OF SELECTION

When a person nominated as a candidate by a political party in a primary election or by nominating petition for an elective office for which candidates are nominated at a party primary election withdraws, dies, or is disqualified prior to the general election, the appropriate committee of any other major political party or committee of five that has

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38 R.C. 3513.31(G).
39 R.C. 3513.31(A)-(E).
40 R.C. 3513.31(H).
41 R.C. 3513.31(K).
not nominated a candidate for that office, or whose nominee as a candidate for that office has died without the vacancy so created having been filled, may fill the vacancy. The vacancy is filled in the same way a vacancy in a party nomination or nomination by petition is filled.

Section 1.07 Withdrawal

DEADLINES

1. **Generally**

   Generally, a candidate may withdraw their candidacy at any time before a primary or general election by filing a written statement of withdrawal with the board of elections with whom the declaration of candidacy was filed or, in the case of a candidate for statewide office, the Secretary of State. However, there is an exception to this rule for partisan presidential candidates in a presidential primary election.

2. **Presidential Primary Election**\(^{42}\)

   Ohio law imposes a different withdrawal deadline for candidates in primary elections in presidential years. The deadline for partisan presidential candidates to withdraw is 4 p.m. on the 40th day before the primary.

VALID NOTICE: WRITTEN STATEMENT FILED WITH APPROPRIATE ELECTION OFFICIALS\(^{43}\)

State law requires that a withdrawal of candidacy must be made in writing and filed with the election officials with whom the declaration of candidacy or nominating petition was filed. No board of elections may take action relating to a reported withdrawal before receiving the official written notice of the withdrawal from the candidate.

SELECTION OF PERSON TO FILL VACANCY ON GENERAL ELECTION BALLOT\(^{44}\)

1. **Major Political Party**

   If a person nominated in a party primary election withdraws as the nominee, the vacancy in nomination may be filled by the appropriate party committee.

   A meeting must be called by the committee chairperson, who must give each member of the committee at least two days’ notice of the time, place, and

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\(^{42}\) R.C. 3513.30(C)  
\(^{43}\) R.C. 3513.30(B)-(E)  
\(^{44}\) R.C. 3513.31(A)-(E)
purpose of the meeting. If a majority of the members of the committee are present at the meeting, a majority of those present may select a person to fill the vacancy.

The chairperson and secretary of the meeting must certify the name of the person selected to fill the vacancy to the appropriate election officials, in writing and under oath, not later than the 86th day before the general election. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

2. **Minor Political Party**

A vacancy created by a minor political party candidate’s withdrawal may be filled in accordance with the party’s rules by authorized officials of the party. The chairperson and secretary of the meeting must certify the name of the person selected to fill the vacancy to the appropriate election officials, in writing and under oath, not later than the 86th day before the general election. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

3. **Independent or Nonpartisan Candidate**

A vacancy created by the withdrawal of a person nominated by petition as an independent or nonpartisan candidate for election at the next general election may be filled by a majority of the committee of five designated on the candidate’s nominating petition. A member of that committee must certify the name of the person selected to fill the vacancy to the election officials with whom the candidate filed the nominating petition, in writing and under oath, not later than the 86th day before general election. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

4. **Vacancy on General Election Ballot May Trigger other Rights of Selection**

When a person nominated as a candidate by a political party in a primary election or by nominating petition for an elective office for which candidates are nominated at a party primary election withdraws, dies, or is disqualified prior to the general election, the appropriate committee of any other major political party or committee of five that has not nominated a candidate for that office, or whose nominee as a candidate for that office has died without the vacancy so created having been filled, may fill the vacancy. The vacancy is filled

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45 R.C. 3513.31(A)-(E).
46 R.C. 3513.31(F).
47 R.C. 3513.31(K).
in the same way a vacancy in a party nomination or nomination by petition is filled.

Section 1.08 Special Circumstances (Death or Withdrawal of Candidate for Governor / Lieutenant Governor or Representative to Congress)

CANDIDATE FOR GOVERNOR / LIEUTENANT GOVERNOR

1. Death, Withdrawal, or Disqualification Before the Primary Election

If a candidate for governor or lieutenant governor dies, withdraws, or is disqualified as a candidate prior to the 70th day before the day of a primary election, the vacancy on the ballot is filled by appointment by the joint candidate for the office of governor or lieutenant governor, respectively. Such candidate for governor must certify the name and residence address of the person selected to fill such vacancy to the Secretary of State in writing and under oath, not later than the 65th day before the primary election.

If a candidate for the office of governor or lieutenant governor dies on or after the 70th day, but prior to the 10th day, before a primary election, the vacancy so created is filled by appointment by the joint candidate for the office of governor or lieutenant governor, respectively. Such candidate for governor must certify the name and residence address of the person selected to fill such vacancy to the Secretary of State, in writing and under oath, not later than the 5th day before the day of the primary election.

2. Death, Withdrawal, or Disqualification Before the General Election

If a person nominated in a primary election or nominated by petition under section 3517.012 of the Revised Code as a candidate for election to the office of governor or lieutenant governor at the next general election withdraws as such candidate before the 90th day before the day of the general election, or dies prior to the 10th day before the day of such general election, the vacancy so created shall be filled in the manner provided for by section 3513.31 of the Revised Code.

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48 R.C. 3513.311
If a person nominated by petition as an independent candidate for election to the office of governor or lieutenant governor withdraws prior to the 90th day before the day of the general election or dies prior to the 10th day before general election, the vacancy is be filled by a majority of the committee of five designated on the candidate’s nominating petition. A member of that committee must certify the name of the person selected to fill the vacancy to the Secretary of State, in writing and under oath, not later than the 86th day before general election in the case of a withdrawal, or not later than 4 p.m. of the 5th day before the general election in the case of death. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

If the vacancy in a joint candidacy for governor and lieutenant governor is not so filled, the joint candidacy is invalidated and not presented for election.

CANDIDATE FOR REPRESENTATIVE TO U.S. CONGRESS

1. Death, Withdrawal, or Disqualification Before the Primary Election

If only one person has filed a valid declaration of candidacy for nomination as the candidate of a political party for the office of representative to Congress, and that person withdraws or dies at any time before the primary election, a special election must be scheduled but must be held only if the race is contested.

The special election must occur as soon as reasonably practicable in the same manner as a primary election. The Secretary of State must designate the deadlines for filing declarations of candidacy and declarations of intent to be a write-in candidate for the special election. The state pays all costs of this election. At this special election, the withdrawn or deceased candidate’s party may select its replacement candidate for Congress, and any other major political party may select a candidate if no one from the party has filed a valid declaration of candidacy or only one person from the party filed a valid declaration of candidacy, and that person withdrew or died.

If no special election is held, the Secretary of State, upon receiving certification of that fact from the board of elections of the most populous county of the congressional district, shall issue a certificate of nomination to the person and the person’s name shall appear on the ballot as that party’s candidate at the general election.

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49 R.C. 3513.301; R.C. 3513.312
2. **Death, Withdrawal, or Disqualification Before the General Election**

If a person nominated in a party primary election for the office of representative to Congress withdraws or dies prior to the 90th day before the general election, a special election to fill the vacancy must be scheduled but must be held only if the race is contested.

The special election must occur as soon as reasonably practicable in the same manner as a primary election. The Secretary of State must designate the deadlines for filing declarations of candidacy and declarations of intent to be a write-in candidate for the special primary. The state pays all costs of this election.

If only one person has filed a valid declaration of candidacy, then the sole candidate, if there is one, automatically receives the nomination to appear on the ballot as that party’s candidate at the general election.
Chapter 13: POLITICAL PARTIES

Directive 2016-26

Section 1.01 Party Affiliation

PRIMARY ELECTION

Primary election voters determine who will be nominated as candidates for political parties to compete for particular offices at the general election. Primary election voters also elect members of the controlling committees of political parties, and delegates and alternates to the conventions of political parties.¹ Some issues also might be on the ballot at a primary election.

For purposes of Ohio election law, an individual affiliates with a political party by voting in that party’s primary election. An individual does not register a political party preference when they register to vote. If a voter does not want to affiliate with a political party, then the voter may vote for issues only if any issues were certified to the ballot in that voter’s precinct.

If an elector votes in a party’s primary election, the elector’s voting history will reflect the fact that the elector voted in that party’s primary election.

DETERMINING PARTY AFFILIATION

An elector is considered to be a member of a political party if they voted in that party’s primary election within the preceding two calendar years, or if they did not vote in any other party’s primary election within the preceding two calendar years.² Each board of elections must enter voting history and update party affiliation following each primary election. For additional information on determining party affiliation (see Chapter 3 Voter Registration of this manual).

¹ R.C. 3501.03(E)(1)-(2)
² R.C. 3513.0557
ELECTED OFFICIAL MAY CHANGE PARTY AFFILIATION

A person who holds an elective office for which candidates are nominated at a party’s primary election may be a candidate for a different political party’s primary election if the person completes and files the appropriate declaration, Secretary of State Form 10-Y. The person’s declaration must:

- Be filed not later than 4:00 p.m. of the 30th day before a declaration of candidacy and petition is required to be filed under section 3513.05 of the Revised Code;
- Be filed with the same official with whom the person filing the declaration of intent is required to file a declaration of candidacy and petition; and
- Indicate the political party whose nomination in the primary election the person seeks.

No person who files a declaration, Form 10-Y, can file another such declaration for a period of 10 years after the declaration is filed.

Section 1.02  Major v. Minor Political Parties

Political parties in Ohio are either major political parties or minor political parties.

MAJOR PARTIES

A major political party is a political party organized under the laws of the state whose candidate for governor or nominees for presidential electors received not less than 20 percent of the total vote cast at the most recent regular state election. There are two major political parties in Ohio – the Democratic and Republican Parties.

