

DIRECTIVE 2008-26

February 19, 2008

To: All County Boards of Elections

Re: Procedures For Processing Absent Voter's Ballots Prior to Election Day

More Ohio voters are taking advantage of voting by mail or early voting in a board of elections office. As a result, several boards of elections have expressed the concern that for elections with an expected heavy turnout of voters, such as the presidential elections, boards may not meet the statutory reporting deadline for the unofficial count if they are required to wait until Election Day to begin processing and scanning absent voter's ballots. Accordingly, I am issuing this Directive outlining the requirements for early processing of absent voter's ballots for purposes of the March 4, 2008 Primary Election.

Procedures for Early Processing of Absent Voter Ballots for the March 4, 2008 Primary Election

Boards of elections may begin *processing* absent voter's ballots at noon on Saturday, March 1, 2008. For purposes of this Directive, "processing" means the handling and examining of absent voter ballots, but excludes tabulation of them. "Processing" includes any of the following:

- Examining the sufficiency of absent voter's ballot identification envelopes and, if applicable, opening the absent voter's ballot envelope;
- Determining the validity of the absent voter's ballot (*e.g.*, whether the stub is removed);
- Preparing the absent voter's ballot for scanning; and
- Scanning of the absent voter's ballot ***but only if the voting system used by your board of elections allows you to feed the absent voter's ballot through the ballot scanning device without tabulating or counting the ballot.***
- Identifying absent voter's ballots that cannot be "read" or are "rejected" by the ballot scanning device for purposes of determining if the ballot needs to be remade so that it can be read by the scanner.

If the voting system used by your board of elections allows you to feed the absent voter's ballot through the ballot scanning device without "tabulating" or "counting" the ballot, your board may begin to **scan** absent voter's ballots at noon on Saturday, March 1, 2008.

If the voting system used by your board of elections does **not** allow you to feed the absent voter's ballot through the ballot scanning device without "tabulating" or "counting" the ballot, your board

shall not **scan** absent voter's ballots prior to 12:01 a.m. on March 4, 2008, Primary Election Day; however, it may begin other processing of the ballots as described above.

No "counting" or "tabulating" of absent voter's ballots on the central server shall occur until 7:30 p.m. on March 4, 2008, Primary Election Day.

Remakes

No ballot may be remade unless and until the Board of Elections has, by majority vote in public session, confirmed or determined voter intent. Please see Directive 2007-31 for proper procedures for remaking an optical scan ballot.

Observers

Observers, as that term is defined in R.C. 3505.21, may witness the examination and opening of identification envelopes for absent voter's ballots. If your board of elections decides to begin processing absent voter's ballots prior to March 4, 2008, you must notify all appointed observers of the time and place at which the board will process absent voter's ballots prior to election day.

Finally, please remember that, pursuant to R.C. 3509.06(E), no person (including election officials and observers) shall disclose any count or any portion of a count of absent voter's ballots prior to the time of the closing of the polling places on Election Day, and no person shall recklessly disclose the count or any portion of the count of absent voter's ballots in such a manner as to jeopardize the secrecy of any individual ballot. This is especially important in the event a court order is issued extending polling hours on Election Day, and must be strictly observed.

If you have any questions concerning the handling of absent voter's ballots prior to Election Day or the procedures set forth in this Directive, please contact the elections attorney assigned to your county at (614) 466-2585. Thank you for your efforts.

Sincerely,

Jennifer Brunner