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**DIRECTIVE 2014-27**

September 5, 2014

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

Re: Contacting Voters with Incomplete Absentee Ballot Identification Envelopes

**SUMMARY**

Recently amended state laws<sup>1</sup> require boards of elections to contact voters who submit incomplete or non-conforming absentee ballot identification envelopes. This Directive provides specific instructions for this process and prescribes an updated [SOS Form 11-S](#) for use by all boards of elections when contacting a voter who submitted an incomplete or non-conforming absentee ballot identification envelope. For information on absentee voting and UOCAVA, refer to Directives [2014-18](#) and [2014-19](#), respectively.

**INSTRUCTIONS**

**I. PRE-PRINTING A VOTER'S NAME AND ADDRESS ON THE IDENTIFICATION ENVELOPE**

State law requires boards of elections to provide an identification envelope to each absentee voter at the time the Board provides the voter with an absentee ballot.<sup>2</sup> State law further permits boards of elections to pre-print the voter's name and address (at which the voter is registered to vote) on the identification envelope.<sup>3</sup>

Boards of elections are instructed to pre-print the voter's name and address (at which the voter is registered to vote) on the voter's identification envelope prior to providing it to the voter. This will eliminate any chance that a voter's absentee ballot may be rejected for the sole reason that the voter did not provide the voter's name and address on the identification envelope. Boards of elections may fulfill this requirement by pre-printing

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<sup>1</sup> See, [Substitute Senate Bill No. 205](#) and [Substitute Senate Bill No. 216](#) (130<sup>th</sup> General Assembly).

<sup>2</sup> R.C. 3509.04.

<sup>3</sup> R.C. 3509.04.

the voter's name and address directly onto the identification envelope, by pre-printing the voter's name and address onto a sticker or label and then affixing the sticker or label to the identification envelope, or by some other method which accomplishes this purpose.

When a voter's name and address are placed anywhere on the identification envelope by a board of elections (i.e., other than in the blanks identified for this purpose on SOS Forms [12-A](#) or [12-C](#)), the name and address portion of the statutory requirement for the identification envelope to contain the voter's name and address<sup>4</sup> is satisfied.

The statutory prohibition against pre-printing information other than the voter's name and address does not limit a Board from printing other information helpful to the Board in administering its duties (e.g., ballot style, precinct, party-affiliation, legislative or other jurisdictions, bar codes, etc.).

## II. SOS FORM 11-S

Whenever a board of elections receives an absentee ballot identification envelope that is incomplete, or that contains information that does not conform to the voter's registration record, the board of elections must issue [SOS Form 11-S](#) to the voter.<sup>5</sup> Boards must include a courtesy reply envelope (pre-addressed return envelope) with every [SOS Form 11-S](#) issued.

The updated [SOS Form 11-S](#) (revision date of 9/14) provides spaces for a board of elections to print the voter's name and registration address, and to identify for the voter the specific information that is missing or in error (the "nature of the defect") on the voter's absentee ballot identification envelope. The voter need only provide the information that cures the defect when returning a completed [SOS Form 11-S](#) and does not need to sign and date [SOS Form 11-S](#), unless the voter's signature on the voter's absentee ballot identification envelope was omitted or did not reasonably match the voter's signature on file with the board of elections.

In the event that the Board issues [SOS Form 11-S](#) because the voter's date of birth, driver's license number, or last four digits of the voter's Social Security number provided on the identification envelope does not match the information as recorded in the statewide voter registration database, and the voter completes and returns [SOS Form 11-S](#) with the same information provided on the identification envelope, the Board must

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<sup>4</sup> R.C. 3509.06(D).

<sup>5</sup> R.C. 3509.06(D)(3)(b).

review its voter registration records – including original paper records if necessary – prior to the 10<sup>th</sup> day before the election to determine whether the mismatch is a result of data entry error.

Whenever a voter has requested the voter’s absentee ballot to be mailed by the board of elections to an address other than the address at which the voter is registered to vote, and the voter’s absentee ballot identification envelope is “defective,” the Board must issue [SOS Form 11-S](#) to both the address at which the voter is registered to vote and the address to which the voter had requested the voter’s absentee ballot be mailed by the Board.<sup>6</sup>

Boards of elections must adhere to the following schedule when reviewing completed absentee ballot identification envelopes and issuing [SOS Form 11-S](#) to absentee voters:

- [SOS Form 11-S](#) must be issued not later than two business days after a “defective” absentee ballot identification envelope is received by the board from the start of absentee voting through the third Saturday prior to an election;
- [SOS Form 11-S](#) must be issued not later than one calendar day after a “defective” absentee ballot identification envelope is received by the board of elections between the third Monday and last Friday prior to an election; and
- [SOS Form 11-S](#) must be issued on the same day that a “defective” absentee ballot identification envelope is received by the board of elections between the Saturday prior to an election and through the 6<sup>th</sup> day following an election.

For purposes of this section, “issued” means that [SOS Form 11-S](#) has been presented by the board of elections to the USPS, with accurate first-class postage affixed by the board of elections necessary for first-class delivery.

It is not necessary for a Board to provide [SOS Form 11-S](#) to an absentee voter whose ballot was received by the board of elections after 7:30 p.m. on Election Day and is postmarked later than the day prior to the election.

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<sup>6</sup> Regardless of whether the voter requested assistance in casting the absentee ballot, if a voter requests assistance to supplement the voter’s identification envelope the board of elections must send two employees, not of the same political party, to the voter to provide assistance. *Ray v. Franklin County Board of Elections* Case No. 2:08-CV-1086, 2008 WL 4966759 (S.D. Ohio Nov. 17, 2008). In the event a voter who is hospitalized out of county requests reasonable accommodation to facilitate absentee voting, Boards of Elections are advised to consult with their Prosecuting Attorney. *See, generally, Mooneyhan v. Husted*, 3:12-CV-379, 2012 WL 5834232 (S.D. Ohio Nov. 16, 2012).

Once an absentee voter has completed [SOS Form 11-S](#), the voter may return it to the board of elections in person, by mail or other private delivery service (e.g., UPS, FedEx, etc), or by any person authorized by state law to return the voter's absentee ballot.<sup>7</sup>

A completed [SOS Form 11-S](#) must be received by the board of elections by the 7<sup>th</sup> day after an election,<sup>8</sup> or be post-marked by the 7<sup>th</sup> day after the election and received by the board of elections by the 10<sup>th</sup> day after the election, in order to cure the voter's defective absentee ballot identification envelope and have the ballot included in the official canvass, which may begin on the 11<sup>th</sup> day following the election.

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

Sincerely,

  
Jon Husted

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<sup>7</sup> R.C. 3509.05(A).

<sup>8</sup> R.C. 3509.06(D)(3)(b).