MINOR PARTIES

A minor political party is a political party organized under the laws of the state as a result of one of the following:

- The minor party’s candidate for governor or its nominees for presidential electors received less than 20 percent but not less than 3 percent of the total vote cast at the most recent regular state election; or

A group of voters filed a party formation petition with the Secretary of State that satisfied the requirements of Revised Code 3517.01.

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3 R.C. 3513.19(C); The individual must use Secretary of State Form 10-Y.
4 R.C. 3513.19(C).
5 Am. Sub. S.B., No. 193 eliminated an “immediate political party.”
6 R.C. 3501.01(F)(1).
7 R.C. 3501.01(F)(2).
Section 1.03 Minor Political Parties

ESTABLISHING A MINOR POLITICAL PARTY

1. Percentage of Total Vote

The law provides a mechanism for a group to achieve minor political party status by fielding a candidate for governor or nominees for presidential electors and receiving a requisite number of votes:

- In 2014, a political party whose candidate for governor received less than 20 percent but not less than 2 percent of the total vote cast for that office at the 2014 general election remains a minor political party for a period of four years after meeting these requirements.\(^8\)

- In 2016 and after, a political party whose candidate for governor or nominees for presidential electors receive less than 20 percent but not less than 3 percent of the total vote cast for such office at the most recent regular state election will remain a minor party for four years after meeting these requirements.\(^9\)

2. Petition Process

The law also provides a mechanism for groups to become minor political parties by petition. To become a minor party by petition, a group must file a party formation petition with the Secretary of State.

The party formation petition must:

- Be signed by qualified electors equal to at least 1 percent of the total vote for governor or nominees for presidential electors at the most recent election for such office;

- Be signed by not fewer than 500 qualified electors from each of at least one-half of the congressional districts in the state;

- Declare the petitioners’ intention of organizing a political party and of participating in the succeeding general election that occurs more than 125 days after the filing date;

- Designate a committee of not less than three nor more than five of the petitioners, who will represent the petitioners in all matters relating to the petition; and

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\(^9\) R.C. 3501.01(F)(2)(a)
Name the prospective political party in the declaration. The name must not be similar to that of an existing party name.10

Upon filing the petition, the new political party comes into legal existence and is entitled to nominate candidates to appear on the ballot at the general election in odd or even-numbered years that occurs more than 125 days after the filing date.11

The Secretary of State must promptly transmit to each board of elections the separate petitions papers of that board’s county.12 Each board of elections must examine and determine the sufficiency of the signatures on the petition papers and return them to the Secretary of State not later than the 118th day before the general election. The petition papers must be submitted to the Secretary of State’s office along with the board’s certification of the validity or invalidity of the signatures on the petition.13

A written protest against the petition may be filed with the Secretary of State by any qualified elector not later than the 114th day before the general election.14

The Secretary of State must determine the sufficiency of the party formation petition and notify the committee designated in the petition of that determination not later than the 95th day before the general election.15

NOMINATION OF CANDIDATES

Each candidate or pair of joint candidates wishing to appear on the general election ballot as the nominee or nominees of the party that filed the party formation petition shall file a nominating petition not later than 110 days before the general election and not earlier than the day the applicable party formation petition is filed.16

The nominating petition must both be on a form prescribed by the Secretary of State and include the name of the political party that submitted the party formation petition.17 These nominating petition forms prescribed by the Secretary, Forms 4-C through 4-G are available on the Secretary of State’s website.

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10 R.C. 3517.01(A)
14 The protest will be resolved in the same manner as specified under R.C. 3501.39, R.C. 3517.012(A)(2)(c).
16 R.C. 3517.012(B)(1).
17 With the exception of the provisions of Revised Code 3505.03, 3505.08, 3506.11, 3513.31, 3513.311, and 3513.312, the provisions of the Revised Code concerning independent candidates who file nominating petitions apply to candidates who file nominating petitions under this Revised Code section. R.C. 3517.012(B)(1).
If the candidacy is to be submitted to electors throughout the entire state, the nominating petition must be signed by at least 50 qualified electors who have not voted as a member of a different political party at any primary election within the current year or the immediately preceding two calendar years. The nominating petition for a candidacy to be submitted to electors throughout the entire state must be filed with the Secretary of State’s office.

If the candidacy is to be submitted only to electors within a district, political subdivision, or portion thereof, the nominating petition must be signed by not less than five qualified electors who have not voted as a member of a different political party at any primary election within the current year or the immediately preceding two calendar years. The nominating petition for offices to be voted on by electors within a district or political subdivision comprised of more than one county but less than all counties of the state must be filed with the most populous county’s board of elections according to the last federal decennial census. The nominating petition for offices to be voted on by electors within a county or district smaller than a county must be filed with the board of elections for that county.

Each board of elections must examine and determine the sufficiency of the signatures not later than the 105th day before the general election. A written protest may be filed not later than the 100th day before the general election. The Secretary of State or the board of elections, as applicable, must determine whether the nominating petition is sufficient and notify the candidate and the committee designated in the party formation petition of that determination not later than the 95th day before the general election.

The committee for a party that has submitted a sufficient party formation petition, must, not later than the 75th day before the general election, certify to the Secretary of State a slate of candidates consisting of candidates or joint candidates who submitted sufficient nominating petitions. The names of the candidates or joint candidates certified by the political party slate will appear on the ballot at the general election as the party’s nominees for those offices.
If a candidate’s nominating petition is insufficient or if the committee does not certify the candidate’s name on the certified slate, the candidate will not appear on the ballot in the general election.28

The slate certifying the candidates must:

- Be on a form prescribed by the Secretary of State (the minor political party slate of certified candidates form, Form 4-B, is available on Secretary of State’s website);
- Be signed by all of the individuals on the committee designated in the party formation petition; and
- Not include more than one candidate for any public office or more than one set of joint candidates for the offices of governor and lieutenant governor.29

If a party formation petition is insufficient, no candidate will appear on the ballot in the general election as that political party’s nominee, regardless of whether any candidate’s nominating petition is sufficient.30

**PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES OF RECOGNIZED PARTY**

A recognized minor party must certify the names of its nominees for the offices of president and vice president to the Secretary of State no later than 90 days before the date of the general election for those offices. The certification must be accompanied by a list of the names of 18 presidential electors who will represent the party and candidates in the Electoral College, should the candidates win the general election.

**PARTICIPATION IN NEW POLITICAL PARTY’S PRIMARY ELECTION**

At the first primary election held by a newly formed political party, any qualified elector who desires to vote the new party primary ballot must be allowed to vote the new party primary ballot regardless of prior political party affiliation.31

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28 R.C. 3517.012(C)(2).
29 R.C. 3517.012(C)(1).
30 R.C. 3517.012(C)(3).
31 R.C. 3517.016.
CONTROLLING COMMITTEE OF A MINOR POLITICAL PARTY

All members of controlling committees of a minor political party are determined in accordance with party rules. The party must file a list of its controlling committee members and other party officials with the Secretary of State’s office within 30 days of their election or appointment.32 A minor political party may elect controlling committees at a primary election in the even-numbered year by filing a plan for party organization with the Secretary of State’s office on or before the 90th day before the day of the primary election. The plan must specify which offices are to be elected and provide the procedure for qualification of candidates for those offices. Candidates to be elected pursuant to the plan must be designated and qualified on or before the ninetieth day before the day of the election. Such parties may, in lieu of electing a controlling committee or other officials, choose such committee or other officials in accordance with party rules. Each such party must file the names and addresses of members of its controlling committee and party officers with the Secretary of State’s office.33

BYLAWS OF MINOR POLITICAL PARTIES

Each political party must file with the Secretary of State’s office a copy of its constitution and bylaws, if any, within 30 days of adoption or amendment.34

Section 1.04 Major Political Parties

CONTROLLING COMMITTEE OF A MAJOR POLITICAL PARTY

The controlling committees of each major political party must be:

- A state central committee consisting of two members, one a man and one a woman, representing either each congressional district in the state or each senatorial district in the state, as the outgoing committee determines;

- A county central committee consisting of one member from each election precinct in the county, or of one member from each ward in each city and from each township in the county, as the outgoing committee determines; and

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32 R.C. 3517.02
33 R.C. 3517.03
34 R.C. 3517.02
Such district, city, township, or other committees as the rules of the party provide.\textsuperscript{35}

Currently, state central committees of both major political parties are elected by state senatorial district.

All the members of such committees must be members of the party and must be elected for terms of either two or four years, as determined by party rules, by direct vote at the primary held in an even-numbered year.\textsuperscript{36} Currently, committee members of the Republican political party serve two-year terms, and members of the Democratic party serve four-year terms.

Each major party controlling committee must elect an executive committee that has the powers granted to it by the party controlling committee, and provided to it by law. When a judicial, senatorial, or congressional district is comprised of more than one county, the chairperson and secretary of the county central committee from each county in that district shall constitute the judicial, senatorial, or congressional committee of the district. When a judicial, senatorial, or congressional district is included within a county, the county central committee shall constitute the judicial, senatorial, or congressional committee of the district.\textsuperscript{37}

**COUNTY CENTRAL COMMITTEE MAY DETERMINE NO NEED FOR PETITION.**

The county central committee of a political party in a particular county may determine, not later than 120 days prior to the next primary election at which candidates for member of the county central committee are elected, that each person desiring to become a candidate for election as a member of the county central committee of that party in that county shall file a declaration of candidacy but is not required to file a petition. If the county central committee of a political party so determines, each person desiring to become a candidate for election as a member of the county central committee of that party in that county is not required to file a petition as required by that section but must comply with all other applicable requirements of that section.

