

## Election Day Voting

### Directive 2016-23

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**JON HUSTED**  
Ohio Secretary of State



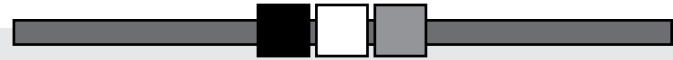
### SECTION 1.01 DELIVERY AND RETURN OF BALLOTS AND VOTING EQUIPMENT

#### A. Delivery to Polling Location

Each board of elections must arrange for the delivery of voting equipment to polling locations prior to or on Election Day. If voting equipment will be delivered to a polling location prior to Election Day, the board must arrange for the security of the equipment at the polling location. The storage of voting equipment at a precinct election official's home, vehicle, or place of employment is prohibited, and a precinct election official must never retain custody of voting equipment overnight.

At a polling location, voting equipment must be stored in the manner recommended by the voting equipment manufacturer and in a clean and climate-controlled environment. The equipment must not be stored on the ground in an area prone to flooding or where liquids accumulate.

If memory cards are inserted into the voting machines when they are delivered to a polling location or transferred to a precinct election official, the board is required to use tamper evident seals to allow detection if the memory card is tampered with while in the machine. The seal must be unique to each machine with a documented, unique identifier that corresponds to



the particular voting machine. Documentation of the unique identifier for the tamper evident seal as it corresponds to a particular voting machine should be maintained on three lists. Two lists must be retained in a secure location at the board office, with one kept by the director and the other by the deputy director.

Upon set up and closing, precinct election officials must inspect all pieces of voting equipment that are assigned to their precinct for any physical damage. Precinct election officials must document the inspections on a maintenance/event log provided by the board of elections and must specifically note any signs of damage or tampering discovered on the equipment or cases used to house the equipment.

Additionally, boards of elections must use a Chain of Custody Log ([Form 400](#) or local equivalent) to document the exchange of custody of voting equipment, election supplies, and/or ballots. Boards should train precinct election officials on inspection of tamper evident seals so they know what to look for when inspecting the equipment.

## **B. Polling Place Security and Emergency Response**

Precinct election officials must maintain control over all voting equipment, keys, memory cards, ballots, and all other election supplies at all times. Any suspicious activity or damage to the equipment must be reported to the board immediately. The board must provide each voting location manager with a list of persons to contact in the event of an emergency.

Precinct election officials must be instructed that, in the event of an emergency, their first priority is the safety of the electors and other election officials. Precinct election officials should remove voting equipment, election supplies, and ballots only if it may be done safely. If any voting equipment, election supplies, and ballots are removed from a polling location, at least one (preferably two, one of each major political party) must remain with the equipment and supplies at all times.





### **C. Secure Return of Ballots, Election Day Supplies, and Electronic Poll Books**

At the close of polls, all ballots and election supplies (i.e., paper and electronic poll books, poll lists, tally sheets, election reports, and other materials) must be returned by a bipartisan team to the board of elections office or other location designated and staffed by the board. The bipartisan team must consist of the voting location manager and an employee or appointee of the board who is a member of a different political party than the voting location manager and “has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties [of promptly and securely transporting and delivering ballots and election supplies to the board of elections].”<sup>1</sup>

Each electronic poll book must be sealed by the precinct election officials with a tamper-evident seal before being returned from the polling location to the board of elections’ office. If the e-poll book uses a removable data storage unit or produces a paper record, the data storage unit and the paper record must also be sealed with a tamper-evident seal in an appropriate storage container before being returned to the board office.

When transporting ballots and election supplies, the bipartisan team must travel in the same vehicle. The board is permitted to have one or more additional persons, such as a law enforcement official, accompany the bipartisan team. One bipartisan team may transport the ballots and election supplies for an entire multi-precinct polling location.

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<sup>1</sup> [R.C. 3505.31](#).





## **SECTION 1.02 LIST OF REGISTERED VOTERS**

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Copies of the official Precinct Voter Registration Lists must be provided to each precinct and updated and posted at specific times during the day.

