



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

DIRECTIVE 2013-09

May 10, 2013

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

Re: Official Canvass for May 7, 2013 Primary/Special Election

SUMMARY

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

INSTRUCTIONS

I. TIMELINE FOR OFFICIAL CERTIFICATION

Boards of elections may begin the official canvass of the general election no earlier than the 11th day after the election (Saturday, May 18, 2013), and must begin no later than the 15th day after the election (Wednesday, May 22, 2013). **Each board of elections must complete its official canvass and certify no later than the 21st day after the election (Tuesday, May 28, 2013).**¹

II. PERMISSIBLE PRE-CANVASS ACTIVITY

A. Provisional Ballot Review

The Board must verify the eligibility of persons who cast provisional ballots and the validity of the required provisional voter statements in preparation for the official canvass. Procedures for determining the validity of provisional ballots are provided in [Directive 2012-54](#). To aid the efficiency of the official canvass, during the ten days following the election, as board personnel determine preliminary eligibility of provisional ballots, they may group provisional ballots by category to be later voted upon by the Board.

Reminder: Boards of elections must determine the eligibility of every provisional ballot cast in that county before the Board may open and canvass any

¹ R.C. 3513.22 (A).

provisional ballot.² Further, observers may be present, as provided by law, while the Board determines the eligibility of provisional ballots.³

B. Document Review

Prior to May 18, 2013, a board of elections should examine its poll books, poll lists or signature poll books, and tally sheets, and compare the information contained in those documents to the summary statements prepared by the precinct election officials.⁴ The Board must note and reconcile any error, defect, or omission that it detects during its examination of those records.

III. INSTRUCTIONS FOR OFFICIAL CERTIFICATION

A. All Voting Systems

All valid ballots cast in the general election – including eligible ballots cast at the polling places on Election Day, eligible provisional ballots, and eligible absentee ballots – must be included in the official canvass.

Each board of elections must test its automatic tabulating equipment before starting the count, and after concluding the count, to verify the central tabulation system's accurate count of the votes cast for all offices and on all questions and issues.⁵ [Directive 2008-90](#) provides detailed instructions for conducting the tests.

B. Tabulation Instructions for Ballots Containing Votes NOT Included in the Unofficial Canvass

The board of elections first must tally all eligible ballots that were *not* included in its unofficial canvass.⁶ Those ballots include the following: provisional ballots; absentee ballots postmarked on or before May 6, 2013 that had not been received by the closing of the polls but were received by May 17, 2013; timely mailed in-country uniformed service, out-of-country uniformed service, or overseas citizen absentee ballots that had not been received as of the closing of the polls but were received by May 17, 2013; and challenged ballots the Board has determined are eligible.⁷

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 in accordance with the inspection and tabulation instructions for central count optical scan ballots provided in [Directive 2012-49](#).

² R.C. 3505.183(D).

³ R.C. 3505.183(D) and 3505.21.

⁴ R.C. 3505.32(D).

⁵ R.C. 3506.14(B).

⁶ R.C. 3513.22 and 3505.32(C).

⁷ R.C. 3513.21.

C. Special Reminder Regarding Vote Requirements for Write-in Candidates Seeking Party Nomination

In no event shall a write-in candidate be nominated as a political party's candidate in any contest in which the only candidates are write-in candidates unless the total number of votes cast for the write-in candidate receiving the highest number of votes is equal to or greater than the number of petition signatures that would have been required for printing the write-in candidate's name on the primary ballot pursuant to R.C. 3513.05.⁸

D. Tabulation of Results for the Official Certification

After tabulating all ballots that were *not* included in the unofficial canvass, the board of elections must continue the official canvass certification process as follows:

1. Optical Scan Ballots

The Board must:

- Upload the memory cards containing votes that were centrally counted during the unofficial canvass (a county using a GEMS server may “re-import” the data containing votes that were centrally counted during the unofficial canvass in lieu of using external media, if the system is capable of doing so, or by rescanning all of the ballots);
- Upload the precinct/polling place memory cards containing votes that were counted during the unofficial canvass, if applicable; and
- Verify the count matches the unofficial count.

If the count does not match the unofficial count, the Board must contact a Secretary of State's Elections Administrator before certifying the election.

