

Chapter 2: BOARD OF ELECTIONS ORGANIZATION AND OPERATIONS

Directive 2022-06

Section 2.01 The Board of Elections¹

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.²

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.³

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

¹ [R.C. 3501.06](#); [R.C. 3501.07](#); [R.C. 3501.09](#); [R.C. 4117.03\(D\)](#).

² [R.C. 4117.03\(D\)](#).

³ [R.C. 3501.06\(B\)\(1\)](#);



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.⁴

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:

BoardInfo@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

⁴ [R.C. 3501.07](#).



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.⁵

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.⁶ 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 the Secretary of State's Office;

⁵ [R.C. 3501.08](#).

⁶ [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 a board of elections considers a candidate for director or deputy director, the candidate must complete [Form 307](#) (kept on file with the board of elections). Before being selected as director or deputy director, the candidate must 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;



- x. 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;
- xi. Review all Directives, Advisories, Memoranda, correspondence and materials issued by the Secretary of State and take action as required by those communications;
- xii. Supervise and instruct board employees, assign work, coordinate activities, make recommendations concerning hiring, responsibilities, compensation, discipline, and discharge of board employees; and
- xiii. 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 and state election trade publications, on the board's website, social media, and the Secretary of State's website, and any other job recruiting websites..

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.⁷

The organization meeting must be conducted following these steps, in order:⁸

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.

⁷ [R.C. 3501.09](#).

⁸ [R.C. 3501.09](#).



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 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.⁹

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.

⁹ [R.C. 3501.16](#)



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.

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:

BoardInfo@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-Organization¹⁰

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.

¹⁰ [R.C. 3501.09.](#)



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.¹¹ After such a vote, the vacancy shall be filled and all other officers selected as described above.¹² 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.¹³ 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.¹⁴ The signed statement

¹¹ [R.C. 3501.161](#).

¹² [R.C. 3501.091](#).

¹³ [R.C. 3501.01\(U\)\(6\)](#); [R.C. 3501.14](#).

¹⁴ [R.C. 3501.13](#); [R.C. 3501.14](#).



attesting to having taken the oath must be kept on record at the board of elections' office.

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.¹⁵ 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>

¹⁵ [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.¹⁶

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.¹⁷

Failure to meet the training requirements listed below will be taken into consideration at the time of reappointment of board members. The requirements listed below are considered minimum requirements. Board members, directors, and deputy directors may find it necessary to exceed these minimum requirements to effectively keep up with the ever-changing world of elections, particularly in even years.

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](#). A board of elections

¹⁶ [Art. II, Sect. 38 Ohio Const.](#); [R.C. 3501.16](#); *State ex rel. Hughes v. Brown* (1972), 31 Ohio St. 2d 376.

¹⁷ [R.C. 3501.27\(D\)](#).



may require its other 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 for a total of fourteen credits. That training can include any of the opportunities detailed in section 4 below.



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.

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**

All board members, directors, and deputy directors may be required to attend specific events, trainings, or meetings throughout the year. All mandatory events will be designated as such in the invitation.

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. Select programs may be offered virtually in place of or in addition to in person.):

- 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. All board members, directors, and deputy directors are required to participate in the Ohio Secretary of State's annual summer conference in-person, virtually, or by watching a recording of the conference published soon after its completion.
- 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’ (“OAE”) Ohio Registered Election Official (“ORE”) 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) – ORE and CERA are multi-course formal training and certification programs sponsored by the OAE 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 OAE 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 (“CLE”) (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 [Chapter 3](#). Each board of elections must also train its staff annually on both cyber and physical security practices and policies.

Section 2.02 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.¹⁸

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 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.¹⁹

¹⁸ [R.C. 3501.10\(A\)](#).

¹⁹ [R.C. 3501.10\(C\)](#).



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.²⁰ Please note that the board office must have extended hours for voter registration before a primary or general election and for early 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.²¹

2. **Extended Hours for Early In-Person Absentee Voting**

See page 199 for the required business hours for early in-person absentee voting. Early 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.²²

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 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

²⁰ [R.C. 3501.10\(B\).](#)

²¹ [R.C. 3501.10\(B\).](#)

²² [R.C. 3501.14.](#)



be directed to the county via the county prosecuting attorney or commissioners.²³

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.²⁴ This means a board member may not take any part in the decision to hire their family member²⁵ 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).²⁶ 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.

