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DIRECTIVE 2014-31

October 3, 2014

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

Re: Unofficial Canvass – November 4, 2014 General Election

SUMMARY

This Directive outlines the procedures that all boards of elections must follow when conducting the unofficial canvass of the November 4, 2014 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 sent from the Secretary of State's Office on Election Day (including after the polls close).

I. UNOFFICIAL CANVASS

The unofficial canvass of the November 4, 2014 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.⁴

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.⁵

¹ R.C. 3505.27 (counting regular ballots that were cast at precinct polling locations); R.C. 3505.28 (regular ballots not counted); R.C. 3509.06 (counting absentee ballots); R.C. 3509.07 (absentee ballots not counted); R.C. 3511.11-3511.13 (uniformed service and overseas voter absentee ballots).

² R.C. 3505.27.

³ R.C. 3505.27; R.C. 3505.29; R.C. 3505.30.

⁴ R.C. 3505.27-3505.28; R.C. 3509.06-3509.07; R.C. 3511.11-3511.13.

⁵ R.C. 3505.183(D); R.C. 3505.28; R.C. 3505.32; R.C. 3509.05(B)(1); 3509.07.

II. PERIODIC REPORTING REQUIREMENTS FOR ELECTION NIGHT

State law requires that all boards of elections provide regular periodic election results for specified contests to the Secretary of State's Office.⁶ All counties must use the upload tool used statewide for the 2014 primary election to provide summary results to fulfill this statutory requirement.

Although all counties will have access to hand-key the results at the time frames below, the upload tool will allow you to do this more efficiently and without data entry errors. Prior to Election Day, you will receive a shipment of USB thumb drives for use on election night to ensure the security of your central tabulating system.

As in the past, unofficial election results provided to the Secretary of State's Office will be summary only, rather than precinct-level. Precinct-level results will be uploaded by boards of elections for the official canvass.

A. Reporting Absentee Ballot Results

You must upload vote totals for absentee ballots by 7:45 p.m. unless your voting system is technologically unable to do so. If necessary, you may upload partial absentee results (e.g., for GEMS users who were unable to scan all absentee ballots prior to starting the central tabulation of precinct cards). If you upload partial absentee results at 7:45 p.m., you must ensure that you do not double report the initial upload. Contact your voting system vendor if you need assistance.

Be sure to enter zero precincts reporting if the results do not include any results from Election Day precincts when you upload your absentee results.

Remember, you may begin "processing," which includes "scanning," absentee ballots beginning 10 days before the election. You may not, however, "tabulate" any absentee ballot prior to 7:30 p.m. on Election Day. See III.A.2. below.

B. Maximum Time Between Reports

Once your first Election Day precinct has reported, you must begin uploading summary election results. Do not wait until you have 10 or some other minimum number of precincts to report together. After you have uploaded your first summary election results, you must report on the following time-increment assigned to your county:

1. "Quarter-Hour" Counties

"Quarter-Counties (assigned to Pat Currie) are: Allen, Butler, Clark, Clermont, Cuyahoga, Delaware, Fairfield, Franklin, Greene, Hamilton, Lake, Licking, Lorain,

⁶ R.C. 3505.27(C).

Lucas, Mahoning, Medina, Montgomery, Portage, Stark, Summit, Trumbull, Warren, and Wood.

“Quarter-hour” counties must report at each quarter hour (e.g., 7:45 p.m., 8:00 p.m., 8:15 p.m., 8:30 p.m., 8:45 p.m., etc.), beginning with the quarter hour that follows the upload of the Board’s first summary election results, and continuing until all precincts have reported.

If, as you approach full reporting, one or more precincts have not reported, and it has been more than 30 minutes since your last report, you must notify Pat Currie. Once you have 100% precincts reporting, do not delay entering final vote tallies into the ENR system. You do not have to wait until your designated reporting time (noted above) when reporting final results.

2. “Half-Hour” Counties

“Half-Hour” counties (assigned to Bronwen Evener) are: *Ashtabula, Athens, Belmont, Columbiana, Erie, Geauga, Hancock, Jefferson, Knox, Lawrence, Marion, Miami, Muskingum, Richland, Ross, Sandusky, Scioto, Tuscarawas, Washington, and Wayne.*

“Half-hour” counties must report at each half-hour (e.g., 8:00 p.m., 8:30 p.m., 9:00 p.m., etc.), beginning with the half-hour that follows the upload of the Board’s first summary election results, and continuing until all precincts have reported.

If, as you approach full reporting, one or more precincts have not reported, and it has been more than 60 minutes since your last report, you must notify Bronwen Evener. Once you have 100% precincts reporting, do not delay entering final vote tallies into the ENR system. You do not have to wait until your designated reporting time (noted above) when reporting final results.

