

**DIRECTIVE 2008-85**

September 8, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS  
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS

RE: Instructions for Closing the Polls and Reconciliation of Paper Ballots for  
Tabulation (Relevant Statutes Attached)

The process for closing polling locations and the subsequent reconciliation of polling place records and paper ballots begins at the closing of the polls, held at 7:30 p.m. unless extended by court order. No poll worker shall leave the polling place until reconciliation is complete and all items that must be returned to the board are prepared for transport and tendered to the presiding judge and member of the opposite major political party.

**RECONCILIATION IN GENERAL**

The number of paper ballots provided to a precinct should be recorded at the board of elections and by the presiding judge at the precinct polling location. For multiple page paper ballots, the first page is used for reconciliation purposes.

After the polls close, the sum of:

- the number of voted ballots (both regular and provisional),
- the number of spoiled ballots (both regular and provisional) and
- the number of unvoted ballots

should equal the number of ballots recorded before the polls opened by the presiding judge.

In addition, the sum of the numbers of voted regular and provisional paper ballots should match the number of voters marked in the poll books or poll list. Color coded authority to vote slips,

- one color for electronic ballots, if a DRE voting system is used,
- one color for regular paper ballots and
- one color for provisional ballots

may be used in the reconciliation process as an additional method to ensure integrity.

**A. SEGREGATING types of paper ballots:**

The following ballots should be segregated either in separate containers or in envelopes that allow poll workers to discern which types of ballots are contained in the envelopes:

1. **regular paper ballots** voted by voters who appeared at the polling place until 7:30 p.m.

2. **provisional ballots** voted by voters who appeared at the polling place until 7:30 p.m.
3. **in the event of a court order extending voting hours, all ballots voted after 7:30 p.m.** (required to be provisional by federal law)

All paper ballots should be reconciled with poll books during the reconciliation process. Once ballots are reconciled and records made, all ballot containers should be sealed in a manner that provides that the containers cannot be opened without breaking the seal or the material of which the container is made.

**B. Poll Worker RECONCILIATION/CERTIFICATION:**

Pursuant to R.C. 3505.26, poll workers must complete the reconciliation certification in the poll book. If the poll workers are unable to reconcile (*e.g.*, the number of voted ballots is different than the number of voters whose names appear on the pollbooks) the presiding judge must enter on the pollbooks the explanation of that discrepancy. That explanation, if agreed to by all poll workers, must be subscribed to by all the poll workers. (R.C. 3505.26 is provided in full below.)

**C. Preparing POLLBOOKS, POLL LISTS, SIGNATURE POLLBOOKS AND/OR TALLY SHEETS for transmission to board of elections:**

These items shall be sealed in a manner that the data contained in these items cannot be seen without breaking the seals.

The above items shall be delivered by the presiding judge and a member of the opposite major political party to the board after the closing of the polls when all tasks to prepare these items for transport have been completed.

**D. CHAIN OF CUSTODY FORMS:**

The Chain of Custody form provided by the board of elections must be completed and accompany the ballots and above items for transmission to the board. The Chain of Custody form should be placed outside the sealed containers so that it can be marked by the next elections official who receives the ballots and other election materials.

**E. TABULATION OF PAPER BALLOTS:**

All **regular paper ballots voted on Election Day**, regardless of the type of voting system in the county, are required to be tabulated election night.

All tabulation of paper ballots voted in the precinct polling place and at the board of elections on Election Day in DRE voting system counties shall take place at the board of elections. All tabulation of regular paper ballots voted in the precinct polling place on Election Day in optical scan voting system counties is tabulated by precinct based scanners with votes recorded on memory cards in the scanners, which are transmitted to the board of elections for upload to the board's tabulation server. All tabulation of regular paper ballots voted at the board of elections on Election Day in optical scan voting system counties shall take place at the board of elections.

All qualified observers shall be permitted to witness the counting process, whether at the board of elections or in the polling place.

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If you have any questions concerning this Directive, please contact one of the Secretary of State's elections administrators at (614) 466-2585.