- The first copy of the list should be posted at 6:30 a.m., after the absentee and early provisional voters have been marked by the voting location manager. The precinct election officials must keep the other copies, updating them by checking off voters as they vote.
- The second copy of the list, marked to indicate who has voted since 6:30 a.m., must be posted at 11:00 a.m. The precinct election officials must keep the other copies, updating them by checking off voters as they vote.
- The third copy of the list must be posted at 4:00 p.m., marked to indicate who has voted from 11:00 a.m. to 4:00 p.m. After 4:00 p.m., the precinct election officials are not required to post another updated list.

Party affiliation is required to be included in the registration list that is posted at 6:30 a.m., 11 a.m., and 4 p.m. on Election Day at each polling location.<sup>2</sup>

Please note that any person may enter the polling location for the sole purpose of checking and taking notes from the official Precinct Voter Registration List that is posted at 6:30 a.m., 11:00 a.m., and 4:00 p.m. Such persons may not wear any electioneering or campaign clothes or accessories and may not interfere with or disrupt the election. Such persons may not remove the posted official Precinct Voter Registration List, and election officials should be careful to post the list in a manner that it cannot be removed unnoticed by an election official.

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<sup>2</sup> [R.C. 3503.23](#).





## **SECTION 1.03 SIGNATURE POLL BOOKS – PAPER OR ELECTRONIC**

### **A. Contents**

The signature poll book – or signature poll list – is a required element for any election. It is the record that precinct election officials use to determine whether or not a voter is registered to vote and eligible to vote in that election at that precinct. A signature poll book must contain four primary elements:

- The voter's name;
- The voter's address;
- An image of the voter's signature; and
- A space for the voter to sign his or her signature.

In a partisan primary election, there must also be a space for the precinct election official to record the political party ballot selected by the voter.

The signature poll book may also contain additional information necessary for the precinct election official to determine the type of ballot (i.e., ballot style number; house, senate and congressional or school district name/number, etc.).

The poll book can be in paper or electronic form.<sup>3</sup> An electronic poll book contains the same information on the voters assigned to the precinct and polling location as a paper poll book contains.

Each voter is required to sign the poll book (if electronic, the voter signs the signature pad or on the screen of the poll book using a stylus). If the voter is physically unable to sign, he or she may have his or her properly appointed

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<sup>3</sup> [R.C. 3503.23](#).





attorney-in-fact sign on the voter's behalf.<sup>4</sup>

## B. Special Notations in the Poll Book

The board of elections is also required to provide special notations in the signature poll book identifying voters who may require special processing (i.e., a 17-year-old voter) or who must vote by provisional ballot.

### 1. 17-Year-Old Voter

Ohio law allows a 17-year-old voter who will be 18 years of age on or before the date of the next general election to vote in the primary election solely on the nomination of candidates seeking election and, in a presidential primary election, for Presidential convention delegates.<sup>5</sup> This is because the 17-year-old voter will be eligible to vote for the nominees at the November general election.

As with every voter, a 17-year-old voter must be registered to vote and satisfy Ohio's voter identification requirements.

Voters who are 17 years old as of the primary election are not permitted to vote on any of the following:

- State Party Central Committee
- County Party Central Committee
- Questions and Issues

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<sup>4</sup> [R.C. 3505.18](#); [R.C. 3501.382](#). Generally, signing or affixing a signature to an election-related document requires a person's written, cursive-style legal mark written in that person's own hand. However, a voter with a disability may personally affix his or her signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See [R.C. 3501.011](#), [3501.382\(F\)](#) and related [OAG 2015-012](#). In counties with electronic poll books, if a voter is physically unable to sign and cannot be accommodated on the electronic poll book, the voter may affix his or her signature in the backup paper poll book. In the alternative, the voter may have a properly appointed attorney-in-fact sign on the voter's behalf.

<sup>5</sup> *Schwerdtfeger v. Husted*, Franklin C.P. No. 16 CV 002346 (March 11, 2016).; [R.C. 3503.01](#); [R.C. 3503.011](#); [R.C. 3503.07](#). *State ex rel. Webber v. Felton*, 77 Ohio St. 554 (1908).