If the counts match, the Board must combine the results of the re-run memory card tabulation of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

2. Direct Recording Electronic (DREs) Voting Machines

The Board must:

- Upload the precinct cartridges, PCMCIA cards, and/or other removable memory devices containing votes that were counted during the unofficial canvass; and
- Verify the count matches the unofficial count.

If the count does not match the unofficial count, the Board must contact the Secretary of State's Elections Administrator before certifying the election.

Note: The seal on the canister or the tape on the voter verified paper audit trail (VVPAT) shall not be broken to determine official results. If the seal must be broken for any auditing reason other than for recount

⁸ R.C. 3513.23(B).

purposes or a statewide post-election audit as prescribed by the Secretary of State, the Board must notify the Secretary of State's Elections Division before proceeding.

If the counts match, the Board shall combine the re-run results of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

E. Tie Votes (Candidate Contest Only)

If, after canvassing all votes, more than the number of candidates to be elected to an office received the largest and an equal number of votes, the chairperson of the board of elections, in the presence of a majority of the board members at a noticed public meeting of the Board, shall break the tie by lot⁹ and declare the winner *before* the Board certifies the results of the election for that office and orders a recount.¹⁰ A majority of the board members must sign the declaration, which must be dated. Boards may not authorize the use of digital or stamped signatures for the official canvass. The Board must post a copy of the declaration in a conspicuous, accessible place in the board office for at least five days.¹¹

IV. FORMS FOR OFFICIAL CERTIFICATION

All certifications and reports must be signed by the appropriate board personnel before being submitted to the Secretary of State's Office, to another board of elections, or to another public entity.

A. Certification of Official Results to the Secretary of State

To ensure accuracy in the reporting of official election results, boards of elections no longer have to complete separate forms. Similar to the unofficial canvass, a copy of the official vote total report generated by your voting system will suffice. This report must be clearly labeled "<County>'s Official Canvass" and it must contain only vote totals for your county.

If you are the most populous county of any district, you must generate a separate report from your voting system, or create a report outside of your voting system, showing the combined official vote totals for your county and the counties that report to you. This report must be clearly labeled "<County>'s Official Canvass – Most Populous County." The contest(s) for which your county is the most populous county must be marked to clearly identify it as a contest containing vote totals from other counties.

These reports satisfy the requirement of R.C. 3505.30. You no longer have to enter candidate names and vote totals into forms to email or fax to the Secretary of State's Office.

⁹ R.C. 3513.22(C). Examples of methods used to break a tied candidate race "by lot" include, but are not limited to, the chairperson tossing a coin, drawing straws, picking a name written on paper out of a hat, or cutting cards.

¹⁰ By contrast, a Board does not break a tie in the case of a ballot issue that received an equal number of votes for and against the issue; that issue failed by operation of law, because it did not receive a majority of affirmative votes. A tie in an issue election results in the failure of the issue.

¹¹ R.C. 3513.22 (C).

Submit completed certification report forms to Kathy Malott no later than the close of business on Friday, May 31, 2013 via email to kmalott@ohiosecretaryofstate.gov.

B. Absentee and Provisional Ballot Supplemental Report

State law requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted.¹² All county boards of elections must provide the required supplemental data using an Excel spreadsheet template, which will be forwarded under separate cover. Submit completed certification reports forms to Laura Pietenpol no later than the close of business on Friday, May 31, 2013 via email to lpietenp@ohiosecretaryofstate.gov.

C. Certificate of Official Results for Local Liquor Option Questions (Form No. 126-B)

Send a copy of Form No. 126-B to the Secretary of State's Office, *and* a separate copy of the form to the Division of Liquor Control at the following address:

Division of Liquor Control
PO Box 4005
Reynoldsburg, OH 43068-9005

Every board of elections must maintain a copy of each of its completed certification and report forms.

V. RECOUNTS

Do not delay submitting the official certification forms due to a recount for any race or issue. Before scheduling and conducting a recount, please review the procedures set forth in state law¹³ and [Directive 2012-52](#).

If a recount is to be conducted, please send notice of the recount to Melanie Poole via email to mpoole@ohiosecretaryofstate.gov. If a recount should result in vote totals changing, the board of elections must submit a properly completed and signed amended certification and abstract.

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

¹² R.C. 3501.05(Y).

¹³ R.C. 3515.01 - .072.