If the county central committee of a political party in a particular county has determined pursuant to division (A) of this section that each person desiring to become a candidate for election as a member of the county central committee of that party in that county is not required to file a petition, the county central committee of that political party in that county may subsequently determine that each person desiring to become a candidate for election as a member of the county central committee of that party in that county

\textsuperscript{35} R.C. 3517.03
\textsuperscript{36} R.C. 3517.03
\textsuperscript{37} R.C. 3517.03
must file a petition. The county central committee must make that determination not later than 120 days prior to the next primary election at which candidates for member of the county central committee are elected. After the committee makes that determination, each person desiring to become a candidate for election as a member of the county central committee of that party in that county must file the petition and must meet all other applicable requirements of that section.

Secretary of State Form 2-L is the petition form for candidates for county central committee that must use a petition, and Secretary of State Form 2-M is the form for candidates for county central committee who do not need a petition.

WRITE-IN CANDIDATES

Special rules govern write-in candidacies for party controlling committees:

☐ A board of elections may not accept declarations of intent to be a write-in candidate for state central committee of a political party. If no valid declaration of candidacy was filed for the position, the office does not appear on the ballot.\(^{38}\)

☐ However, a board of elections may accept valid declarations of intent to be a write-in candidate for county central committee of a political party even if no valid declarations of candidacy were filed for the position. In such cases, the board shall provide a write-in space on the ballot.\(^{39}\)

ELECTED AND NOT NOMINATED

1. **17-year-old Voter**

It is important to remember that state and county central committee members are elected and not nominated at the Primary Election.

Accordingly, voters who are 17 years old as of the primary election are not permitted to vote for the following:

☐ State Party Central Committee;

☐ County Party Central Committee; and

☐ Questions and Issues.

In presidential primary elections, a 17-year-old voter is permitted to vote for presidential delegates.\(^{40}\)

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\(^{38}\) R.C. 3513.14

\(^{39}\) OAG 70-011

\(^{40}\) Schwerdtfeger v. Husted, Franklin C.P. No. 16 CV 002346 (March 11, 2016).
2. **Candidate Affiliated with Party**

A candidate for member of a major party’s state or county central committee must not have voted in a different political party’s primary in the current year or immediately preceding two calendar years. R.C. 3513.191 provides as follows:

(A) No person shall be a candidate for nomination or election at a party primary if the person voted as a member of a different political party at any primary election within the current year and the immediately preceding two calendar years.

Because central committee members are elected, rather than nominated, at the primary election, the exceptions contained R.C. 3513.191(B) do not apply.

**ORGANIZATIONAL MEETINGS OF MAJOR POLITICAL PARTIES**

1. **Requirement**

Ohio law requires members-elect of major political party county central committees to hold an organizational meeting not earlier than six days or later than 15 days after a county board of elections certifies the results of the election, including results of any recounts conducted in a county central committee race.

2. **Notice**

The county central committee’s secretary must provide written notice by mail to each member-elect to inform them of the time and place of the organizational meeting. The county central committee must provide a copy of the notice of the organizational meeting to the county board of elections at least five days before the organizational meeting, which shall publicly post the notice.

3. **Roster**

Ohio law requires each county political party file with its county board of elections and with the Secretary of State the names and addresses of each member and officer of the county central and executive committees. The roster need not be in any particular form so long as the required information (i.e., name and address), designations (e.g., district represented), and titles (e.g., chairman, secretary, etc.) are included.

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41 R.C. 3517.04
42 R.C. 3517.06
PARTY CONSTITUTION AND BY-LAWS\textsuperscript{43}

Ohio law requires each political party to file with the Secretary of State’s office a copy of its constitution and by-laws, if any, within 30 days after adoption or amendment.

FILLING VACANCIES IN CONTROLLING COMMITTEE

In case of vacancies caused by death, resignation, failure to elect, or removal from the precinct, ward, township, or district from which a member of the committee was chosen, the controlling committee or, if authorized, the executive committee shall fill the vacancy for the unexpired term by a majority vote of the members of such committee.\textsuperscript{44}

In the event that a county central or executive committee fills a vacancy in membership any time after its organizational meeting, Ohio law requires that the committee promptly report to the board of elections and to the Secretary of State the names and addresses of any new member appointed to fill such vacancies.\textsuperscript{45}

FILLING VACANCIES IN ELECTIVE OFFICE

Various provisions of the United States Constitution, Ohio Constitution, Ohio Revised Code, and home rule charters set forth procedures for filling a vacancy in a particular office by appointment, either for the remainder of the term or until an election is held to select someone to serve for the remainder of the unexpired term. A county party central committee is charged with filling a vacancy is some county and city elective offices.

When a vacancy occurs in a county office, the board’s director provides notice to the central committee of the political party with which the outgoing office holder is affiliated of the party’s right to make an appointment to fill the vacancy. The Board may use Secretary of State Form 292, Certification by Director of Board of Elections as to Political Party Affiliation of the Last Occupant of a County Office, to do so.

\textsuperscript{43} R.C. 3517.02
\textsuperscript{44} R.C. 3517.05
\textsuperscript{45} R.C. 3517.06
Generally, it is the duty of the entity entitled to appoint a person to a vacancy in office to determine what legal provisions apply to the appointment and to take the appropriate action. A county party central committee charged with filling a vacancy in elective office might want to consult with its legal counsel (i.e., legal counsel for its party organization) regarding its process for filling the vacancy. It is important to note that, in filling a vacancy in public elective office, a county party central committee may be acting as a public body, and its conduct of the meeting may be subject to Ohio’s Sunshine Laws.46

When an elective office is filled by appointment, the appointing authority must immediately, but no later than seven days after making the appointment, certify it both to the board of elections and the Secretary of State. The Secretary of State has prescribed a form, Certification by Party Central Committee to Fill a Vacancy in County Office or City Office (Form 291) that the appropriate committee of a political party may use to give notice to election officials that a vacancy in city or county office has filled by appointment.

46 1980 OAG No. 083

Chapter 13: Political Parties
Chapter 14: STATEWIDE INITIATIVE & REFERENDUM

Directive 2017-16

Section 1.01  Definitions

REFERENDUM

A referendum is the presentation of a bill, recently passed by the Ohio General Assembly and signed into law by the Governor, to the voters of Ohio for approval or rejection. It begins when a petition is filed by a group of Ohio electors.

INITIATIVE

An initiative is the presentation of a proposed new statute or constitutional amendment to the voters of Ohio for their approval. The Ohio Constitution permits initiated statutes and initiated constitutional amendments as follows:

1. **Citizen-initiated statute:**
   Ohio electors present voters with a newly-proposed Ohio statute. It begins when a petition is filed by a group of Ohio electors.

2. **Citizen-initiated constitutional amendment:**
   Ohio electors present voters with a newly-proposed amendment to the Ohio Constitution. It also begins when a petition is filed by a group of Ohio electors.

3. **General Assembly-initiated constitutional amendment:**
   The legislature passes a joint resolution to present a proposed constitutional amendment to voters. A General Assembly-initiated constitutional amendment does not require a petition since it is not citizen-driven.
Section 1.02 Submission of Referendum or Initiative Petition

The issue committee must mark each part-petition with the name of the county in which it was circulated and a sequential number within that county’s part-petitions. The issue committee must sort part-petitions by county prior to filing with the Secretary of State’s office.

The issue committee must provide the Secretary of State’s office with the name, address, phone number, and email of the chairperson of the committee and contact information for a designated representative of the committee.

The issue committee must file an electronic copy of the petition and an index of the electronic copy, along with a summary of the number of part-petitions filed per county and the number of signatures on each part-petition.¹

The issue committee must also submit a blank, electronic copy of a part-petition.

The issue committee must pay a fee of $25.²

Section 1.03 Examining and Verifying State Issue Petitions

CIRCULATORS

1. Qualifications

When verifying petitions, boards of elections should presume that a circulator is qualified to circulate petitions unless there is “satisfactory evidence” that the individual is not qualified. Any protests against a circulator’s qualifications should be made before the Ohio Supreme Court.

A circulator must be at least 18 years of age.³ Some convicted felons are prohibited from circulating initiative or referendum petitions.⁴ State law does not require a circulator to provide key data points (e.g., date of birth, Social Security number, driver license number, etc.) that constitute “satisfactory evidence” that the individual who circulated a petition in any given county is indeed the same individual who may be listed in one county’s local voter registration database as cancelled due to incarceration of a felony conviction.

¹ R.C. 3519.16(B).
² R.C. 3513.10(b)(2)(a).
³ R.C. 3503.06(C).
⁴ Ohio Attorney General Advisory Opinion 2010-002.
2. **Circulator’s Statement**

   Each part-petition must contain a circulator’s statement (identified on the part-petition as the “Statement of the Solicitor”) that includes the following completed information:\(^5\)

   - The number of signatures witnessed by the circulator;
   - The circulator’s signature;\(^6\)
   - The circulator’s permanent residence address;\(^7\) and

   - If the circulator was employed to circulate the petition, then the employer’s name and address including street name and number, or post office box number, city, state, and ZIP code.

   The board must review each part-petition to determine that information required as a part of the circulator’s statement is entered on each part-petition. The board must accept the circulator’s statement of part-petitions at face value unless there are inconsistencies with the number of signatures witnessed (see below) or with information about the circulator across part-petitions reviewed within a single county (i.e., the circulator writes a different permanent residence addresses on different part-petitions).

   **Signature undercounting:** If the number of signatures reported in the circulator’s statement is less than the total number of uncrossed-out signatures submitted on the part-petition (e.g., the circulator’s statement indicates 20 signatures witnessed, but there are 22 signatures on the part-petition, none of which were crossed out prior to the petition being filed), then the board must reject the entire part-petition.\(^8\)

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\(^{5}\) R.C. 3519.05.

