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DIRECTIVE 2013-07

May 3, 2013

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

Re: Unofficial Canvass – May 7, 2013 Primary/Special Election

SUMMARY

This Directive outlines the procedures that county boards of elections must follow in conducting the unofficial canvass of the May 7, 2013 Primary/Special Election.

To assist boards of elections with any problems, questions, or concerns that may arise on Election Day, please be advised that the Secretary of State's Office will be staffed on Election Day from 6:00 a.m. until 9:00 p.m.

INSTRUCTIONS

I. UNOFFICIAL CANVASS PROCESS & PROCEDURES

The unofficial canvass must be conducted on election night in accordance with the Ohio Revised Code.¹ The unofficial canvass of the May 7, 2013 Primary/Special Election must be conducted in full view of the board members and any observer appointed under R.C. 3505.21.² The counting of ballots for the unofficial canvass must be continuous.³

The unofficial canvass must include all ballots that the board of elections has determined to be eligible to be counted on election night (i.e., all regular ballots cast at polling locations using the county's primary voting system and all valid absentee ballots received before the closing of the polls).

The unofficial canvass shall not include ballots that are ineligible, as defined by state law, to be counted on election night (i.e., provisional ballots, absentee ballots rejected due to a statutory deficiency, and absentee ballots that were timely mailed but which had not been received as of the closing of the polls).⁴

A. Processing and Tabulation Instructions for Counties Using Precinct-Based Optical Scan Voting Systems

Each board of elections must test its automatic tabulating equipment prior to the start of the count, and again at the conclusion of the count, to ensure that the central tabulation system

¹ R.C. §§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-.13 (uniformed service and overseas voter absentee ballots).

² R.C. 3513.21 and 3505.27.

³ R.C. 3505.27; R.C. 3505.30.

⁴ R.C. 3505.32; R.C. 3505.183(D); R.C. 3509.05(B)(1).

accurately counted the votes cast for all offices and on all questions and issues. [Directive 2008-90](#) provides detailed instructions for conducting the tests.

The board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots as follows:

1. Optical Scan - Precinct Count (ballots tabulated in the precincts)

Verify that memory cards and a corresponding report of results from each precinct are received. Tabulate votes cast that are stored on the memory cards.

Any ballot (other than a provisional ballot) that was cast at the precinct, but was not fed into the precinct-based optical scanner, should be processed or scanned in the manner described below for central count ballots, including inspecting and remaking a ballot as prescribed by [Directive 2012-22](#) (e.g., a curbside ballot, or ballots placed into the emergency slot of the ballot box during rare instances that the precinct-based scanner was offline, etc.).

2. Optical Scan - Central Count (ballots tabulated at the board of elections)

Beginning 10 days before Election Day, absentee ballots may be scanned, but must not be tabulated.

Inspect every ballot that the tabulator rejects to determine the cause(s) of rejection, including the following:

- The ballot is folded, torn, or mutilated;
- The ballot contains misaligned timing marks;
- The voter consistently failed to follow marking instructions; and/or
- The ballot contains one or more overvotes.

State law provides standards and definitions to ensure uniform application for ballots that were rejected by the central count tabulator such that any of the following marks, if made in a consistent manner throughout an optical scan ballot, must be counted as a valid vote:⁵

- A candidate, question, or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been marked by the voter with an “x,” a check mark, or other recognizable mark; or
- A candidate, question, or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

Remake any ballot where the marks noted above are made in a consistent manner so that the ballot may be processed by a tabulator. Refer to [Directive 2012-22](#) and the instructions in the previous section for more information on the proper procedures to remake an optical scan ballot. An overvote exists when the Board determines the tabulator rejected the ballot because the voter marked the ballot more than the permissible number of times for a particular contest. No vote is tallied from that ballot for that contest. However, the Board must examine the ballot to identify any other reason for tabulator rejection.

⁵ R.C. 3506.21.

B. Processing and Tabulating Instructions for Counties Using a Combination of Direct Recording Electronic Machines (DRE) and Central Count Optical Scan Units**1. Direct Recording Electronic Machines (DRE) (ballots tabulated in the precincts)**

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

Tabulate votes cast that are stored on cartridges, PCMCIA cards, or other removable memory devices.

2. Optical Scan– Central Count (ballots tabulated at the board of elections)

See instructions above for “Optical Scan – Central Count under Processing and Tabulation Instructions for Counties Using Precinct-Based Optical Scan Voting Systems.”

C. Tabulation Instructions for Ballots With Write-In Candidates

Ballots containing potential write-in votes should be segregated for inspection. Inspection and tabulation of potential write-in votes should be made by designated team(s) consisting of an equal number of board employees from each major political party.

If the voter has written in an eligible write-in candidate’s first and last names, the board of elections must count this as a valid write-in vote. In this case, the Board shall follow the manual hand count instructions explained in [Directive 2008-34](#).

If the voter has written in part of an eligible write-in candidate’s name, the board of elections must count a vote in which a voter has written in only the first or last name of the candidate, if there is only one eligible write in candidate with that first or last name. However, if there are two or more write-in candidates with the same first or last name, the voter must provide sufficient information for election officials to determine the voter's intent in order for the vote to be counted. In this case, the Board shall follow the manual hand count instructions explained in [Directive 2008-34](#).

A Board may report as its unofficial canvass for write-in candidates the write-in vote totals reported by the voting system, which is a count of the number of times write-in votes for that contest were recorded, regardless of whether the vote was for an eligible write-in candidate. However, the unofficial canvass must include write-in votes for eligible write-in candidates when:

- The only candidates for a given contest are write-in candidates and there are more write-in candidates than the number of candidates to be elected or nominated; or
- The number of times write-in votes for that contest were recorded, regardless of whether it was recorded for an eligible write-in candidates, is greater than or equal to the number of votes recorded for a candidate whose name is printed on the ballot.

1. Write-In Candidates on Optical Scan Ballots

A voter’s selection of a candidate whose name is printed on the ballot *and* the selection of, and the writing in of, the name of a write-in candidate (other than an optical scan ballot that is

to be centrally counted as discussed below), invalidates the voter's vote in that contest, as the voter has overvoted by marking more choices than permitted for a particular contest.⁶

2. Write-In Candidates on Direct Recording Electronic Machines (DRE)

To tally the number of votes for eligible write-in candidates, the board of elections may use the summary reports produced by each individual DRE or group of DREs, additional reports created by the precinct election officials as may be required by the board of elections, or may upload to the central tabulation system the removable electronic storage media from the voting machines.

II. REPORTING

Immediately following the conclusion of the unofficial canvass, on election night, a copy of the unofficial vote total report generated by your voting system must be sent to the Secretary of State's Office. This report must be clearly labeled "<County>'s Unofficial Canvass" and it must contain only vote totals for your county.

Submit completed forms to Kathy Malott using one of the following methods:

- Email to kmalott@ohiosecretaryofstate.gov.
- Fax to (614) 485-7590.

If you have any questions regarding this Directive, please contact the Secretary of State's elections attorney assigned to your county at (614) 466-2585.

Sincerely,



Jon Husted

⁶ See Directive 2012-22