



DIRECTIVE 2020-26

December 23, 2020

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

Re: Appointments to the Board of Elections in Each County for Full Terms
Commencing March 1, 2021; Board's 2021 Reorganization

SUMMARY

This Directive describes the process for county party executive committees to submit to the Secretary of State candidates for board of elections appointments for full terms beginning March 1, 2021. The Secretary of State's Office must receive those submissions between January 1 and February 16, 2021.

Each board of elections must forward a copy of this Directive, with the attached Secretary of State ethics policy, to the Democratic and Republican Party Executive Committee chairpersons of their county.

This Directive also describes the process for the boards of elections' reorganization, which must occur between March 2 and March 6, 2021.

INSTRUCTIONS

I. APPOINTMENT PROCEDURE

Every odd-numbered year, 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 of that year.¹ Each board of elections must forward a copy of this Directive, with the attached ethics policy, to the Democratic and Republican Party Executive Committee chairpersons of the county.

The county executive committees of the two major political parties may file a recommendation with the Secretary of State for the appointment of a qualified elector of the county to serve as a board member. If the executive committee fails to make a recommendation, the Secretary will make the appointment. Statutorily, the Secretary of State has long had the authority to reject the recommendation if the Secretary has reason to believe that the elector would not be a competent member of the board. That extends to the Secretary's discretion to deny re-appointment to current board members who have not demonstrated commitment to their duty or competence in service to the voters of their county.² If a recommendation is rejected, the Secretary of State will

¹ [R.C. 3501.06\(B\)\(2\)](#).

² *State ex rel. Ashtabula Cty. Democratic Executive Comm. v. LaRose*, 160 Ohio St.3d 1442, 2020-Ohio-5061.

state his decision in writing to the chairperson of the county executive committee, with the reasons for rejection. The executive committee may then recommend another person for appointment.³

By law, the executive committee must hold its meeting regarding the 2021 appointments no earlier than **December 30, 2020**, and no later than **February 13, 2021**.⁴

Electors recommended for appointment, including current board members seeking re-appointment, must undergo a background check.⁵ To facilitate the background checks, all persons 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 disqualifies an individual from serving as a member of a board of elections.

While the form is available on the Secretary of State's website, a version of [Form 307](#) that can be electronically submitted is attached to this Directive for each prospective member to complete. Applicants should use Adobe Reader to complete this form and submit it by selecting the "submit" button at the bottom of the form. After electronically submitting and printing the form, the prospective member must sign the form and provide it to the executive committee for submission with the other documentation outlined below.

To ensure that our Office has sufficient time to review and process the paperwork for each elector recommended for appointment, boards must request that each executive committee submit its recommendation to the Secretary of State's Office on the forms referenced in this Directive no later than **February 16, 2021**.

County party executive committees must submit all of the following properly completed documents by scanning and attaching the forms to an email to BoardInfo@OhioSoS.gov:

- Executive Committee Recommendation for Full Term Appointment ([Secretary of State Form No. 306](#)), to be completed by the Chairman and Secretary of the Executive Committee and the prospective appointee;
- Questionnaire and Background Check Disclosure, Authorization and Release for Prospective Appointment as a Member, Director or Deputy Director of the Board of Elections ([Secretary of State Form No. 307](#)), to be completed by the prospective appointee; and
- 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.).

³ [R.C. 3501.07](#).

⁴ [R.C. 3501.07](#), [H.B. 404](#) (133rd General Assembly) extends until July 1, 2021, the temporary authorization for public bodies to hold and attend meetings and hearings by means of teleconference, video conference, or any other similar electronic technology.

⁵ [Election Official Manual Chapter 2, page 3](#).

Each elector appointed as a member of a board of elections will be notified by mail and provided a certificate of appointment and oath of office. The appointee must take and subscribe to the oath before a person authorized to administer oaths. A signed statement attesting to having taken the oath must be filed with the clerk of the court of common pleas not later than 15 days after the date of appointment.⁶

II. REORGANIZATION

Boards of elections must reorganize within five days of the Secretary of State’s appointment of members for the upcoming term. **Boards must schedule the reorganization meeting between March 2 and March 6, 2021.**⁷

Note: The Secretary of State does not perform background checks for Directors and Deputy Directors. To conduct background checks prior to appointing or hiring Directors, Deputy Directors, and other staff, the board should consult with the county prosecuting attorney and the county sheriff.⁸

A. STEPS FOR CONDUCTING THE REORGANIZATION MEETING

Step 1: 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.

Step 2: 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.
- If, after five ballots, no person receives the three affirmative votes required for selection as the Director, the board shall submit the matter to the Secretary of State as described below.

Step 3: 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.⁹

⁶ [R.C. 3501.08.](#)

⁷ [R.C. 3501.09.](#)

⁸ [Election Official Manual Chapter 2, page 6.](#)

⁹ [R.C. 3501.09.](#)

- **A majority** of three affirmative votes is necessary to select a Deputy Director.
- If, after five ballots, no person receives the three affirmative votes required for selection as the Deputy Director the board shall submit the matter to the Secretary of State as described below.
- If the board members do not nominate a Deputy Director at this time, 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.

Step 4: 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.¹⁰
- 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.¹¹

B. 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 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 one from the list submitted. However, if the Secretary of State has reason to believe that no person nominated is qualified, the Secretary will state that determination in writing to the board. The board must then nominate other persons in the same manner as the original persons were nominated.¹²

C. OATH OF OFFICE

Before entering 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 the 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.¹³ The signed statement attesting to having taken the oath must be kept on record at the board of elections office.

¹⁰ [R.C. 3501.09](#).

¹¹ [R.C. 3501.09](#).

¹² [Election Official Manual, Chapter 2, pages 9 - 10](#).

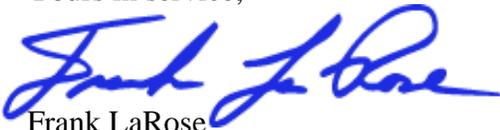
¹³ [R.C. 3501.13](#) and [3501.14](#).

D. REPORT OF REORGANIZATION

After the reorganizational process, the board must submit a completed report of its reorganization meeting to the Secretary of State's Office: [Secretary of State Form 308](#) for all Chairpersons, Directors, and Deputy Directors, and the Ethics Policy Acknowledgement Form ([Secretary of State Form 350](#)) for any non-incumbent Director, Deputy Director, or board member. These forms must be completed and returned to the Secretary of State's Office **no later than March 8, 2021** by scanning and attaching the forms to an email to BoardInfo@OhioSoS.gov.

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

Yours in service,



Frank LaRose
Ohio Secretary of State