\(^{6}\) Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.011, R.C. 3501.382(F) and related OAG 2015-012.

\(^{7}\) State law does not define “permanent residence address” for purposes of circulating issue petitions. A county board of elections should presume that the address provided by the circulator is the circulator’s permanent residence as the statement is signed under penalty of election falsification, which is a fifth degree felony. To the extent that an entity other than the board believes that the circulator’s written permanent residence address is not accurate, an informal objection or formal protest is not proper before a board of elections and should be filed with the Ohio Supreme Court.

\(^{8}\) *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139.
Note: In determining whether the number of signatures reported by a circulator of a non-statewide candidate’s part-petition matches the number of signatures on that part-petition, particularly with regard to crossed-out signatures, board of elections should take care so as to not make a determination that is “too technical, unreasonable, and arbitrary” given the unique fact set of that petition and information available to the board, if any.9

**Signature over-counting:** If the number of signatures reported in the circulator’s statement is greater than the total number of uncrossed-out signatures on the part-petition (e.g., the circulator’s statement indicates that the circulator witnessed 28 signatures, but there are only 5 signatures on the part-petition), then the board must reject the entire part-petition when the over-reporting of signatures on the circulator’s statement appears “systemic” and numerous on part-petitions filed by one or more circulators within the county, or across several counties, for the same petition,10 unless the exception below applies.

**Exception:** The over-reporting error is the result of “minor or negligent miscounts”11 by the circulator “so long as there is no indication of fraud or material misrepresentation”12 or does not promote fraud. In this circumstance, the board must review the validity of each signature as usual.13

Ohio law requires that on a circulator’s statement for a statewide initiative or referendum petition (and a declaration of candidacy or nominating petition for a statewide candidate), “the circulator shall identify the circulator’s name, the address of the circulator’s permanent residence, and the name and address of the person employing the circulator to circulate the petition, if any.”14

If a circulator identifies an employer on the circulator’s statement but does not provide a corresponding address, the board must **invalidate the entire part-petition.**15 If no employer or address is provided, or if both the name of the employer and an address are provided, that aspect of the circulator’s statement is presumed, on its face, to be valid and sufficient.

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9 [State ex rel. Schwarz v. Hamilton Cty. Bd. of Elections, 173 Ohio St. 321; State ex rel. Curtis v. Summit Cty. Bd. of Elections, 144 Ohio St.3d 405.](#)

10 “Systemic overcounts * * * are an open invitation to fraud * * * and * * * a part-petition of this type is invalid because, on its face, the attestation of the circulator is false: they did not witness the number of signatures indicated.” [Ohio Mfrs. Assn. v. Ohioans for Drug Price Relief Act, 149 Ohio St.3d 250, at ¶44.](#)

11 [Ohio Mfrs. Assn. v. Ohioans for Drug Price Relief Act, 149 Ohio St.3d 250, at 144.](#)

12 [State ex rel. Curtis v. Summit Cty. Bd. of Elections, 144 Ohio St.3d 405, at 18, citing State ex rel. Schwarz v. Hamilton Cty. Bd. of Elections, 173 Ohio St. 321.](#)

13 [State ex rel. Citizens for Responsible Taxation v. Scioto Cty. Bd. of Elections, 65 Ohio St.3d 167.](#)

14 [R.C. 3501.38(E)(1).](#)

15 [R.C. 3519.96(A).](#)
PROCESSING VOTER REGISTRATIONS

Each county board of elections must process all new, valid voter registrations and changes of names and/or addresses to existing registrations received by the board or the Secretary of State’s office as of the date the petition was filed with the Secretary of State before verifying the signatures on the part-petitions.\footnote{16 R.C. 3519.15, R.C. 3501.38(A)}

These registrations are effective as of the date the petition was filed with the Secretary of State.\footnote{17 R.C. 3501.38; R.C. 3503.19}

Registrations gathered as a part of the petition process are to be submitted to the office of the Secretary of State or a county board of elections within 10 days after that registration form is completed.\footnote{18 R.C. 3599.11(B)(2)(a)} Any otherwise valid voter registration forms received in violation of this section, but received by the time the petition was filed should be entered into the county’s voter registration database.

SIGNERS

1. Qualifications

Each person who signs a petition must be a qualified elector of Ohio and registered to vote at the address provided on the petition as of the date the state issue part-petition is examined by the board.\footnote{19 R.C. 3519.10}

2. Signatures

Except as provided in R.C. 3501.382 (elector’s name signed by an attorney-in-fact or disabled voter using an assistive technology or an augmentative device), each signature must be an original signature of that voter.\footnote{20 R.C. 3501.38(B); R.C. 3501.382; R.C. 3519.051 Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.013, R.C. 3501.382(F) and related.}
The signature must match the signature on file with the board of elections.\textsuperscript{21} A board must not invalidate a signature because an elector signed using a derivative of their first name, if the board can confirm the identity of the elector.\textsuperscript{22}

\textbf{Example:} Name derivatives are acceptable (Bob instead of Robert, Peg instead of Margaret) and lack of middle initial or inclusion of middle initial is acceptable.

For identification purposes, the elector may print their name on the petition in addition to signing in cursive their name to the petition. A printed signature alone, with no cursive signature, is allowed only if the elector’s signature on file with the board is also printed.\textsuperscript{23}

The signature must be written in ink.\textsuperscript{24}

The petition must contain the elector’s voting residence including the house number and street name or rural free delivery (RFD) number, and the appropriate city, village, or township. The elector’s ward and precinct are not required. A post office box does not qualify as an elector’s residence address. If an elector’s address given on the petition differs from that on file with the board, then the board must invalidate that signature.\textsuperscript{25}

An elector’s signature must not be invalidated solely because “non-signature information” (e.g., the elector’s printed name, address, county, or the date of signing) was completed by another person. Non-signature information may be added by a person other than the elector, at the direction and in the presence of the petition signer, which should be presumed unless there is evidence to the contrary.\textsuperscript{26}

No one may sign a petition more than once. If a person does sign a petition more than once, after the first signature has been marked valid, each successive occurrence of the signature must be invalidated.

\textbf{Note:} Most software systems deployed by county boards of elections are capable of electronically recording decisions on the validity or invalidity of each signature on a petition and tracking for duplicate signatures over

\begin{itemize}
  \item \textsuperscript{21}If a board of elections has conducted a hearing concerning the consideration of signatures on a candidate or issue petition, it must not disregard evidence produced at that hearing. See State ex rel. Scott v. Franklin County Board of Elections, 139 Ohio St.3d 171; “if undisputed evidence shows a nonmatching signature to be genuine, then the board must count the signature even if it does not match the elector’s legal mark on the voter-registration record” State ex rel. Crowl v. Delaware Cty. Bd. of Elections, 144 Ohio St.3d 346, (O’Connor, C.J., concurring); State ex rel. Burroughs v. Summit Cty. Bd. of Elections, 145 Ohio St.3d 220.
  \item \textsuperscript{22}State ex rel. Rogers v. Taft, 64 Ohio St.3d 193, 594 N.E.2d 576 (Ohio 1992).
  \item \textsuperscript{23}R.C. 3501.011; R.C. 3501.38(B); R.C. 3519.10.
  \item \textsuperscript{24}R.C. 3519.051; R.C. 3501.38(B); See also footnote 20.
  \item \textsuperscript{25}R.C. 3501.38(C); R.C. 3519.10.
  \item \textsuperscript{26}State ex rel. Jeffries v. Ryan, 21 Ohio App.2d 241, 256 N.E.2d 716 (Ohio App.10 Dist. 1969).
\end{itemize}
time (including in those instances where petitioners are permitted to file supplemental petitions after an initial finding by the Secretary of State that the petition lacks sufficient signatures). These systems should be able to track more than one petition at a time. Additionally, these software systems should be able to produce an electronic file and a printed report of the names, addresses, and valid/invalid code for every signature reviewed by the board. If your county software system cannot provide any of these, or the board does not use that system component, please contact the Elections Division to ensure an adequate method that adequately and accurately records information to fulfill reporting and tracking standards.

3. **Attorney-In-Fact**

   Generally, signing or affixing a signature to an election-related document requires a person’s written, cursive-style legal mark written in that person’s own hand. However, a voter with a disability may personally affix their signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp.27

   A registered elector who, by reason of disability, is unable to physically sign their name to a petition may also authorize a qualified individual as an attorney-in-fact to sign the elector’s name to a petition.28

   In order to sign a petition on behalf of a registered voter as that person’s attorney-in-fact, the board must have a completed Secretary of State Form 10-F or 10-G on file. Other types of power of attorney documents, filed with a court or some other agency, will not allow an individual to sign election documents on another’s behalf. The proper documentation must be on file with the board of elections.

   A qualified person who has been appointed as an elector’s attorney-in-fact under **R.C. 3501.382** may sign that elector’s name to the petition paper in the elector’s presence and at the elector’s direction. The board must compare the attorney-in-fact’s signature on the petition with Form 10-F or 10-G on file with the board.

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27 R.C. 3501.011; R.C. 3501.382(F); OAG 2015-012.
28 R.C. 3501.382.
If a person, who has not been designated the attorney-in-fact for elections purposes, signs another person’s name to a petition, then the board must, at a minimum, invalidate that signature. If the board determines that the circulator knowingly permitted an unqualified person to sign on another person’s behalf, then the entire part-petition must be invalidated.\textsuperscript{29}

4. **Dates**

Each signature must be followed by the date it was affixed to the petition paper.\textsuperscript{30}

The board must not invalidate a signature solely because its date is out of sequence with other signatures on the same part-petition.

