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DIRECTIVE 2006-45

April 18, 2006

To: ALL COUNTY BOARDS OF ELECTIONS
Members, Directors and Deputy Directors

To ensure that all votes cast in the May 2 primary election are counted accurately and uniformly, I am issuing this directive, which provides instructions for:

- Pre-testing codes and tabulating equipment used in the unofficial canvasses.
- Canvassing unofficial election results on election night.

PRE-TESTS

R.C. 3506.14 requires the board of elections, before any election, to publicly test and audit the variable codes applicable to that election so as to verify the accuracy of any computer program that will be used for tallying ballots cast at the election. In order to satisfy this statutory mandate, which includes the taking of any necessary corrective action, this office strongly advises all boards to conduct the public test before election day.

The public pretest should be conducted after the logic and accuracy (L&A) testing has been completed. Because the pretest is to demonstrate the accuracy of the tabulating program, the precincts chosen for the pretest should contain races with multiple candidates, candidate rotations, splits within a precinct and, if applicable, write-ins candidates.

Each board must give public notice of the date, time and place of the test, by either proclamation or posting of the notice, as in the case of notice of elections.

The board must conduct the test using a pre-audited group of ballots with a predetermined number of votes cast for each candidate, issue and question. The automatic tabulating equipment must be tested for the ability to detect undervotes and overvotes.

If any error is detected, the board must determine the cause for the error, correct it, and conduct another test. An errorless test must be conducted and certified by the board.

The board must conduct successful tests on four more occasions:

- Before tabulating ballots on election night,
- After completing the unofficial canvass, and
- Before and after the official count, before the board certifies the results as official.

UNOFFICIAL CANVASS

Reminder: You must send the results of your unofficial canvass to the Secretary of State's Elections Division by **noon on Wednesday, May 3, 2006.**

The election night "unofficial canvass" shall be conducted in accordance with Revised Code sections 3505.27 (*counting regular ballots cast at polling locations*), 3505.28 (*ballots not counted*), 3509.06 (*counting absentee ballots*), 3509.07 (*absentee ballots not counted*) and 3511.11 through .13 (*armed service absentee ballot*), as well as instructions provided by the Secretary of State office. The unofficial canvass shall include all ballots that the board determines are eligible to be counted on election night. An example of a ballot that cannot be counted on election night is a provisional ballot. Pursuant to R.C. 3505.27, the unofficial canvass must be conducted in full view of the board members and any witness appointed under R.C. 3505.21.

The board of elections must designate teams having an equal number of people from each major political party to inspect and/or count the ballots. Depending on the type of voting system used in the county, the teams either inspect or count the ballots as follows:

- **Paper ballots** *Count* and record votes cast on each ballot; *or sort* into stacks, count the ballots and record the votes cast.

- **Optical Scan** *Verify* that memory cards and corresponding report from all the polling places containing results from all precincts are received.

Inspect any ballot rejected by the tabulator as a blank ballot or a ballot in which the voter intent is in question. As stated in R.C. 3506.21(B), voter intent is determined by examining the ballot for a consistently made mark that is contrary to voting instructions. *Examples:* Rather than filling in the oval or box, the voter underlined or circled choice; circled oval or box by choice; made an "X", checkmark or other recognizable mark beside the choice; or marked the ballot with a writing instrument not recognized by tabulator.

Remake any ballot where the intent of the voter has been determined.

- **DRE** *Verify* that cartridges, PCMCIA cards or other removable memory devices and a corresponding report is received from each precinct.

- **Write-in Candidates: All Voting Systems**

A voter may write in only the last name of the candidate, if there is only one candidate with that last name as a candidate. But if there are two or more write-in candidates with the same last name, the voter must provide sufficient information for election officials to determine the voter's intent. For example, the voter must write on the ballot the write-in candidate's first and last names, or the last name and the office sought.

Optical Scan Ballots:
 - The oval or box next to the write-in candidate's name must be filled in for a write-in vote to be valid.
 - If, for the same office, there is any candidate whose name is on the ballot and any candidate who is a write-in, the ballots must be examined for the possibility of an overvote and whether any name the voter has written on the ballot is a qualified write-in candidate.

**REMINDER AS TO NUMBER OF VOTES REQUIRED FOR CERTAIN
WRITE-IN CANDIDATES TO BE NOMINATED**

R.C. 3513.23 (B) states:

In no event shall a person whose name is written on a primary election ballot be nominated as a candidate for election to an office if the name of no person living on the day of that primary election is printed on the ballot as a candidate for that nomination, unless the total number of votes cast for the person whose name is written on the ballot is not less than that number of petition signatures that would have been required for the printing of the person's name on the primary ballot pursuant to section 3513.05 of the Revised Code.

REQUIRED REPORTS FOR THE MAY 2 PRIMARY ELECTION

This office will send to each board of elections under separate cover:

- the election night reporting forms,
- unofficial report forms and
- official report forms.

As noted above, R.C. 3505.30 requires every board to send its unofficial canvass reports to this office via certified mail by **noon** on the day after the election, i.e., May 3, 2006.

QUESTIONS?

If you have any question regarding these instructions, please contact the Elections Division at (614) 466-2585.

Sincerely,



Monty Lobb
Assistant Secretary of State