The ballot style given to a seventeen-year-old voter is determined in accordance with the type of voting system used by the county and instructions of the board.

## 2. **First-time Registrant By-Mail**

Under federal law, a first-time registrant by mail who does not provide a valid form of identification at the time of registration (i.e., driver's license number, last four digits of the voter's Social Security number, or a copy of an acceptable form of voter identification) must be flagged as such in the poll book and must show identification in order to vote a regular ballot.<sup>6</sup> State law requires all voters to provide identification at the polls prior to casting a regular ballot. If any voter does not provide an acceptable form of identification, that voter must cast a provisional ballot.

## 3. **BMV/SSA Mismatch**

Under federal law, a new voter registration must be compared with records from the Bureau of Motor Vehicles or the Social Security records to verify the voter's identification (i.e., the voter's driver's license number and/or the last four digits of the voter's Social Security number).<sup>7</sup> In the event the information provided by the voter and entered into the county voter registration system does not match the information in the other government databases, the board of elections must send a confirmation card to that voter, informing the voter of the mismatch and giving the voter an opportunity to correct it. If the voter does not correct the mismatch, that voter must be flagged in the voter registration data base.

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<sup>6</sup> 52 U.S.C.A. §21083.

<sup>7</sup> 52 U.S.C.A. §21083(a).





#### 4. Requested Absentee Ballot

If a voter has submitted a valid application for an absentee ballot (either by-mail or in person) that voter must be flagged in the poll book. If that voter appears to vote on Election Day, he or she must cast a provisional ballot, even if the voter states that the voter did not receive or has not returned the voter's absentee ballot.<sup>8</sup> Boards must ensure that all signature poll books have been printed with these flags, including updating them on Election Day using a supplemental list prepared after the signature poll books have been prepared. If using electronic poll books, the board must ensure that all voters who have requested an absentee ballot have been flagged and must upload the supplemental list of absentee voters onto its electronic poll books prior to the opening of polls.

A board of elections may not permit a precinct election official to accept a voted absentee ballot at the polling location on Election Day. No absentee ballot can be accepted at a polling location on Election Day.<sup>9</sup> The voter must return it to the office of the county board of elections before 7:30 p.m. on Election Day.<sup>10</sup>

#### 5. Acknowledgement Card Returned as Undeliverable

Whenever an acknowledgement notice is returned as undeliverable, the board of elections must send a confirmation card by forwardable mail to the voter giving the voter an opportunity to correct or confirm the information on file with the board of elections. If the voter does not correct or confirm the information by returning the confirmation card or submitting another voter registration record, the voter must be flagged as such in the poll book and must cast a provisional ballot at the polls on Election Day.<sup>11</sup>

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<sup>8</sup> [R.C. 3509.09.](#)

<sup>9</sup> [R.C. 3509.05\(A\).](#)

<sup>10</sup> [R.C. 3509.05\(A\).](#)

<sup>11</sup> [R.C. 3503.19.](#)







## 6. Party Affiliation

Party affiliation, defined in [R.C. 3513.19](#) as the most recent ballot selected at a partisan primary held during a look-back period that is limited to the current year and two immediately preceding calendar years, is not required to be included in the poll list or signature poll book.<sup>12</sup>

## 7. Challenged Voter – Hearing Delayed

If a challenge of an elector's right to vote has been filed after the 30th day before an election, and the board of elections has delayed the hearing of that challenge until after the election, the signature poll book must be marked such that the voter who has been challenged must cast a provisional ballot on Election Day in the event the voter desires to vote.<sup>13</sup>

## 8. Former Ohio Resident — Presidential Election Only

The signature poll book or poll list must be marked “Former Resident’s Presidential Ballot” to indicate any former Ohio residents at that precinct and/or polling location who have filed a Certificate of Intent to Vote in a Presidential Election.<sup>14</sup> On Election Day, former Ohio residents must vote at the precinct and polling location where their voting residence was located at the time the voter moved from Ohio to another state.