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.

²³ [R.C. 3501.141](#).

²⁴ [R.C. 2921.42\(A\)\(1\)](#).

²⁵ See OEC Advisory Op. 80-001. "Family member" is defined as spouse, domestic partner, mother, father, step-mother, step-father, brother, sister, step-brother, step-sister, half brother, half sister, brother-in-law, sister-in-law, grandmother, grandfather, mother-in-law, father-in-law, child, step-child, son-in-law, daughter-in-law, or other family member living in the same household.

²⁶ OEC Informal Opinion Letter 1992-INF-1009-1



BOARD PROCEDURE

1. Public Meetings²⁷

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.²⁸

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

²⁷ [R.C. 121.22; Ohio Sunshine Laws 2018: An Open Government Resource Manual.](#)

²⁸ [R.C. 3501.14; 1978 Op. Att’y Gen. No. 78-047.](#)



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 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.²⁹

6. **Minutes³⁰**

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 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

²⁹ [R.C. 121.22\(C\)](#).

³⁰ [R.C. 3501.13](#); *White v. Clinton Cty. Bd. Of Commrs.*, 77 Ohio St. 3d 1267.



do not send any minutes that have not been approved, unless specifically requested by the Secretary of State.

7. **Signature Stamps**

A board may use signature stamps as a convenient tool for providing individual members' signatures. Each board member is responsible and accountable for how their individual signature is used.

Before a board uses signature stamps, it must do both of the following:

1. Consult with their county prosecutor; and
2. Adopt a policy governing when their signature stamp may be used and who may access their signature stamp.

Please note that board members must be physically present for board meetings regardless of the board's signature stamp policy. Board meetings or hearings are not permitted to be held virtually via teleconference, video conference, or any other similar electronic technology.³¹ A board member is prohibited from misusing a signature stamp or using it as a means to abdicate their duties.³²

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.³³ The Secretary of State shall summarily decide the question, and that decision is final.³⁴

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

³¹ Section 12 of H.B. 404 of the 133rd General Assembly temporarily permitted virtual meetings until July 1, 2021. That temporary law is expired.

³² [R.C. 3501.16](#) permits the Secretary to "summarily remove or suspend any member of a board of elections, or the director, deputy director, or any other employee of the board, for... malfeasance, misfeasance, or nonfeasance in office, for any willful violation of Title XXXV of the Revised Code, or for any other good and sufficient cause."

³³ [R.C. 3501.11\(X\)](#).

³⁴ [R.C. 3501.11\(X\)](#).



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;³⁵
- b. Eliminating the position of deputy director;³⁶
- c. Replacing the chairperson or director with someone affiliated with a different political party.³⁷

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:

Via email:

The Secretary of State's elections counsel.

By U.S. Mail:

Office of the Ohio Secretary of State
Attn: Director of Elections

³⁵ [R.C. 3501.14.](#)

³⁶ [R.C. 3501.09.](#)

³⁷ [R.C. 3501.091.](#)



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;
- 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 [R.C. 3501.17\(G\)](#) and



[R.C. 3505.062\(F\)and\(G\)](#) with regard to statewide issues, initiatives, and referendums;

- h. Provide for the delivery of ballots, pollbooks, 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 reports of the results, and transmit those reports 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 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. Although not an exhaustive list, it is illegal for any person to:

- Attempt by intimidation, coercion, or other unlawful means to induce an elector to refrain from voting in an election for a particular person, question, or issue;³⁸
- Delay the delivery of any absent voter's ballot with a view to preventing its arrival in time to be counted;³⁹
- Hinder or attempt to hinder the delivery or counting of an absentee ballot;⁴⁰
- Attempt to intimidate an election officer or prevent an election official from performing the official's duties.⁴¹

Likewise, boards may receive allegations of voter fraud. Among other prohibitions, it is illegal for any person to:

- Vote or attempt to vote more than once at the same election by any means.⁴²
- Except as authorized under R.C. Chapters 3509 and 3511, possess another's absentee ballot;⁴³
- Knowingly register or make application or attempt to register in a precinct in which the person is not a qualified voter, or knowingly aid or abet any person to so register;⁴⁴
- Knowingly register under more than one name or knowingly induce any person to so register.
- Knowingly make any false statement on any form for registration or change of registration or upon any application or return envelope for an absent voter's ballot.

