



Chapter 1: INTRODUCTION

Directive 2022-05

Section 1.01 Oath of Office

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 _____.



Section 1.02 Laws

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 Act², the Military and Overseas Voter Empowerment Act³, 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.

Sections of the Ohio Revised Code are cited throughout this manual as “R.C.”

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.



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 at <https://codes.ohio.gov/ohio-revised-code>.

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 at <https://codes.ohio.gov/ohio-administrative-code>.

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.

Section 1.03 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.⁸

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 third 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

⁷ <https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions>.

⁸ R.C. 3501.01(A)-(C).



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.⁹

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.

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.¹⁰

Sometimes, the law calls for a special election when there is a vacancy in the office of U.S. Representative. In that event, the Governor may call a primary or general election for the election of a candidate to the vacant office 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

⁹ [R.C. 3501.01\(E\)\(1\)-\(2\)](#).

¹⁰ [R.C. 3501.01\(D\)](#).



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.

NOTIFICATION

Boards of elections must notify the Secretary of State's Elections Division of an election that is set to take place in a charter municipality outside of a regularly scheduled Primary, General, and Special election. This notification must be in writing to Intake@OhioSoS.gov at least 46 days, or as soon as the charter timeline allows, prior to the election. That notification must include any deviations from the early in-person absentee voting schedule due to the charter election timeline. The board must make the early in-person absentee voting schedule publicly available.