To provide “President and Vice-President Only” ballots to former Ohio residents who have timely filed a Certificate of Intent to Vote in a Presidential Election, boards must issue a centrally counted, optical scan, paper ballot from the correct precinct's ballot of the voter's former Ohio voting residence.

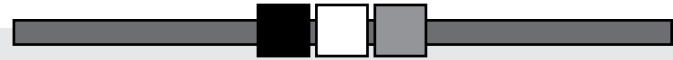
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<sup>12</sup> [R.C. 3501.30](#).

<sup>13</sup> [R.C. 3503.24\(D\)](#).

<sup>14</sup> [R.C. 3504.04](#).





After the former Ohio resident has marked the ballot, the ballot must be placed in an envelope (identification envelope for absentee ballots or an envelope created specifically for Election Day former Ohio resident voters) and the envelope must be clearly labeled “Former Ohio Resident’s Presidential Ballot.”

For more information, please refer to the information regarding Former Ohio Resident voters in [Chapter 5](#) Absentee Voting.

## **SECTION 1.04 PROCEDURE**

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### **A. Identifying Voter in Signature Poll Book — Paper or Electronic**

#### **1. PEO Must Direct Voter to Correct Polling Place**

It is the voter’s responsibility to be timely registered to vote at the proper residential address, to know the correct precinct and voting location assigned, and to bring a valid form of identification to the polls on Election Day. Precinct and voting location information for registered voters is available online at [www.sos.state.oh.us/elections/voters/toolkit/](http://www.sos.state.oh.us/elections/voters/toolkit/).

When a voter appears to vote in the wrong precinct, Ohio law requires that the precinct election officials direct that voter to his or her correct precinct and polling location, explain that a provisional ballot cast in the wrong precinct cannot be counted, and provide the voter with a phone number for the board of elections.<sup>15</sup> Accordingly, boards of elections must instruct precinct elections officials on how to comply with these requirements.

#### **2. Use of Form 12-D for Wrong Precinct but Correct Polling Place**

Under Ohio law, a provisional ballot cast in the wrong precinct of a multi-precinct polling location may be eligible to be counted if the precinct election official did not notify the voter that he or she was in the wrong

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<sup>15</sup> [R.C. 3505.181\(C\)](#).





precinct.<sup>16</sup>

If a voter refuses to cast a ballot in the correct precinct, he or she must be permitted to cast a provisional ballot and advised that a ballot cast in the wrong precinct cannot be counted.<sup>17</sup> To document the fact that the voter was directed to the correct precinct but opted to cast a provisional ballot in the wrong precinct, a precinct election official must complete [Form 12-D](#) and attach it to the provisional voter's provisional ballot envelope.<sup>18</sup>

If a precinct election official does not complete and attach [Form 12-D](#) to the provisional envelope, the board must remake and count the provisional ballot for any contest in which the voter would be eligible to vote if the voter were to cast a ballot in the correct precinct.

## B. Identification

Ohio law requires that every voter, upon appearing at the polling location to vote on Election Day, must announce his or her full name and current address and provide proof of identity.<sup>19</sup>

The forms of identification that may be used by a voter who appears at a polling location to vote on Election Day include:

- An unexpired Ohio driver's license or state identification card with present or former address so long as the voter's present residential address is printed in the official list of registered voters for that precinct;

**Note:** An Ohio driver's license or state identification card with an old or former address IS ACCEPTABLE as a valid form of identification necessary to cast a regular ballot when the voter's current address is printed in the Signature Poll Book.

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<sup>16</sup> [R.C. 3505.181\(C\)\(1\)](#).

<sup>17</sup> [R.C. 3505.181\(C\)\(1\)](#).

<sup>18</sup> [R.C. 3505.181\(C\)\(2\)](#).

<sup>19</sup> [R.C. 3505.18](#).





- A military identification;

**Note:** Military identification cards or copies of such cards must be accepted whether or not they contain the voter's name or address.