5. **Illegible Signature**

The board must invalidate illegible signatures. A signature is illegible only if both the signature and address are unreadable, such that it is impossible for board personnel to query the board’s voter registration system to check the signature against a voter registration record.\textsuperscript{31}

6. **Ditto Marks**

Ditto marks may be used to indicate duplicate information, e.g. date, address, or county.\textsuperscript{32}

7. **One County per Part-Petition**

Each part-petition should contain signatures of electors of only one county. The board **must invalidate** signatures from any other county. If any part-petition contains signatures from more than one county, then the Secretary of State determines the county with the most signatures on the part-petition, and only signatures from that county are to be reviewed.\textsuperscript{33}

If, upon review by a county board of elections, the board believes that a part-petition was improperly forwarded to the county, the director and deputy director should contact the Secretary of State’s office for additional instructions.

\textsuperscript{29} R.C. 3501.38(F).
\textsuperscript{30} R.C. 3501.38(C); R.C. 3519.10.
\textsuperscript{31} State ex rel. Owens v. Brunner, 125 Ohio St.3d 130, 926 N.E.2d 617 (Ohio 2010).
\textsuperscript{32} State ex rel. Donofrio v. Henderson, 4 Ohio App.2d 183, 211 N.E.2d 854 (Ohio App. 7 Dist. 1965).
\textsuperscript{33} R.C. 3519.10.
8. Non-Genuine Signatures

A board of elections must not invalidate an entire part-petition based solely on the number of non-genuine signatures it contains. If a circulator knowingly allows an unqualified person to sign a part-petition, the entire petition must be invalidated.34

MARKING SIGNATURES

If a signature is valid, place a check mark in the margin to the left of the signature on the petition paper.

If a signature is invalid, indicate why it is invalid by writing in the margin to the left of the signature the appropriate code symbol for the reason the signature is invalid (see the following).

It is advisable for board employees to use a red ink pen for making marks.

CODE SYMBOLS FOR VALIDATING SIGNATURES ON PETITIONS

Each signature must be individually examined. If a signature is valid, place a check mark at the left margin beside it.

If a signature is not valid, please indicate the reason by using the following code symbols or, if none apply, an explanatory notation:

**CIR** “Circulator.” Signed as an elector on the part-petition they were circulating. (This invalidates the circulator’s signature as a signer, but not the entire part-petition.)

**DUP** “Duplicate signature.” The person has signed more than one part-petition or twice on the same part-petition.

**ILL** “Illegible.” Applies only if both the signature and address are unreadable, such that it is impossible for board personnel to query the board’s voter registration system to check the signature against a voter registration record.

**NA** “No address.” The signer’s complete address must be provided: House number and street name or RFD, and the appropriate city, village, or township. Ward and precinct information is not required.

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34 R.C. 3501.38(F)
**ND**  “No Date.” The petition does not indicate the date on which the signature was affixed. (However, acceptable are: Month-date-year, month-date, date out of sequence with other signers’ dates, and ditto marks.)

**NG**  “Not Genuine.” The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be when compared to the signature on file with the board of elections as of the date the board checks the petition.

**NR**  “Not Registered.” The signer is not registered to vote. Each person who signs a petition paper must be a qualified elector as of the date the board examines the petition.

**NRA**  “Not Registered Address.” The address provided on the petition paper is not the address on file with the board of elections as of the date the board examines the petition.

**OC**  “Other County.” The signer is a resident of some other county. Do not cross out signature or address. Instead, write the code symbol in the left margin.

**P**  “Pencil.” The signature was written using a pencil.

If the number of signatures on a part-petition is more than the number indicated by the circulator, the entire part-petition is invalid.

When invalidating an entire part-petition, indicate the reason for rejection on the front of that part-petition and separate it from any valid part-petitions. **Do not invalidate a part-petition for the sole reason that it does not contain any valid signatures; it is a valid part-petition, but it contains zero, or no, valid signatures.**

After checking an entire part-petition, write on the right side of the front page of each part-petition both the number of valid signatures and the initials of the board employee who checked the part-petition.

**CERTIFICATION**

After the board staff has examined all the part-petitions of the statewide issue, referendum, or constitutional amendment petitions circulated in its county, the board must certify its findings to the Secretary of State on a certification form.

County boards of elections must return verified part-petitions to the Secretary of State’s office not less than 110 days before the election, and the Secretary of State’s office must determine the sufficiency of signatures by the 105th day before the election.\(^{35}\)

Once certification forms have been received from all of the county boards of elections, the Secretary of State will determine the validity and sufficiency of the petition and

\(^{35}\text{R.C. 3519.16(F)}}
provide the constitutionally-and statutorily-required notices to the committee for the petitioners.

If a petition is found to have an insufficient number of valid signatures, the issue committee is permitted 10 additional days from the date the Secretary of State’s office notifies the issue committee of the discrepancy to collect and to file supplemental signatures. If the Secretary of State determines that the signatures on the petition are insufficient, the Secretary of State will simultaneously:

- **Post the electronic version of the supplemental petition on the Secretary of State’s website.** The Secretary of State’s office will prescribe a form for use with the submission of supplementary part-petitions by an issue group when the original petitions are found to have an insufficient number of valid signatures. The Secretary of State’s office must make the form available in paper and electronic form simultaneously when notifying the issue committee that the original petition filing lacked sufficient valid signatures. Each issue group’s form will have a unique identifier, and supplemental signatures may only be collected on that form in the 10 days after the Secretary of State’s office has notified the issue group of the lack of sufficient valid signatures.36

- **Notify the chairperson of the petition committee of the insufficiency and provide an electronic and paper form of the supplemental petition form.**

- **Transmit the supplemental petition form to boards of elections.** Boards of elections must provide a paper or electronic copy of the form to any person upon request.37

## ADDITIONAL SIGNATURES

If the committee, or any person acting on behalf of the committee, submits additional signatures, the signatures must be on the supplemental petition form provided by the Secretary of State and only signatures that were signed and collected during the 10-day period to collect and submit additional signatures may be submitted.38

County boards of elections have eight days from receipt of supplemental signatures to verify their sufficiency and return them to the Secretary of State’s office. The Secretary of State’s office must determine the sufficiency of supplemental signatures by the 65th day before the election.39

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36 R.C. 3519.16(F).
37 R.C. 3519.05(D); R.C. 3519.16(F).
38 R.C. 3519.16(F).
39 R.C. 3519.16(F).
**CHALLENGES/PROTESTS**

The Ohio Supreme Court has original, exclusive jurisdiction over all challenges to state issue petitions and signatures on those petitions.\(^{40}\) No protests may be filed with county boards of elections concerning state issue petitions. Any challenge to a petition or signature shall be filed with Ohio Supreme Court not later than 95 days before the day of the election.\(^{41}\)

It is not proper for a county board of elections to be influenced in its validation of part-petitions or signatures contained on them by opinions, communications, or information not originating from the Secretary of State’s office or the board’s statutory legal counsel, its county prosecuting attorney.

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\(^{40}\) Art II, §1g of the Ohio Constitution; R.C. 3519.16

\(^{41}\) Art II, §1g of the Ohio Constitution
MISCELLANEOUS DUTIES

Directive 2019-33

SECTION 1.01 Security

As election officials, it is our duty to protect the security and integrity of Ohio’s elections. Each county board of elections is required to take the actions outlined in this Section to enhance its overall election security and protect its information technology (IT) systems.

THE ELECTION INFRASTRUCTURE INFORMATION SHARING AND ANALYSIS CENTER (EI-ISAC) & DHS RESOURCES

Ohio has established itself as a leader in cybersecurity with its participation in EI-ISAC. Every Ohio county board of elections has been a member of the EI-ISAC since July of 2018, and it is imperative that each board of elections remain a member.

The EI-ISAC is an elections specific sub-component of the Multi-State Information Sharing and Analysis Center (MS-ISAC) and is supported by the U.S. Department of Homeland Security (DHS). Active and continued participation provides county boards of elections with timely and actionable information regarding threats to your election information systems. Each board must update its information with the EI-ISAC after any staffing changes to ensure that the appropriate personnel receive and review emails. Each board should provide information received from the EI-ISAC to its county IT personnel. New board and staff members may register at https://learn.cisecurity.org/ei-isac-registration.

As a result of the DHS critical infrastructure designation, election officials can take advantage of a full menu of DHS resources for no additional cost. Election officials can obtain information on these resources and services by contacting DHS at NCCICCustomerservice@hq.dhs.gov.

1 https://www.dhs.gov/publication/election-security-resources
Each board of elections must continue to use the following two DHS services:

A. **Phishing Campaign Assessment (PCA).** This assessment is a “no cost six-week engagement ... that evaluates an organization’s susceptibility and reaction to phishing emails of varying complexity.” This service must be utilized annually by each county board of elections.

B. **Vulnerability Scanning.** This service provides “vulnerability scanning of Internet-accessible systems for known vulnerabilities on a continual basis as a no-cost service. As potential issues are identified, DHS notifies impacted customers so they may proactively mitigate risks to their systems prior to exploitation. The service incentivizes modern security practices and enables participants to reduce their exposure to exploitable vulnerabilities.” This service must be utilized weekly by each county board of elections.

**CENTER FOR INTERNET SECURITY (CIS) ELECTIONS INFRASTRUCTURE PLAYBOOK**

Directive 2018-15 required each board of elections to review the CIS checklist and create an Elections Infrastructure Security Assessment (EISA). In order to advise and assist the board in fulfilling this duty, counties contracted with “pathfinder” consultants. Each board of elections was required to provide a copy of its EISA to the Secretary of State’s office and make “best efforts” to address “High Priority” items prior to the November 6, 2018 General Election and address “Medium” items “as soon as reasonably practicable.”