Sincerely,

Jennifer Brunner

**RELEVANT STATUTES:**

**3505.26 Closing polls procedures.**

At the time for closing the polls, the presiding judge shall by proclamation announce that the polls are closed.

The judges shall then in the presence of observers proceed as follows:

- (A) Count the number of electors who voted, as shown on the pollbooks;
- (B) Count the unused ballots without removing stubs;
- (C) Count the soiled and defaced ballots;
- (D) Insert the totals of (A), (B), and (C) on the report forms provided therefor in the pollbook;
- (E) Count the voted ballots. If the number of voted ballots exceeds the number of voters whose names appear upon the pollbooks, the presiding judge shall enter on the pollbooks an explanation of that discrepancy, and that explanation, if agreed to, shall be subscribed to by all of the judges. Any judge having a different explanation shall enter it in the pollbooks and subscribe to it.
- (F) Put the unused ballots with stubs attached, and soiled and defaced ballots with stubs attached, in the envelopes or containers provided therefor, certify the number, and then proceed to count and tally the votes in the manner prescribed by section 3505.27 of the Revised Code and certify the result of the election to the board of elections.

Effective Date: 08-22-1995; 05-02-2006

**3505.27 Counting and tallying of ballots.**

Unless otherwise ordered by the secretary of state or the board of elections, the counting and tallying of ballots shall be conducted according to procedures prescribed by the board of elections that assure an accurate count of all votes cast and that include all of the following:

- (A) The counting and tallying of ballots at the appropriate office, as designated by the board, in the full view of members of the board and observers;
- (B) The recording on a worksheet or other appropriate document of the number of votes cast for each candidate and the number of votes cast for and against each question or issue;
- (C) The periodic reporting to the public and the office of the secretary of state of the number of votes cast for each candidate and the number of votes cast for and against each question or issue as tallied at the time of the report;
- (D) An examination and verification by the appropriate authority, as designated by the board, of the votes so tallied and recorded in the pollbook under section 3505.26 of the Revised Code.

The board shall prescribe additional procedures as necessary to assure an accurate count of all votes cast. These procedures shall be followed until all of the ballots that are required to be counted on the day of the election after the close of the polls have been counted.

All work sheets that are prepared at the polling locations shall be preserved and placed inside the pollbook and returned to the board.

If there is any disagreement as to how a ballot should be counted, it shall be submitted to the members of the board for a decision on whether or to what extent the ballot should be counted. If three of the members do not agree as to how any part of the ballot shall be counted, only that part of the ballot on which three of the members do agree shall be counted. A notation shall be made upon the ballot indicating what part has not been counted, and the ballot shall be placed in an envelope marked "Disputed Ballots."

Effective Date: 08-22-1995; 05-02-2006

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**3505.28 Rejection of ballots.**

No ballot shall be counted which is marked contrary to law, except that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choice. If two or more ballots are found folded together among the ballots removed from a ballot box, they shall be deemed to be fraudulent. Such ballots shall not be counted. They shall be marked "Fraudulent" and shall be placed in an envelope indorsed "Not Counted" with the reasons therefor, and such envelope shall be delivered to the board of elections together with other uncounted ballots.

No ballot shall be rejected because of being marked with ink or by any writing instrument other than one of the pencils provided by the board of elections.

Effective Date: 05-13-1976

**3505.29 Judges not to separate or leave until counting completed.**

From the time the ballot box is opened and the count of ballots begun until the ballots are counted and certificates of votes cast are made out, signed, certified and given to the presiding judge for delivery to the headquarters of the board of elections, the judges in each precinct shall not separate, nor shall a judge leave the polling place except from unavoidable necessity. In cases of illness or unavoidable necessity the board may substitute another qualified person for any precinct official so incapacitated.