- However, it still must allow a precinct election official to determine that it is the military ID card of the person who is presenting it for the purpose of voting.
- A photo identification issued by the United States government or the State of Ohio, that contains the voter's name and current address and that has an expiration date that has not passed;
- An original or copy of a current utility bill with the voter's name and present address;

**Note:** A utility bill is a statement of fees owed and/or paid for services. It may be a printout of an electronically transmitted statement for services owed, paid, or a regular paper copy. A utility bill includes, but is not limited to, water, sewer, electric, heating, cable, Internet, telephone and cellular telephone services.

- An original or copy of a current bank statement with the voter's name and present address;
- An original or copy of a current government check with the voter's name and present address;
- An original or copy of a current paycheck with the voter's name and present address; or
- An original or copy of a current other government document (other than a notice of voter registration mailed by a board of elections) that shows the voter's name and present address.

For utility bills, bank statements, government checks, paychecks, and other government documents, "current" is defined as within the last 12 months. "Other government document" includes license renewal and other notices,





fishing and marine equipment operator's license, court papers, or grade reports or transcripts. "Government office" includes any local (including county, city, township, school district and village), state or federal (United States) government office, branch, agency, commission, public college or university or public community college, whether or not in Ohio.

For additional information on voter identification, please see [Directive 2008-80](#) in the Resources section of this Manual.

The following forms of identification are not acceptable for voting purposes:

1. Driver's license or photo identification card issued by a state other than Ohio;
2. Social Security card;
3. Passport;
4. Birth certificate, unless the voter still lives at the house where he or she resided at birth and the birth certificate contains that home address, in which case this is acceptable as an "other government document";
5. Insurance card; or
6. Any registration acknowledgment notice from the county board of elections.

## C. Determining Voter Ballot Type

### 1. Regular Ballots

If a voter meets all of the following criteria, the voter is to be provided a regular ballot:

- The voter's name and address are listed in the Signature Poll Book; and
- The voter provides a form of valid identification that conforms to the information in the Signature Poll Book.





- The voter changed his or her name and provides proof of the legal name change (e.g., a marriage license, a court order, or other document that includes both the voter's current and prior names), the voter may complete and sign a Notice of Change of Name ([Form 10-L](#)) and cast a regular ballot, as long as the voter is registered to vote in that precinct.

If the voter changed his or her name and does not have proof of the legal name change, he or she must cast a provisional ballot.

If a voter moved within the precinct, he or she must also complete a Voter Registration Form in order to change his or her address in the county's voter files and vote a regular ballot.

## 2. Provisional Ballots

The reasons that a voter must cast a provisional ballot are:

- a. The voter's name is not in the Signature Poll Book or on the Supplemental Voter List.

**Note:** Before a precinct election official issues a provisional ballot for this reason, he or she must make sure that the voter is in the correct precinct and is not eligible to cast a regular ballot in a different precinct or polling location. If the voter is in the wrong precinct, the precinct election official must direct the voter to the correct precinct.<sup>20</sup>

- b. The voter does not provide or is unable to provide proper or valid identification.
- c. The voter has moved from one precinct to another without updating his or her voter registration by the registration deadline (30 days prior to the election).

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<sup>20</sup> [R.C. 3505.181\(C\)\(1\)](#).





- d. The voter has changed his or her name and moved to a different precinct without updating his or her voter registration by the registration deadline (30 days prior to the election).
- e. The voter has changed his or her name and does not have proof of the legal name change.

**Note:** A voter who changes his or her name and fails to update his or her registration may be eligible to cast a regular ballot if that voter presents one of the following to the precinct election officials on Election Day and completes and signs [Form 10-L](#):

- i. Court order;
  - ii. Marriage license; or
  - iii. Proof of legal name change that includes both the voter's former and current names.<sup>21</sup>
- f. The voter's signature does not match the signature on file with the board of elections (i.e., the signature in the poll book or displayed by the electronic poll book).
  - g. The voter has been challenged, and the challenge has not been resolved or has been resolved against the voter.
  - h. The notice of registration or acknowledgment notice has been returned to the board as undeliverable.
  - i. The voter requested an absentee ballot for the election.
  - j. The voter already has cast a provisional ballot.

