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**DIRECTIVE 2013-20**

October 11, 2013

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

Re: Official Canvass for November 5, 2013 General Election

**SUMMARY**

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

**I. TIMELINE FOR OFFICIAL CERTIFICATION**

Boards of elections may begin the official canvass of the general election no earlier than the 11<sup>th</sup> day after the election (Saturday, November 16, 2013), and must begin no later than the 15<sup>th</sup> day after the election (Wednesday, November 20, 2013). Each board of elections must complete its official canvass and certify no later than the 21<sup>st</sup> day after the election (Tuesday, November 26, 2013).<sup>1</sup>

**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 in the efficiency of the official canvass, during the 10 days following the election, board personnel determining preliminary eligibility of provisional ballots 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 provisional ballot.<sup>2</sup> Further, observers may be present, as provided by law, while the Board determines the eligibility of provisional ballots.<sup>3</sup>

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<sup>1</sup> R.C. 3505.32.

<sup>2</sup> R.C. 3505.183(D).

<sup>3</sup> R.C. 3505.183(D) and 3505.21.

## **B. Document Review**

Prior to November 16, 2013, a board of elections must 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.<sup>4</sup> 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.<sup>5</sup> [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.<sup>6</sup> Those ballots include the following: provisional ballots; absentee ballots postmarked on or before November 4, 2013, that had not been received by the closing of the polls but were received by November 15, 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 not later than November 15, 2013; and challenged ballots the Board has determined are eligible.<sup>7</sup>

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 2013-19](#).

### **C. 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:

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<sup>4</sup> R.C. 3505.32(D).

<sup>5</sup> R.C. 3506.14(B).

<sup>6</sup> R.C. 3505.32(C).

<sup>7</sup> R.C. 3503.24.

## 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 Voting Machines (DREs)

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 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.

## D. 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 lot<sup>8</sup> and declare the winner *before* the board certifies the results of the election for that office and orders a recount.<sup>9</sup> A majority of the board members must sign the declaration, which must be dated. The Board 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.<sup>10</sup>

#### **IV. FORMS FOR OFFICIAL CERTIFICATION**

Templates for reporting results to the Secretary of State's Office and, in some instances, to other boards of elections or public agencies will be forwarded under separate cover.

Additionally, because state law requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted, all county boards of elections must provide supplemental data.<sup>11</sup> 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, the certification of official results must be clearly labeled "<County>'s *Official Canvass*," and it must contain only vote totals for your county.

The board of elections for the most populous county of any jurisdiction must generate a separate report from its voting system, or create a report outside of its voting system, showing the combined official vote totals for its county and the overlapping counties that report to the Board of the most populous county. This report must be clearly labeled "<County>'s *Official Canvass – Most Populous County*." The contest(s) for which a Board 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. 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.

##### **B. Absentee and Provisional Ballot Supplemental Report**

Each board of elections must enter on the appropriate lines of the reporting document the supplemental data for each absentee and provisional ballot.

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<sup>8</sup> R.C. 3505.33. 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.

<sup>9</sup> 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.

<sup>10</sup> R.C. 3505.33.

<sup>11</sup> R.C. 3501.05(Y).

Additionally, each Board must submit the precinct-level absentee and provisional data required by the state's settlement agreement with the League of Women Voters.

**The above documents will be forwarded under separate cover.**

## V. TIMELINE FOR REPORTS

**The Secretary of State's Office must receive each board of elections' properly completed and signed certification and report forms no later than the close of business on Wednesday, December 4, 2013.**

Submit completed forms to Kathy Malott via email to [kmalott@ohiosecretaryofstate.gov](mailto:kmalott@ohiosecretaryofstate.gov).

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

## VI. 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 law.<sup>12</sup> See [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](mailto:mpoole@ohiosecretaryofstate.gov). If the recount to be conducted is of a multi-county jurisdiction, the Secretary of State's Office will issue the notice of recount upon notification by the most populous county. If a recount should result in vote totals changing, the board of elections must submit a properly completed and signed amended certification.

## VII. VOTER HISTORY

All Boards must upload voter history for the November 5, 2013 General Election to the Statewide Voter Registration Database no later than Friday, January 3, 2014. Counties with more than 100,000 registered voters must contact Robin Fields to schedule the upload.

If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel assigned to your county at (614) 466-25851.

Sincerely,

  
Jon Husted

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<sup>12</sup> R.C. 3515.01 - .072.