Effective Date: 08-22-1995

**3505.30 Summary statement of results.**

When the results of the ballots have been ascertained, such results shall be embodied in a summary statement to be prepared by the judges in duplicate, on forms provided by the board of elections. One copy shall be certified by the judges and posted on the front of the polling place, and one copy, similarly certified, shall be transmitted without delay to the board in a sealed envelope along with the other returns of the election. The board shall, immediately upon receipt of such summary statements, compile and prepare an unofficial count and upon its completion shall transmit prepaid, immediately by telephone, facsimile machine, or other telecommunications device, the results of such unofficial count to the secretary of state, or to the board of the most populous county of the district which is authorized to canvass the returns. Such count, in no event, shall be made later than twelve noon on the day following the election. The board shall also, at the same time, certify the results thereof to the secretary of state by certified mail. The board shall remain in session from the time of the opening of the polls, continuously, until the results of the election are received from every precinct in the county and such results are communicated to the secretary of state.

Effective Date: 08-22-1995

**3505.31 Sealing ballots, pollbooks, poll lists or signature pollbooks, tally sheets.**

When the results of the voting in a polling place on the day of an election have been determined and entered upon the proper forms and the certifications of those results have been signed by the precinct officials, those officials, before leaving the polling place, shall place all ballots that they have counted in containers provided for that purpose by the board of elections, and shall seal each container in a manner that it cannot be opened without breaking the seal or the material of which the container is made. They shall also seal the pollbook, poll list or signature pollbook, and tally sheet in a manner that the data contained in these items cannot be seen without breaking the seals. On the outside of these items shall be a plain indication that they are to be filed with the board. The presiding judge shall then deliver to the board the containers of ballots and the sealed pollbook, poll list, and tally sheet, together with all other election reports, materials, and supplies required to be delivered to the board.

The board shall carefully preserve all ballots prepared and provided by it for use in an election, whether used or unused, for sixty days after the day of the election, except that, if an election includes the nomination or election of candidates for any of the offices of president, vice-president, presidential elector, member of the senate of the congress of the United States, or member of the house of representatives of the congress of the United States, the board shall carefully preserve all ballots prepared and provided by it for use in that election, whether used or unused, for twenty-two months after the day of the election. If an election is held within that sixty-day period, the board shall have authority to transfer those ballots to other containers to preserve them until the sixty-day period has expired. After that sixty-day period, the ballots shall be disposed of by the board in a manner that the board orders, or where voting machines have been used the counters may be turned back to zero; provided that the secretary of state, within that sixty-day period, may order the board to preserve the ballots or any part of the ballots for a longer period of time, in which event the board shall preserve those ballots for that longer period of time.

In counties where voting machines are used, if an election is to be held within the sixty days immediately following a primary, general, or special election or within any period of time within which the ballots have been ordered preserved by the secretary of state or a court of competent jurisdiction, the board, after giving notice to all interested parties and affording them an opportunity to have a representative present, shall open the compartments of the machines and, without unlocking the machines, shall recanvass the vote cast in them as if a recount were being held. The results shall be certified by the board, and this certification shall be filed in the board's office and retained for the remainder of the period for which ballots must be kept. After preparation of the certificate, the counters may be turned back to zero, and the machines may be used for the election.

The board shall carefully preserve the pollbook, poll list or signature pollbook, and tally sheet delivered to it from each polling place until it has completed the official canvass of the election returns from all precincts in which electors were entitled to vote at an election, and has prepared and certified the abstracts of election returns, as required by law. The board shall not break, or permit anyone to break, the seals upon the pollbook, poll list or signature pollbook, and tally sheet, or make, or permit any one to make, any changes or notations in these items, while they are in its custody, except as provided by section 3505.32 of the Revised Code.

Pollbooks and poll lists or signature pollbooks of a party primary election delivered to the board from polling places shall be carefully preserved by it for two years after the day of election in which they were used, and shall then be disposed of by the board in a manner that the board orders.

Pollbooks, poll lists or signature pollbooks, tally sheets, summary statements, and other records and returns of an election delivered to it from polling places shall be carefully preserved by the board for two years after the day of the election in which they were used, and shall then be disposed of by the board in a manner that the board orders.  
Effective Date: 08-28-2001