For reasons h, i, and j, the voter should be marked or flagged in the poll book as needing to cast a provisional ballot.

For additional information on the casting and counting of provisional ballots, see [Chapter 6](#) of this Manual.

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<sup>21</sup> [R.C. 3503.16\(B\)\(1\)\(b\)](#).





## D. Signing Signature Poll Book — Paper or Electronic

Once the precinct election officials have determined the type of ballot to be issued to the voter, the voter must sign or make his or her legal mark<sup>22</sup> in the poll book (paper or electronic). The precinct election official who witnessed the voter mark the poll book then must write the voter's name on the signature line in the Signature Poll Book following the voter's mark.<sup>23</sup>

If the voter is physically unable to mark the poll book, the voter's attorney-in-fact can sign the voter's name for him or her. In order to have an attorney-in-fact, the voter must fill out and file the correct form with the county board of elections ([Form 10-F](#) or [Form 10-G](#)). If that voter has an attorney-in-fact form on file with the board of elections, the attorney-in-fact's signature will be on file, and it will be noted in the Signature Poll Book or on the Poll List. The voter must have his or her attorney-in-fact accompany him or her to the polling location. The attorney-in-fact should be allowed to sign the voter's name in the Signature Poll Book, in the presence and at the direction of the voter. The signature of the attorney-in-fact should be examined, and if it appears on its face to conform to the attorney-in-fact's signature pre-printed in the Signature Poll Book, the voter should be given a regular ballot.<sup>24</sup>

Please note that an attorney-in-fact is different from a power of attorney. In order for a person with power of attorney to sign election forms for another person, a valid appointment as an attorney-in-fact must be on file with the county board of elections.

## E. Issuing Regular Ballot / Authority to Vote

If the right of the elector to vote is not then challenged, or, if being challenged, the elector establishes the elector's right to vote, the elector shall be issued an Authority to Vote slip for their correct precinct and/or split and be allowed to proceed to use the voting machine. If voting machines

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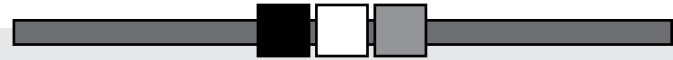
<sup>22</sup> [R.C. 3501.011](#).

<sup>23</sup> [R.C. 3505.18](#).

<sup>24</sup> [R.C. 3501.382](#).







are not being used in that precinct, the precinct election official in charge of ballots shall then detach the next ballots to be issued to the elector from Stub B attached to each ballot, leaving Stub A attached to each ballot, hand the ballots to the elector, and call the elector's name and the stub number on each of the ballots. The precinct election official shall enter the stub numbers opposite the signature of the elector in the poll book. The elector shall then retire to one of the voting compartments to mark the elector's ballots. No mark shall be made on any ballot which would in any way enable any person to identify the person who voted the ballot.

## **F. Curbside Voting**

Curbside voting is the process followed when a person who is physically unable to enter a polling location can send another person into the polling location to inform precinct election officials of his or her desire to vote.

When precinct election officials are made aware of the name of a voter who is physically outside of the polling location, but is physically unable to enter the polling location, the following should be done:

- One of the election officials checks the Signature Poll Book for the name of the voter.
- If the voter is a qualified elector and in the correct precinct, the election official places the voter's name and address on a blank sheet of paper.
- Two election officials of different political parties take the sheet containing the voter's name and address outside the polling location to the voter.
- The voter confirms the name and address are correct.
- The voter provides appropriate identification for voting purposes.
- The voter's identification is examined.
- The voter signs the sheet containing his or her name and address.