3. “Hourly” Counties

“Top-of-the-hour” counties (e.g., 8:00 p.m., 9:00 p.m., etc.) (assigned to Joy West) are: *Ashland, Auglaize, Brown, Champaign, Clinton, Crawford, Darke, Defiance, Fulton, Guernsey, Highland, Huron, Logan, Mercer, Morrow, Ottawa, Pickaway, Preble, Seneca, Shelby, Union, and Williams.*

“Bottom-of-the-hour” counties (e.g., 8:30 p.m., 9:30 p.m., etc.) (assigned to Robin Fields) are: *Adams, Carroll, Coshocton, Fayette, Gallia, Hardin, Harrison, Henry, Hocking, Holmes, Jackson, Madison, Meigs, Monroe, Morgan, Noble, Paulding, Perry, Pike, Putnam, Van Wert, Vinton, and Wyandot.*

“Hourly” counties must report summary election results at the top *or* bottom of every hour and continuing until all precincts have reported. If you report more frequently, you must still report on the hour.

If, as you approach full reporting, one or more precincts have not reported, and it has been more than 60 minutes since your last report, you must notify the assigned Secretary of State contact. Once you have 100% precincts reporting, do not delay entering final vote tallies into the ENR system. You do not have to wait until your designated reporting time (noted above) when reporting final results.

Contact information for Secretary of State personnel will be provided under separate cover prior to Election Day.

C. Supplemental Statistics

You must provide “supplemental statistics” when you report your last precinct or shortly thereafter. Do not delay reporting vote totals only because the supplemental statistics are not yet available; upload the election results, then return when the supplemental statistics are complete. Do not delay reporting vote totals or supplemental statistics because you have not completed ballot reconciliation procedures.

You must provide the supplemental statistics before the Board and its employees disband following completion of the unofficial canvass. The supplemental statistics you are required to report are:

- Counted Ballots
 - Total number of regular ballots counted from Election Day precincts (do not include absentee).
 - Total number of non-UOCAVA absentee ballots counted.
 - Total number of UOCAVA absentee ballots counted.
 - Total number of absentee ballots counted.
 - Total regular and absentee ballots counted.

- Outstanding Ballots (ballots issued but not yet counted)
 - Total number of outstanding non-UOCAVA absentee ballots issued by the Board, but not returned.
 - Total number of outstanding UOCAVA absentee ballots issued by the Board, but not returned.
 - Total number of outstanding absentee ballots (issued by BOE but not returned by close of polls).
 - Total number of provisional ballots issued on Election Day.
 - Total number of provisional ballots issued before Election Day, but after close of registration at the board office.
 - Total number of provisional ballots issued at the polls or the board office.

III. UNOFFICIAL CANVASS PROCESS AND PROCEDURES

A. Processing and Tabulation Instructions for Optical Scan Ballots

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.⁷ [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 over-votes.

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:⁸

- 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; and/or
- A candidate, question or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

⁷ R.C. 3506.14(B).

⁸ R.C. 3506.21.

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 over-vote 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 over-vote does not exist if the Board determines 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 Direct Recording Electronic Machines (DRE)

- 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.

Note: The seal on the canister or the tape on the voter verified paper audit trail (VVPAT) shall not be broken to determine unofficial results. If the seal must be broken for any reason other than for recount purposes or a statewide post-election audit as prescribed by the Secretary of State, board personnel must notify the Secretary of State’s Elections Division before proceeding.

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 a designated team or teams consisting of election officials, not more than half of whom on any given team is of the same 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.

In either case, or 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.

When conducting hand counts of ballots, boards of elections must follow the instructions provided 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 only *valid* 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
- The number of times write-in votes for that contest were recorded, regardless of whether it was recorded for an eligible write-in candidate, 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 over-voted 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.

IV. FINAL REPORTS

A. Reporting Summary Results for Multi-County Jurisdictions⁹

A board of elections 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 must report the results by 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 before the board members of the less populous county separate or adjourn.

⁹ R.C. 3505.30.

The Board for the most populous county of a multi-county jurisdiction (for an office, question or issue) must file an aggregated final unofficial canvass that includes the votes from all counties in the jurisdiction no later than 10:00 a.m. the day following the election. The Board may use a report from their central tabulating system, create a report outside of their central tabulating system, or use a reporting form that will be provided under separate cover for this purpose. The report must include the total number of votes recorded for the office, question or issue from each county in the multi-county jurisdiction and the sum total for all counties.

Note: The board of elections in the most populous county must initiate contact with the other boards of elections in the multi-county jurisdiction to pre-arrange the method of reporting, the 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 Summary Reports¹⁰

All final summary reports must be transmitted to the Elections Division via email to kmalott@ohiosecretaryofstate.gov. A signature form, which must be signed by the Director, Deputy Director, and each board member present for the unofficial canvass, will be provided under separate cover. The Board may not authorize the use of digital or stamped signatures for these reports.

1. On Election Night, 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 summary 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. By 10:00 a.m. the day after the election, each board of elections must submit a tally of valid votes for write-in candidates, if applicable, using a reporting form that will be provided under separate cover.
3. By 10:00 a.m. the day after the election, the Board of the most populous county of any multi-county district must generate a separate summary report showing the combined vote totals for its county and each overlapping county that report to the most populous county for that contest. 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.
4. By 10:00 a.m. the day after the election, the Board of the most populous county of any multi-county district, with write-in candidates described under III.C., above, must submit a tally of the combined valid votes for write-in candidates from its county and each overlapping county that report to the most populous county for that contest. The

¹⁰ R.C. 3505.30.

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.

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,

A handwritten signature in black ink that reads "Jon Husted". The signature is written in a cursive style with a large initial "J".

Jon Husted