Whenever a person makes an allegation of voter fraud and/or suppression to the board, the director and deputy director, or a designated employee of the board, must complete

³⁸ [R.C. 3599.01\(A\)\(2\)](#).

³⁹ [R.C. 3599.21\(A\)\(5\)](#).

⁴⁰ [R.C. 3599.21\(A\)\(6\)](#).

⁴¹ [R.C. 3599.24\(A\)\(3\)](#).

⁴² [R.C. 3599.12](#).

⁴³ [R.C. 3599.21\(A\)\(9\)](#).

⁴⁴ [R.C. 3599.11\(A\)](#).



an initial review with the board's county prosecutor to determine whether the allegations are supported by factual evidence. If the allegations are supported by factual evidence, 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 before the board must be based upon first-hand knowledge of the allegation.⁴⁵

At the conclusion of any hearing, the board must vote whether to forward the matter to the county's prosecuting attorney for investigation and potential prosecution, or to resolve at the board-level. The board must also promptly notify the Secretary of State's elections counsel when matters are referred to the county prosecutor.

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."⁴⁶ 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 ⁴⁷

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.⁴⁸

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

⁴⁵ [R.C. 3501.11\(J\)](#).

⁴⁶ Definition of "quasi-judicial" taken from Merriam-Webster, <http://www.merriam-webster.com/dictionary/quasi-judicial>.

⁴⁷ 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).

⁴⁸ Due process and equal protection requirements apply to states. U.S. Const. Amend. XIV, §1.



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.

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.⁴⁹
- Ensure that the board can make copies of evidence. This may involve verifying that a working photocopier is available during the hearing.
- Make a copy of all evidence provided from both the accuser and defense.
- Ensure that the board is complying with the Americans with Disabilities Act.
- 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.

⁴⁹ [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](#).



- 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.

DUTIES OF THE DIRECTOR & DEPUTY DIRECTOR⁵⁰

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;

⁵⁰ [R.C. 3501.01\(U\)\(3\)](#); [R.C. 3501.13](#).



13. Supervising the processing of and response to office correspondence including the transfer of any documents provided to the incorrect county board of elections;
14. Developing an annual budget and monitor the board's budget and payroll;
15. Preparing the written agenda and minutes of board meetings;
16. Auditing campaign finance reports;
17. Calculating chargebacks to political subdivisions;
18. Assisting local liquor option petitioners; and
19. Maintaining and submitting an annual report of consumable inventory.

Upon receipt of a written declaration of intent to retire as provided for in [R.C. 145.38](#), 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.⁵¹

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 must exhibit teamwork skills in order for

⁵¹ [R.C. 3501.01\(U\)\(4\)](#); [R.C. 3501.09](#); [R.C. 3501.14](#).



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.

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.⁵²

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 later 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.⁵³

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.⁵⁴

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

⁵² [R.C. 3501.11\(O\)](#); [R.C. 3501.17](#).

⁵³ [R.C. 3501.17](#).

⁵⁴ [R.C. 3501.17\(A\)](#).



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 [R.C. 3501.11](#), 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 [R.C. 5705.14](#), [R.C. 5705.15](#), and [R.C. 5705.16](#), 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.⁵⁵

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.⁵⁶

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.⁵⁷

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

⁵⁵ [R.C. 3501.17\(I\)](#).

⁵⁶ [R.C. 3501.17\(J\)](#); Sponsor Testimony of Representative Steve Hambley.

⁵⁷ [R.C. 3501.17\(J\)\(1\)](#).



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.⁵⁸

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.⁵⁹

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.

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;
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;

⁵⁸ [R.C. 3517.01\(O\)\(2\).](#)

⁵⁹ [R.C. 3517.01\(O\)\(3\).](#)



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.⁶⁰

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 [R.C. 3503.23](#);
- 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 [R.C. 3506.01](#);
- l. Advertising; and
- 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

⁶⁰ [R.C. 3501.17\(b\)](#).



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.⁶¹

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.⁶²

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](#).

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.⁶³

⁶¹ [R.C. 3501.17\(D\)](#).

⁶² [R.C. 3501.17\(D\)](#).

