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DIRECTIVE 2013-19

October 2, 2013

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

Re: Unofficial Canvass – November 5, 2013 General Election

SUMMARY

This Directive outlines the procedures that county boards of elections must follow when conducting the unofficial canvass of the November 5, 2013 General Election.

To assist boards of elections with any problems, questions, or concerns that may arise on Election Day, the Secretary of State's Office will be staffed on Election Day from 6:00 a.m. until all boards have reported their unofficial results to our office. As in the past, Boards will be provided with a special telephone number for contacting the Secretary of State's Office.

All Boards must ensure that they are able to receive emails and other communications on Election Day (including after the polls close) sent from the Secretary of State's Office.

I. UNOFFICIAL CANVASS PROCESS & PROCEDURES

The unofficial canvass of the November 5, 2013 General Election must be conducted on election night in accordance with state law.¹ The unofficial canvass must be conducted in full view of the members of the board of election and any observer appointed in accordance with 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, any back-up paper ballots, 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

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- 3511.13 (uniformed service and overseas voter absentee ballots).

² R.C. 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).

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 the accurate counting of the votes cast for all offices and on all questions and issues.⁵ [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 the memory card(s) and a corresponding report of results from each precinct are received. Tabulate votes cast that are stored on each memory card.

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 a ballot 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:⁶

- 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;

⁵ R.C. 3506.14(B).

⁶ R.C. 3506.21.

- 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.
- An overvote does not exist if it is determined that a voter filled in the oval next to a candidate for an office and also cast a write-in vote for that same candidate for the same office by filling in the oval next to the blank space provided for write-in candidates. That ballot should be set aside and remade in accordance with the instructions in the “Tabulation Instructions for Ballots with Write-In Candidates” section, below, of this Directive.

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), invalidates the voter's vote in that contest, as the voter has overvoted by marking more choices than permitted for a particular contest. [See Directive 2012-22](#).

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. FINAL REPORTS

A. Reporting Results for Multi-County Jurisdictions

A Board of a less populous county (i.e., an overlapping county) of a multi-county jurisdiction (for an office, question or issue) must report its county's results to the board of elections of the most populous county of the jurisdiction before closing its office. The Board of the less populous county may report the results by telephone, fax, or email. It is imperative that the Board of the less populous county make a final report to the board of elections of the most populous county of the jurisdiction – and receives confirmation of successful transmission from the most populous county – before the board members of the less populous county separate or adjourn upon completion of the board's election report or abstract.

The board elections for the most populous county of a multi-county jurisdiction (for an office, question or issue) office must confirm that it has received the results for that office, question or issue from the board of elections of each other county that is part of the multi-county jurisdiction. If the board of elections in the most populous county has completed the unofficial canvass of the votes from its home county, but has not received reports from the lesser populous counties for a particular jurisdiction, the board members may adjourn and separate so long as the Director and Deputy Director (or Chairperson of the Board in the event the Board has not appointed a Deputy Director) remain to accept the report of unofficial results from the other counties and file an aggregated final unofficial canvas that includes the votes from all counties in the jurisdiction.

Note: The board of elections in the most populous county must initiate contact with the other boards of elections in the multi-county jurisdiction and pre-arrange the method of reporting, the fax number or email address for reporting, and exchange after-hours office numbers to reach the other Board(s) during tabulation and the cell phone number for the Director, Deputy Director, and Board Chairman. If the most populous county fails to initiate contact before Election Day, the other board(s) of elections in the multi-county jurisdiction must contact the most populous county for the information above.

B. Final Report

All final reports must be transmitted to the Elections Division via email to kmalott@ohiosecretaryofstate.gov.

1. After a Board has completed its unofficial canvass, it must email the Secretary of State's Office and attach a copy of the unofficial vote total report generated by the board's voting system. This report must be clearly labeled "<County>'s Unofficial Canvass" and it must contain only vote totals for that county.
2. The Board of the most populous county of any multi-county district must generate a separate report showing the combined vote totals for its county and the overlapping counties that report to the most populous county. This report must be clearly labeled "<County>'s Unofficial Canvass – Majority County." The Board may use its voting system, SOS Form or some other method to provide this information.

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

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

Sincerely,



Jon Husted