



## **DIRECTIVE 2020-20**

September 12, 2020

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

Re: *Ohio Democratic Party, et al. v. LaRose* Litigation

### **BACKGROUND**

This Directive informs county boards of elections that the Franklin County Court of Common Pleas issued a decision in *Ohio Democratic Party, et al. v. LaRose*, Case No. 20CV4997 (Franklin County Court of Common Pleas September 11, 2020), which dealt with “interpreting R.C. 3409.03<sup>1</sup> as prohibiting qualified electors from making applications for an absentee ballot by emailing an image of their application to their county board of elections or by other viable electronic form, such as facsimile machine.”

The judge granted the Plaintiffs’ Motion for Preliminary Injunction. “Plaintiffs moved the court for a preliminary injunction against the Secretary of State: from enjoining the enforcement of the Secretary of State[’]s interpretation of R.C. 3509.03 as prohibiting voters from making their application for an absentee ballot by emailing an image of their request to the director of the county board of elections, or by other viable electronic [sic] forms of transmission, in contravention of the plain terms of R.C. 3509.03.”<sup>2</sup>

The Secretary of State filed an emergency appeal with the Tenth District Court of Appeals. The Tenth District Court of Appeals granted an emergency stay of the judge’s order. As a result, the judge’s order is ***not currently in effect***.

### **INSTRUCTIONS**

As long as the Tenth District Court of Appeals’ stay is in effect, and consistent with [Directive 2020-12](#) and the extensive cyber security training, bulletins, and education the Ohio Secretary of State’s Office provided each board of elections, each board is ***prohibited*** from opening any electronic attachment from an unknown source or an unexpected source.<sup>3</sup>

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<sup>1</sup> The Decision and Entry on Plaintiff’s Motion for Preliminary Injunction incorrectly cites the law. The correct citation is R.C. 3509.03, which contains Ohio’s election laws. R.C. 3409.03 is a nonexistent statute.

<sup>2</sup> *Ohio Democratic Party, et al. v. LaRose*, Case No. 20CV4997 (Franklin County Court of Common Pleas September 11, 2020).

<sup>3</sup> This prohibition is notwithstanding the boards of elections’ routine process for receiving UOCAVA applications.

Additionally, boards must segregate, separate, or quarantine any electronically submitted attachment, document, or record from an unknown source or an unexpected source. The Ohio Secretary of State's Office will update the boards of elections on the status of appeal as soon as possible. Each board of elections must share this Directive with its legal counsel, the county prosecuting attorney, and its technical point of contact.

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

Yours in service,



Frank LaRose  
Ohio Secretary of State