



ADVISORY 2020-04

March 19, 2020

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

Re: Further Guidance re: Directive 2020-06

SUMMARY

In the weeks leading up to March 17, 2020, Secretary LaRose was in contact with Governor DeWine and Ohio Department of Health (“ODH”) Director Dr. Amy Acton daily to ensure that Ohio could safely proceed with the scheduled election. As late as Sunday night, he was assured that in-person voting on Tuesday would be safe for voters and precinct election officials. That medical guidance dramatically changed when Governor DeWine, Lt. Governor Jon Husted, and Dr. Acton advised Secretary LaRose that the rapidly changing science regarding Coronavirus/COVID-19 community spread, overseas mortality rates, the threat it posed to Ohioans over the age of 65, and the new Centers for Disease and Prevention Control guidance against more than 50 people congregating in one place necessitated not opening the polling locations for Ohio’s Presidential Primary Election on March 17, 2020.

A judicial remedy was sought first to prevent an unsafe and unfair election from occurring on Tuesday. Unfortunately and surprisingly, after Hannah News had reported otherwise, the court chose not to intervene on behalf of two plaintiffs both over the age of 65 who faced having to choose between following medical guidance or casting a ballot. Later on Monday, March 16, 2020, ODH Director Dr. Amy Acton used her authority under Chapter 3701 of the Ohio Revised Code to order polling places closed on March 17, 2020.¹

Dr. Acton’s order protected the health and safety of Ohioans against the spread of the deadly Coronavirus/COVID-19. Secretary LaRose issued Directive 2020-06 shortly after to bring clarity to Ohio’s boards of elections, poll workers, and voters that ensures Ohioans’ voices will be heard as the opportunity to vote in Ohio’s Primary Election is extended through June 2, 2020.

Separately, a lawsuit was filed in the Ohio Supreme Court on Monday, March 16, 2020, seeking a decision directing the Secretary to order that the polls open today in Wood County. At approximately 4:00 a.m. on March 17, 2020, the Ohio Supreme Court unanimously denied relator’s “writs of mandamus compelling respondents to hold the Wood County Primary on March 17, 2020.”² Effectively, the Ohio Supreme Court did not order the Secretary to open the polls in Wood County, and upheld the decision made by Governor DeWine, Lt. Governor Husted, Secretary LaRose, and Dr. Acton.

The purpose of this Advisory is to provide additional clarification regarding Directive 2020-06.

¹ [Director’s Order In Re: Closure of Polling Locations in the State of Ohio on Tuesday March 17, 2020](#)

² See [Complaint](#) Filed by Corey Speweik on March 16, 2020.

INSTRUCTIONS

PART I – ABSENTEE BALLOT APPLICATIONS AND ABSENTEE BALLOTS

A. ABSENTEE BALLOT APPLICATIONS RETURNED THROUGH MARCH 17, 2020

Pursuant to Directive 2020-06, any absentee ballot application for the 2020 Primary Election that is received after March 17, 2020 must be separated from those absentee ballot applications received before and on March 17, 2020. Applications received after March 17, 2020 may be processed by the board but not mailed to the voter until March 27, 2020³ and must be separated from applications received before and on March 17, 2020.

B. EARLY IN-PERSON ABSENTEE BALLOTS, ABSENTEE BALLOTS RETURNED IN-PERSON BY 7:30 P.M. ON MARCH 17, 2020 AND ABSENTEE BALLOTS RETURNED BY MAIL THROUGH MARCH 27, 2020

Absentee ballots cast in-person at the board of elections through 2:00 p.m. on March 16, 2020, absentee ballots returned in-person at the board of elections by 7:30 p.m. on March 17, 2020, absentee ballots returned via mail postmarked by March 16, 2020 and received by the board of elections through the March 27, 2020, and UOCAVA ballots submitted for mailing not later than 12:01 a.m. at the place where the voter completes the ballot, on March 17, 2020 and received by the board of elections by March 27, 2020, must be stored securely at the board of elections under dual lock and key. The memory devices or voting machines used to process these ballots must be securely stored as well.⁴ Those ballots must be separated from any ballots that are cast after 7:30 p.m. on March 17, 2020, UOCAVA ballots, or ballots postmarked by June 1, 2020 and received via mail through June 12, 2020. No results may be tabulated or reported until receiving direction to do so by the Secretary of State.