⁶³ [R.C. 3501.17\(E\)](#); [R.C. 3501.17\(F\)](#).



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.



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.⁶⁴

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.

⁶⁴ [R.C. 3501.301](#).



OUTSOURCING REQUIRED MAILINGS OTHER THAN ABSENTEE BALLOTS

Boards of elections will periodically mail required notices to voters as required by Directive and Ohio Revised Code. Due to the number of notices that must be mailed, boards may choose to utilize a print and mailing vendor to produce and mail the notices. The board must do the following when using an outside print and mail vendor:

1. Enter a contract with the vendor that is reviewed by the county prosecutor which provides, at a minimum, all of the following:
 - a. Instructions and requirements for production of the notices.
 - b. Information detailing how the data files provided to the vendor must be mapped on the notice.
 - c. Timelines and deadlines for the production, proofing, and mailing of the required notices.
 - d. Sign-off procedures that require authorization from the director of the board of elections before notices are finalized, produced, and mailed.
 - e. Assurances that the vendor will promptly correct any errors in mailing notices according to deadlines set by the board or Secretary of State.
2. Review sample .pdf or hard copy versions of the proof to ensure that the data is mapped correctly on the document.
 - a. Test a sufficient number of notices and cross-reference to the data file provided.
 - b. Ensure that the data is mapped appropriately and in the correct location on the notice.
3. Verify that the information is correct and appropriately placed on the document per the contractual and legal requirements.
4. If the notice is produced pursuant to a Directive, provide the vendor with a copy of the Directive prior to entering the contract. The board must ensure that the document meets the requirements of the Directive.

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.⁶⁵

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.⁶⁶

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

⁶⁵ [R.C. 7.10](#); [R.C. 7.101](#); [R.C. 7.12](#).

⁶⁶ [R.C. 7.12](#).



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.⁶⁷

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.⁶⁸

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 the appropriate section(s) of the Revised Code, Ohio Constitution or charter for advertising requirements.

ONLINE PUBLICATION

Each board should adopt a policy to post any information that would be in a legal notice, emergency changes to polling locations, or any other significant notice on both its website and social media accounts. Please note that online postings are in addition to, and cannot replace other legal obligations to post in a newspaper of general circulation.

⁶⁷ [R.C. 3503.12](#)

⁶⁸ [R.C. 3501.03](#)



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.⁶⁹ 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.⁷⁰ 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.”⁷¹

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.

Section 2.03 Legal Counsel

COUNTY PROSECUTING ATTORNEY

Under Ohio law, the county prosecuting attorney is legal counsel to the board of elections.⁷² 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

⁶⁹ [R.C. 149.011; Ohio Sunshine Laws 2018: an Open Government Resource Manual](#).

⁷⁰ [R.C. 149.43\(A\)\(1\)](#).

⁷¹ [R.C. 149.011\(G\)](#).

⁷² [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.⁷³

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.⁷⁴ 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."⁷⁵

⁷³ [R.C. 305.14](#).

⁷⁴ [R.C. 3501.04](#); [R.C. 3501.05](#).

⁷⁵ *State ex rel. Herman v. Klopfleisch*, 72 Ohio St.3d 581, 586 (1995).



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.⁷⁶ The sheriff has a statutory duty to respond immediately to such a request.⁷⁷

Further, [R.C. 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.⁷⁸

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 [R.C. 3501.35](#), [R.C. 3599.24](#) and [R.C. 3599.26](#). Additionally, no one may loiter or solicit voters within the designated area outside of a polling location.⁷⁹

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.⁸⁰

⁷⁶ [R.C. 3501.33](#).

⁷⁷ [R.C. 3501.33](#); [R.C. 3501.34](#).

⁷⁸ [R.C. 3599.31](#).

⁷⁹ [R.C. 3501.30](#); [R.C. 3501.35](#).

⁸⁰ 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.



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 2.04 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.

To promote consistency in plan content and format among all 88 county boards of elections, below is an outline that each board of elections must use when drafting its EAP. Adhering to this outline 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 Locations and Accessibility,
10. Ballot Preparation,
11. Pre-Election Testing,
12. Reconciliation and Audits, and
13. Master Calendar.



A submission may include additional content, but must, at a minimum, include the items designated in the template. The response “not applicable” is unacceptable.

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 along with the submission instructions 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.

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.