Based on the Secretary of State’s review of the EISA, there are still a number of “High Priority” items that boards of elections have not addressed. Each board of elections is required to address and mitigate all “High Priority” items contained in the EISA no later than January 31, 2020. Additionally, the Technical Security Document, which accompanied Directive 2019-08, contains additional details regarding these items that each board must review thoroughly.

**SECURING ONLINE CAPABILITIES – TLS/SSL, CLOUDFLARE, AND GOOGLE PROJECT SHIELD**

A. **TLS/SSL Certificates.** TLS/SSL certificates are inexpensive and increase the security of data being transferred between a user and the website and reduce the risk of the website being flagged as not secure. Each county board of elections must continue to utilize TLS/SSL certificates for any publicly facing or internal web-

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3 TLS/SSL: “transport layer security” formerly commonly known as “secure socket layer” for use with online communications through secure hypertext transfer protocol, or https
4 [https://security.googleblog.com/2018/02/a-secure-web-is-here-to-stay.html](https://security.googleblog.com/2018/02/a-secure-web-is-here-to-stay.html)
based applications (e.g., the county board of elections’ website) and ensure that its existing certificates do not expire.

B. **Cloudflare Athenian Project.** Cloudflare provides a suite of services to elections officials for no additional cost. These services, collectively referred to as the “Athenian Project,” include Distributed Denial of Service (DDoS) attack protection, web application firewall (WAF) with pre-built and custom rulesets, rate limiting, “Under Attack” emergency support, and 24/7/365 phone, email, and chat support. Each county board of elections is encouraged to consider whether participation in Cloudflare’s Athenian Project would be of benefit to the board. Additional information and an enrollment form are available at [https://www.cloudflare.com/athenian-project/](https://www.cloudflare.com/athenian-project/+).

C. **Google Project Shield.** Google offers a DDoS protection service, Project Shield, to elections officials for no additional cost. Project Shield provides advanced DDoS protection by filtering harmful traffic and absorbing traffic through caching. County boards of elections are encouraged to use Google’s Project Shield. Additional information and an enrollment form are available at [https://projectshield.withgoogle.com/public/](https://projectshield.withgoogle.com/public/+).

All board of elections websites must utilize either Cloudflare or Google Project shield services to protect the board of elections websites.

The Technical Security Document and Ohio Mandatory Security Measures Checklist accompanying Directive 2019-08 provide additional details regarding the requirements contained within this Section. The Technical Security Document and the Ohio Mandatory Security Measures Checklist are security records for official use only and are not subject to disclosure as a public record pursuant to R.C. 149.433. All items in the Technical Security Document and the Ohio Mandatory Security Measures Checklist are an extension of this Section.

**ADDITIONAL SERVICES FROM DHS⁵ & TABLETOP EXERCISE (TTX)**

Each board of elections is **required** to utilize the following additional services from DHS at no additional cost prior to each general election in even-numbered years. Election officials can contact DHS to obtain information on these resources and services at [NCCICCustomerservice@hq.dhs.gov](mailto:NCCICCustomerservice@hq.dhs.gov).

A. **Risk and Vulnerability Assessment.** This onsite assessment gathers data and “combines it with national threat and vulnerability information” to detect

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⁵ The CISA Election Infrastructure Security Resource Guide sets forth these resources and provides additional information regarding them.
vulnerabilities in network security. After completing the assessment, DHS provides a final report with its findings and recommendations for improving network security controls.

B. **Remote Penetration Testing.** DHS provides this service remotely to identify vulnerabilities in externally accessible systems. After completing testing, DHS provides a final report with its findings and recommendations.

C. **Validated Architectural Design Review.** This review is designed to develop a detailed representation of the communications and relationships between devices to identify anomalous communication flows. Following the review, a participating organization will receive a report that includes discoveries and recommendations for improving organizational operations and cybersecurity.

D. **Cyber Threat Hunt.** DHS will perform an in-depth review on site at the board of election to determine if a network compromise has occurred.

If critical vulnerabilities are identified based on these services, the board must immediately remediate no later than 30 days after they have been identified.

**USE OF .GOV DOMAIN NAME**

Each board of elections must use a domain name ending in “.gov” for its board of elections’ website. All email addresses used to conduct board of elections official business must end in “.gov”. Boards of elections continuing to use a “.us” domain or email address must have a written transition plan on file with the Secretary of State’s office to transition both the email and the website address to a “.gov” address no later than July 1, 2020. No board of elections’ member, director, deputy director, or employee is permitted to use an email address from an email service provider (e.g., Gmail, Yahoo, Hotmail, etc.) or internet service provider (e.g., AT&T, Comcast, etc.) to conduct board of elections official business.

**ASSESSMENT AND ANNUAL TRAINING ON CYBERSECURITY AND PHYSICAL SECURITY**

Each board of elections must train its staff annually on cybersecurity. Each board is required to use the programs set forth in the Technical Security Document that accompanied [Directive 2019-08](#). The programs cover topics such as knowing how to detect a phishing email, the importance of using strong passwords, and general cybersecurity awareness.

Each board of elections must complete a DHS physical security assessment, which is offered at no cost. Through onsite “Assist Visits” followed by web-based Infrastructure Survey Tool (IST) security surveys, DHS performs assessments of the physical security of any facility used by a board of elections, identifies security gaps, and recommends
improvements. The board of elections should carefully review the DHS assessment report and consider the recommendations for improved security.

The board must also train its staff on the board’s physical security practices and policies. Requirements for securing the board of elections’ office, voting equipment, and ballots are outlined in Chapter 2, Section 1.07, of the Ohio Election Official Manual. Each board must review these requirements and ensure that its practices meet or exceed the requirements set forth in the Election Official Manual.

**CRIMAL BACKGROUND CHECKS**

All permanent board of elections employees and vendors or contractors that perform sensitive services for the board of elections are required to have a criminal background check conducted. “Sensitive services” means those services that (i) require access to customer/consumer/agency employee information, (ii) relate to the board of election or Secretary of State’s computer networks, information systems, databases or secure facilities under circumstances that would permit modifications to such systems, or (iii) involve unsupervised access to secure facilities (sensitive services).

Vendors and contractors may be required to pay for any background check services or may attest that a background check has been completed, and that no ineligible criminal offenses have been committed. Each board must have a policy that sets forth the procedures for reviewing background checks and determining whether any convictions should bar employment.

**CENTER FOR INTERNET SECURITY (CIS) GUIDE FOR ENSURING SECURITY IN ELECTIONS TECHNICAL PROCUREMENTS CONTRACT REQUIREMENTS**

Each board of elections must follow the CIS Guide for Ensuring Security in Elections Technical Procurements and include any applicable contract requirements in any contract that the board enters into with IT vendors. These requirements govern the security requirements involving externally hosted contractor information systems, information systems hosted in board of elections’ or county facilities that directly connect to the board of elections’ network, cloud information systems, or mobile applications.

**DOMAIN-BASED MESSAGE AUTHENTICATION, REPORTING & CONFERENCE (DMARC)**

DMARC is an email service that assists email users with identifying whether an email is from a legitimate source and helps prevent email spoofing. Email spoofing involves forging the sender’s address and tricking the recipient into thinking the email is from a
legitimate source. DMARC can be used with your county’s existing inbound email authentication process. DMARC must be configured to either require the rejection or quarantine of any messages that fail DMARC.

Each board of elections is required to begin utilizing this service no later than January 31, 2020. Additional information on using DMARC is found here: https://cyber.dhs.gov/bod/18-01/#introduction-to-email-authentication.

SECTION 1.02 Security Reporting

Over the last several years, local, state, and federal partners have worked diligently to enhance the security of Ohio’s election infrastructure. Despite this community’s vigilance, “security events” (a broad term that can encompass everything from a pulled fire alarm at a school, a vehicular accident that takes out an electric pole and electricity to a polling place, to severe weather events, and more) can still occur.

The purpose of this section is to define the types of “security events” that must be reported to the Secretary of State’s office and to provide a streamlined reporting mechanism for doing so.

TECHNICAL POINT OF CONTACT

Each board of elections must identify a Technical Point of Contact (TPOC). This TPOC can be an employee of the board of elections, or if the board of elections contracts for external IT support services provided either by the county or a third party, an employee of that contracted organization. The board must notify the Secretary of States’ office anytime there is a change in the board’s TPOC including to any of the TPOC’s contact information.

REPORTING

If a security event occurs in your county, you must immediately notify the Secretary of State’s office. This notification must occur as soon possible even if the event occurs outside of normal business days or hours. In order to streamline the reporting of any security events, you must use the email address contained in Directive 2019-07 to relay the relevant information. If you are unable to relay the information via email, you must follow the instructions outlined in Directive 2019-07. Even if local law enforcement or other first responders are aware of your security event, it is the responsibility of the local election officials to report the nature of the event to our office using this email address anytime that a security event occurs. This reporting requirement applies year-round.
TYPES OF EVENTS

The following is a list of possible “security events” that must be reported to our office; this list is not exhaustive. If you do not know whether an event is required to be reported, it is best to report it.

1. Unauthorized entry or attempts to gain unauthorized access to storage facilities, polling places, early vote centers, and/or offices of the board of elections (regardless of whether on private or public property that is used by the board of elections).

2. Incidents of phishing\(^6\), including spear-phishing\(^7\), or attempts to hack county voter registration systems or websites, including similar efforts against seemingly unrelated county government entities.

3. Attempts to access, alter, or destroy systems used to qualify candidates; produce and deliver ballots; procure, manage and prepare voting equipment; process request for absentee ballots; and store and manage administration process and procedure documentation.