C. ABSENTEE BALLOT APPLICATIONS RETURNED AFTER MARCH 17, 2020

Boards of elections must process absentee ballot applications returned after March 17, 2020. However, boards of elections are prohibited from sending absentee ballots to voters until their voter registration system has been updated to reflect current voter history on March 27, 2020.

D. ABSENTEE BALLOTS AFTER MARCH 17, 2020

Boards of elections may send a voter who submitted an absentee ballot application, an absentee ballot for the 2020 Primary Election after March 17, 2020, only after their voter registration system is updated to reflect current voter history on March 27, 2020. Boards of elections are prohibited from sending an absentee ballot to a voter who has already cast an in-person ballot, provisional ballot, or absentee ballot.

³ See Advisory 2020-04, Part I, Section D.

⁴ See [Election Official Manual Ch. 2](#).

Absentee ballots sent to voters on March 27, 2020 and thereafter must be postmarked no later than Monday, June 1, 2020 and received at the board of elections no later than Friday, June 12, 2020 or returned to the board of elections by 7:30 p.m. on June 2, 2020. All absentee ballots postmarked by June 1, 2020 and received at the board of elections no later than Friday, June 12, 2020 must be stored and processed separately from any absentee ballot cast in-person from February 19, 2020 through 2:00 p.m. on March 16, 2020, returned in-person at the board of elections by 7:30 p.m. on March 17, 2020, UOCAVA ballots received through March 27, 2020, and absentee ballots returned via mail postmarked by March 16, 2020 and received by the boards of elections through March 27, 2020. No results may be tabulated or reported until receiving additional guidance from the Secretary of State.

PART II – VOTER REGISTRATION

The boards of elections are prohibited from processing any new voter registrations for the 2020 Primary Election. The February 18, 2020 voter registration deadline remains the same. Whether the ballot is cast in-person on June 2, 2020 or by mail, voters must receive the same ballot that they were going to receive on March 17, 2020. The Secretary of State's Office will work with the voter registration vendors to provide instructions on how to clearly mark those voters who cast a ballot through March 17, 2020 and those that were registered through February 18, 2020. Additional guidance is forthcoming.

Boards of elections must update their voter registration systems to update voter history on March 27, 2020 and regularly through June 2, 2020.

PART III – BOARD HOURS AND CLOSURES

Secretary LaRose is committed to the boards of elections' health and safety. Boards of elections should maintain regular hours, if possible. However, if local health officials require the board of elections to close or limit in-person working hours, please ensure that at least one Republican and Democrat are able to receive the mail, securely store ballots and process absentee ballot applications that are returned to the board of elections per the instructions set forth in this Advisory and Directive 2020-06. The boards of elections should post notice on their front door, on their website, and on their social media if a board of elections is altering their business hours during this emergency.

Boards of elections that currently have a secure absentee ballot drop box may continue to utilize that drop box so long as it is securely monitored 24/7 and at least one Republican and Democrat are retrieving the drop box's contents daily. Boards of elections that do not have a secure absentee ballot drop box currently may procure and utilize one as long as it is securely monitored 24/7 and at least one Republican and Democrat are retrieving the drop box's contents daily.

PART IV – QUESTIONS AND ISSUES

Boards of elections may accept the submission of a local question or issue that is currently on the ballot that also seek certification to the boards of elections for the August 4, 2020 special election through May 6, 2020. However, if any local question or issue is approved by voters in the 2020 Primary Election, the committee must promptly withdraw the local question or issue for the August 4, 2020 special election.

PART V – DATES ON APPLICATIONS FOR ABSENTEE BALLOTS, ABSENTEE BALLOTS, AND ABSENTEE IDENTIFICATION ENVELOPES AND INDEPENDENT CANDIDATE DEADLINE

Boards of elections should accept absentee ballot applications, ballots, absentee identification envelopes, or any other document pertaining to absentee voting in the 2020 Primary Election regardless of whether the date of March 17, 2020, June 2, 2020, or any date between those dates is provided. Boards of elections that are required to print additional ballots must ensure that the form of the ballot is the same as it was on March 17, 2020.

The March 16, 2020 4:00 p.m. deadline for submitting nominating petitions of independent candidates, other than joint candidates for president and vice president, for office for which a primary election may be held remains the same.

Additional guidance is expected. If you have any questions concerning this Advisory, please contact the Secretary of State's elections attorneys at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State