4. Unauthorized access or attempts to access, or unexplained inaccessibility or unavailability of, IT infrastructure or systems used to manage elections, including systems that count, audit, or display election results on election night and systems used to certify and validate post-election results.

5. Attempts to hack, phish, or compromise personal or professional email accounts and social media accounts of elections officials, staff, and precinct election officials.

6. Hacking attempts or successful hacks into political party or candidate headquarters or IT systems, including email.

7. Attempts to access, hack, alter, or disrupt infrastructure to receive and process absentee ballots through tabulations centers, web portals, email, fax machines; attempts to interfere with votes sent through the U.S. Postal Service.

\(^6\) Phishing is the fraudulent practice of sending emails purporting to be from reputable companies in order to induce individuals to reveal personal information, such as passwords and credit card numbers.

\(^7\) Spear-phishing is the fraudulent practice of sending emails ostensibly from a known or trusted sender in order to induce targeted individuals to reveal confidential information.
8. Compromises of any networks and/or systems, including hardware and/or software, to include tactics, techniques, procedures and impact observed on election-related networks and systems; evidence of interference detected on county networks or systems for cyber security indicators of compromise.

9. Attempts to persuade an elections official to engage in illegal activity or deviate from established practices in an effort to impact the administration of the election.

10. Instances of any unexplained disruption at a polling place or training location for precinct election officials, including early voting locations, which block or inhibit voter participation. Disruptions may include social media posts or robocalls or texts reporting closed or changed polling places, or physical incidents at polling places, including distribution of false information.

11. Disinformation efforts to alter or shutdown government web sites to foment social unrest or alter voter participation (including via social media or other electronic means).

12. Unauthorized entry of centralized vote counting/tabulation locations or electronic systems or networks used by board of elections to count voted ballots.

13. Impacts to critical infrastructure that limit access to polling places or information from elections officials, such as power, natural gas, water, internet, telephone (including cellular), and transportation (including traffic controls) outages.

Section 1.03 Vacancy in Elective Office

A vacancy in a public elective office can be caused by the death, resignation, suspension, or removal of the holder of the office before the current term has expired. The vacancy usually is filled initially by appointment in accordance with the relevant legal provisions. The vacancy in office also may require the holding of an election for the remainder of the unexpired term, depending on: 1) the particular office in which the vacancy has occurred, and 2) when the vacancy occurred.

Various provisions of the United States Constitution, Ohio Constitution, Ohio Revised Code, and home rule charters set forth procedures for filling a vacancy in a particular office by appointment, either for the remainder of the term or until an election is held to select someone to serve for the remainder of the unexpired term.

When a vacancy occurs in a county office, the board’s director provides notice of the party’s right to make an appointment to fill the vacancy to the central committee of the political party with which the outgoing office holder is affiliated.
A board may use Secretary of State Form 292 (Certification by Director of Board of Elections as to Political Party Affiliation of the Last Occupant of a County Office) to do so.

**APPOINTING AUTHORITY’S DUTY**

1. **Generally**
   
   It is the duty of the entity entitled to appoint a person to a vacancy in office to determine what legal provisions apply to the appointment and to take the appropriate action. Examples of entities that have appointing authority under state law include, but are not limited to, a legislative authority of a municipal corporation, a village mayor, a board of township trustees, the county central committee of a political party, a school board, etc.

2. **Notice of Appointment to Election Officials**
   
   When an elective office becomes vacant and is filled by appointment, the appointing authority shall immediately, but no later than seven days after making the appointment, certify it both to the board of elections and the Secretary of State.

   The Secretary of State has prescribed a form, Certification by Party Central Committee to Fill a Vacancy in County Office or City Office (Form 291) that the appropriate committee of a political party may use to give notice to election officials that a vacancy in city or county office has been filled by appointment.

   Other appointing authorities must prepare a written notice of an appointment and certify that notice to the board of elections.⁸

**BOARD OF ELECTIONS POST-APPOINTMENT DUTIES**

1. **Issue Certificates of Appointments**
   
   The board of elections (or, in the case of an appointment to a statewide office, the Secretary of State) must issue a certificate of appointment to the appointee. Certificates of appointment shall be in the form prescribed by the Secretary of State, using Form 155-B (Certificate of Appointment to Fill Vacancy in Elective Office).⁹

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⁸ R.C. 302(B).
⁹ R.C. 302(B).
2. **Submit Documents and Fee for Governor’s Commission**

Persons appointed to any county office or to a judgeship also must receive a governor’s commission before entering upon the duties of the office.\(^\text{10}\)

The board of elections must collect from any person appointed to one of those offices the commission fee mandated by **R.C. 107.06**. The fee for the commission is $5, except in the case of county court judges\(^\text{11}\) for whom it is $2.

**Note:** “County court” is defined in **R.C. 1907.01**. A court of common pleas is not the same as a “county court;” therefore, a judge of a court of common pleas pays the $5 commission fee.

The board then sends to the Elections Division of the Office of the Secretary of State the following materials:

- the appropriate commission fee collected from the appointee, (checks are acceptable as long as the check is not issued to or signed by a board of elections’ employee)
- the notice of appointment executed by the appointing authority,
- the certificate of appointment executed by the board of elections, and
- any other necessary documentation (for example, **Form 292**, Certification by Director of Board of Elections as to Political Party Affiliation of the Last Occupant of a County Office, if applicable).

The Secretary of State’s office will obtain a governor’s commission for the appointee and mail it to the clerk of the court of common pleas in the county where the appointee lives. The clerk will deliver the commission to the appointee.\(^\text{12}\)

**Section 1.04 Recall or Removal from Office**

Recall is the procedure that allows voters to decide whether to remove (recall) a municipal official holding elective office. The use of recall is significantly limited. First, it is available only in a municipality whose voters have adopted both 1) a form of limited home rule – that is, a charter or one of the plans of government outlined in **Chapter 705 of the Revised Code** – and 2) the recall process as part of that home rule government.\(^\text{13}\)

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\(^{10}\) **R.C. 107.05**  
\(^{11}\) **R.C. 1907.01**  
\(^{12}\) **R.C. 107.07**  
\(^{13}\) *Lockhart v. Boberek* (1976), 45 Ohio St.2d 292, **R.C. 705.91-92**
Note: Recall is not available in a statutory municipality or in a limited home rule municipality that has not adopted the recall process. Additionally, recall is not available for state, township or district offices, or for county offices, except in a county that has adopted a limited home rule charter that specifically provides for the recall.

Additional details on the recall process may be found in the Ohio Ballot Questions & Issues Handbook.

REMOVAL – ALL PUBLIC OFFICES

The General Provisions of the Revised Code provide that any person holding a public office in this state, or in any municipal corporation, county, or subdivision thereof, coming within the official classification in Section 38 of Article II of the Ohio Constitution may be removed by judicial action for good cause shown. In order to be removed from office, a public officer must be found guilty by a court of competent jurisdiction of misconduct in office for one or more of the following reasons:

- Willfully and flagrantly exercising authority or power not authorized by law.
- Refusing or willfully neglecting to enforce the law or to perform any official duty imposed upon the public officer by law.
- Gross neglect of duty.
- Gross immorality.
- Drunkenness.
- Misfeasance.
- Malfeasance.
- Nonfeasance.\(^\text{14}\)

Additional details on initiating a judicial action for removal may be found in the Ohio Ballot Questions & Issues Handbook.

\(^{14}\) R.C. 3.07
REMOVAL – PUBLIC OFFICIALS WITH FISCAL DUTIES

There are also provisions in Ohio law that provide for the removal of a person who holds a public office with fiscal duties. These public offices include: county auditors, county treasurers, township fiscal officers, village fiscal officers, village-clerk treasurers, village clerks, city auditors, city treasurers, and fiscal officers of chartered municipalities who have duties and functions similar to the city or village fiscal officers of statutory municipalities. A person holding one of these offices may be removed for:

1. Purposely, knowingly, or recklessly failing to perform a fiscal duty expressly imposed by law with respect to the fiscal duties of the office; or
2. Purposely, knowingly, or recklessly committing any act expressly prohibited by law with respect to the fiscal duties of the office.

This type of removal is initiated by the filing of a sworn affidavit and evidence with the Auditor of State by a person or persons authorized by law to file such an affidavit and evidence. The person or persons authorized by law to file an affidavit and evidence are:

- The county treasurer or county commissioner against the county auditor;
- A county commissioner or county auditor against the county treasurer;
- Four residents of a township against a township fiscal officer; and
- A member of the legislative authority of a municipality against a village or city fiscal officer.

An individual with questions regarding this removal process might want to consult with private legal counsel, the county prosecuting attorney (for county and township officials), legal counsel for the municipality (for municipal officials), or the Office of the Auditor of State.

REMOVAL – MUNICIPAL OFFICER

Additionally, a judicial complaint can be filed against a municipal officer pursuant to R.C. 733.72. This method for removal is available only when the municipal officer is receiving illegal compensation for services, has a private interest in a city contract, or is guilty of misfeasance or malfeasance in office.
The complaint is filed with the probate judge of the county in which the municipality or
the larger portion the municipality is located.

An individual with questions on removing a municipal officer under R.C. 733.72 might
want to consult with private legal counsel.

Section 1.05 Advisory Elections

An advisory election is a non-binding election on a question that municipal officials
submit to the electorate to gauge voter attitudes on a particular topic. An advisory
election is not intended as a substitute for the election on a municipal ordinance,
resolution, charter amendment, or other measure. Rather, the advisory election only
tests the appeal of the proposed legislation, with a second election on the legislation
itself to follow, if municipal officials so choose.21

Please note that only a municipality may conduct an advisory election; an advisory
election may not be held by any other political subdivision (e.g., state, county, township,
school district, etc.).

When municipal officials certify an advisory question to the board of elections, the
board should review the municipality’s charter, if it has one, to determine whether the
charter prohibits an advisory election. If the charter does not specifically prohibit an
advisory election, the board should proceed with the election. If the charter appears to
prohibit the advisory election, the board should consult with its legal counsel, the
county prosecuting attorney.

The heading “Advisory Election” must be placed on the ballot for an advisory election.

Section 1.06 Voter File for Commissioner of Juries

On the date ordered by the common pleas court, the director of the board of elections
shall prepare the current voter file for the county and file it with the commissioner of
jurors.

The file compiled by the board of elections must include all electors registered in that
county for the most recent general election regardless of active status (i.e., include
voters in both active-active and active-confirmation status), except that the board of
elections must remove from the file any elector who has not voted in at least one
election during the preceding four calendar years. In addition, the list may not include
any elector who has a confidential voter record under the Safe At Home program.22 The
file layout must include only full name, registration address, and date of birth, unless

21 In State ex rel. Bedford v. Cuyahoga Co. Board of Elections (1991), 62 Ohio St.3d 17, the Court held that Article XVIII, Section 3 of the Ohio Constitution
(commonly referred to as the “home rule” provision) grants a municipality the authority to hold an advisory election, absent a specific prohibition
against holding such an election in the municipality’s charter, the Ohio Revised Code, or the Ohio Constitution.
22 R.C. 2313.06(A)(1)(b) by R.C. 111.44.
additional information is specifically requested. The file should be transferred in as secure a manner as possible.

In the event that a board does not have a standard report that meets these statutory requirements, it must contact your county voter registration system vendor to create one.

Section 1.07 Precinct Election Official Evaluations

To ensure that the performance of precinct election officials (PEOs) can be fairly and consistently assessed, all boards of elections must adopt local performance standards along with uniform and non-discriminatory evaluation methods for their precinct election officials. Following are the minimum standards a board must use for monitoring and assessing the performance of their precinct election officials as a means to ensure the public that the precinct election officials have met the board’s minimum standards in performing their duties for the public. These minimum standards also apply to those elections officials conducting in-person absentee voting.

OPENING AND CLOSING OF POLLING PLACES

- Did the polling location open and close on time;
- Did the PEOs print and appropriately sign a zero tape(s) and summary report(s);
- Did the PEOs sign the oath; and
- Did the PEOs open and close correctly the voting machines?

SELF-REPORTING OF PROBLEMS

- Did the PEOs follow required procedures for reporting any voting machine/device issues to the board, and
- Did the PEOs follow required procedures for reporting if/when the ballot supply ran low to the board?

HANDLING OF PROVISIONAL BALLOTS

- Did the PEOs issue properly provisional ballots to voters, including directing wrong-polling location voters to the correct location?

RECONCILIATION AFTER POLLS ARE CLOSED

- Did the PEOs complete their reconciliation duties, and
- Did the PEOs sign the reconciliation certification document?
Section 1.08 Election Administration Plans

Each board of elections is required to create an Election Administration Plan (EAP) prior to each even-numbered year general election and prior to each presidential primary election. The Secretary of State’s office is providing an EAP template for use by each board of elections. To promote consistency in plan content and format among all 88 county boards of elections, each board MUST use this template when drafting its plan. Additional information beyond the categories in the template is acceptable, so long as the additional information is provided as an addendum and not commingled with the response to the template categories.

Detailed election administration planning is something that each board of elections should do prior to any election, not just federal elections. The EAP template pinpoints the most important election administration action-items for the board’s consideration as it builds its plan to execute the election. The board should look at the EAP process not just as a critical planning exercise, but also as an opportunity for continuous process improvements.

Each board must submit an EAP to the Secretary of State’s office 60 days before each statewide presidential primary election and 120 days before each statewide general election in even-numbered years.

Below is an outline of the template that each board of elections must use when drafting its EAP. Adhering to the substance and format of this template ensures that counties are well-prepared to execute their elections administration duties.

The EAP must contain thirteen sections, organized as follows:

1. Precinct Election Official Recruitment, Training, and Accountability,
2. Resource Allocation,
3. Pre-Election Day and Election Day Communication Plan,
4. Materials,
5. Contingencies and Continuity Planning,
6. Security,
7. Voter Registration,
8. Absentee Ballots,
9. Polling Places and Accessibility,
10. Ballot Preparation,
11. Pre-Election Testing,
12. Reconciliation and Audits, and
13. Master Calendar.

Each board must submit this completed template as its EAP. A submission may include additional content, but must, at a minimum, include the items designated in the template. The response “not applicable” is unacceptable for any portion of the template.

The EAP must be signed by the board members, director, and deputy director and submitted to the Secretary of State’s office no later than 60 days before each statewide presidential primary election and 120 before each statewide general election in even-numbered years. The template containing an outline of the required content of the EAP will be provided to county boards of elections via email not later than 60 days prior to the deadline for submission to the Secretary of State’s office.

In order to assist this office with the processing of public records requests, each county must submit its EAP electronically, as one unrestricted PDF file. Additionally, each county must submit a second electronic file of the same document, also as an unrestricted PDF, with specified portions redacted as may be permitted under Ohio’s public records laws. Each redaction must cite to the relevant legal authority and be reviewed and approved by your county prosecuting attorney. This office will use the second, redacted electronic file to respond to public records requests for copies of an EAP.

Each county must send its EAP by email to elections@OhioSOS.gov.

Section 1.09 Voter Access to Public Information

Each board of elections must offer the following minimum look-up tools on its website:

**VOTER REGISTRATION STATUS**

This functionality must allow a voter to identify the address within the county at which the voter is registered to vote. A successful search result must offer a link to the Secretary of State’s Online Voter Registration System in the event the voter must update the voter’s registration address. An unsuccessful search (i.e., the voter cannot be found in the county’s voter file) must offer a link both to the voter registration form and the Secretary of State’s Online Voter Registration System. This search functionality must be available to voters throughout the year. Boards of elections must continue to ensure that registration updates made in the county voter registration system (e.g., new registrations, changes of name, changes of address, etc.) are promptly sent to the Statewide Voter Registration Database.

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23 The confidential voter record of a Safe at Home participant is not public record and may not be included in this lookup function. R.C. 149.43(A)(1)(ee)
ABSENTEE BALLOT STATUS

This functionality must allow all absentee voters in the county to identify the status of their absentee ballot from the date of application to the date the ballot was accepted for counting. Specifically, a successful search result must provide the voter with the following information:

- The date the voter’s absentee application was approved;
- The date the voter’s approved absentee application was processed by the board of elections (i.e., the date the board of elections mailed the ballot or otherwise issued it);
- The date the voter’s voted absentee ballot was received by the board of elections; and
- The date the voter’s voted absentee ballot was accepted for counting (or, if not accepted for counting, the reason it was determined to be ineligible for counting and the deadline by which the voter may correct any deficiency).

This search functionality must be available to voters beginning at least the 46th day before an election through the 35th day after that same election.

POLLING PLACE LOOKUP

This functionality must allow a voter to identify the correct polling location assigned to the voter based upon the address at which the voter is registered to vote. Optional functionality may offer a link to online directions (e.g., Google, MapQuest, etc.) from the voter’s registration address to the address of the correct polling location assigned to the voter. This search functionality must be available to voters throughout the year. Boards of elections must continue to ensure that registration updates made in the county voter registration system (e.g., changes to precinct assignments or changes to polling location locations, addresses, names, etc.) are promptly sent to the Statewide Voter Registration Database.

SAMPLE BALLOT

This functionality must allow a voter to view and print the correct sample ballot assigned to the voter for the upcoming election based upon the address at which the voter is registered to vote. This search functionality must be available to voters beginning the 46th day before the election.

ADDITIONAL REQUIREMENTS

Because election information changes from time to time, it is important that each board establish regular intervals by which the information necessary to populate the lookup...
tools established above is updated. Any change to a voter’s registration information or absentee ballot status must be reflected in the lookup tool each business day. Any changes to the location of a polling location or to a sample ballot must be reflected promptly in the lookup tool.

Boards of elections must make the necessary arrangements to ensure that the IT infrastructure supporting its website and these lookup tools, as well as the internet “path” to them, are sufficiently robust and stable to support the traffic during peak election periods. Boards of elections should procure the appropriate personnel and resources (e.g., county Automatic Data Processing board personnel and other county or elections IT staff, county voter registration system vendor, local internet service provider personnel, etc.) to ensure that the board’s online presence is scaled and supported appropriately to meet presidential-year activity levels.

The voter information discussed here is derived from public records as defined in state law. However, each board of elections must take all necessary steps to ensure that industry-standard security protocols for its website and lookup tools are implemented and followed. Boards should procure the appropriate resources (see above) to do so.

Each board of elections’ website must have these baseline online voter information access tools with the end user – the voter – in mind. Each board needs to evaluate the following:

- Are users easily able to find the correct site when using online search engines (e.g., Google, Yahoo!, etc.);
- Are users easily able to navigate within the board of elections’ own website (e.g., are links clearly labeled, is the content organized, and does it use plain language whenever possible); and
- Is the information easily displayed using various platforms (i.e., PC vs. mobile; iPhone vs. Android; Internet Explorer vs. Chrome)?

Boards of elections must work to ensure that its website and these baseline online voter information access tools can be accessed effectively and used by voters with disabilities.
Chapter 16: RESOURCES

The following resources are available on the Secretary of State’s website.

1. **Beginning Terms of Office**
   

2. **Filling Vacancies in Public Elective Offices**
   

3. **Secretary of State Retention Chart for Boards of Elections**
   

4. **Directive 2008-80**
   

5. **Ohio Secretary of State’s Ethics Policy**
   