- The two election officials return the sheet containing the voter's signature to the polling location and attempt to verify the voter's signature in the Signature Poll Book.
- The two election officials should verify that the voter's signature substantially conforms to the voter's signature in the Signature Poll Book.
- The two election officials record next to the voter's name in the Signature Poll Book "Curbside Voter."
- The two election officials determine the type of ballot to be issued to voter.
- The two election officials obtain the paper ballot and the appropriate ballot envelope or secrecy sleeve (an envelope provided in the precinct election supply kit which is labeled: "Curbside Ballot Envelope or secrecy sleeve" for voted regular curbside ballots or "Provisional Curbside Ballot Envelope" for voted provisional curbside ballots).
- The two election officials take the appropriate ballot (regular or provisional) and corresponding envelope or secrecy sleeve to the voter located outside the polling location.
- The two election officials provide instructions to the voter on how to mark the ballot.
- The voter marks the ballot and places it in the appropriate envelope or secrecy sleeve (if a provisional ballot, the voter must complete the Identification Envelope – Provisional Affirmation ([Form 12-B](#)) and be given a copy of the Provisional Ballot Notice ([Form 12-H](#))).
- The two election officials take the appropriate envelope or secrecy sleeve containing the corresponding voted ballot back into the polling location and place it in the appropriate ballot container.





If a voter who wishes to utilize the curbside voting process is unable to sign his or her name:

- The two election officials witness the voter's mark on the sheet containing the voter's name and address that was taken outside the polling location.
- The two election officials return the sheet containing the voter's mark to the polling location.
- The two election officials record next to the voter's name in Signature Poll Book "Curbside Voter – Unable to Sign."

If a voter who wishes to utilize the curbside voting process is unable to mark his or her ballot:

- The two election officials follow the procedures for a voter who wishes to cast a ballot (regular or provisional) and is unable to mark his or her ballot.

## **SECTION 1.05 MARKING THE BALLOT**

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### **A. Time to mark ballot**

The permissible time limit for a voter to occupy a voting compartment or use a voting machine is 10 minutes. However, a voter should be given a reasonable amount of time to mark and check his or her ballot. The 10-minute time limit does not apply to any voter requiring the use of an accessible voting machine.<sup>25</sup>

If a voter seems to be taking an unusually long period of time while in the voting compartment, two precinct officials of different political parties may inquire, in a polite and professional manner, if the voter requires assistance.

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<sup>25</sup> [R.C. 3505.23](#).





## B. Replacement ballots

If a voter tears, soils, defaces, or erroneously marks a paper ballot, the voter may return it and receive a replacement. Replacement ballots are not necessary for an electronically-displayed ballot on a voting machine, because the voter has the ability to change his or her selections before casting the ballot.

The following procedure must be followed when issuing a replacement ballot:<sup>26</sup>

- If a voter tears, soils, defaces, or erroneously marks a ballot, the voter may return it to a precinct election official, and a second ballot must be issued to the voter. Before a voter turns in a torn, soiled, defaced, or erroneously marked ballot, the voter must fold it to conceal any marks the voter made.
- If the voter tears, soils, defaces, or erroneously marks a second ballot, the voter may return it to the precinct election official, and a third ballot must be issued to the voter. In no case may more than three ballots be issued to a voter.
- When a precinct election official receives a returned torn, soiled, defaced, or erroneously marked ballot, he or she must write “Defaced” on the back of the ballot and place the stub and the ballot in the separate containers provided by the board of elections.
- No voter voting a paper ballot may leave the polling location until he or she returns to a precinct election official every ballot issued to him or her, regardless of whether or not the voter has made any marks on the ballot.

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<sup>26</sup> [R.C. 3505.23](#).





### C. “Fleeting Voters”

If a voter begins a voting session on a voting machine and does not cast his or her ballot by pressing the ‘cast ballot’ button before leaving the polling location, two precinct election officials, each of different political affiliations, must cancel that voter’s ballot.

If a voter is issued an optical scan paper ballot and leaves without feeding it into the scanner (or the scanner rejects the ballot due to an over-vote or blank ballot and the voter does not correct the over-vote or override the error notice), two precinct election officials, each of different political affiliations, must place that voter’s ballot in the spoiled ballot container.

In both cases, with a voting machine or optical scan ballot, the precinct election officials must make a notation of their action for ballot-reconciliation purposes.

### D. List of Write-In Candidates Available Upon Request

The board of elections must provide each precinct polling location with a list of the names of candidates who have filed a declaration of intent to be a write-in candidate for the election.

The list of write-in candidates should not be posted in a precinct polling location, but it must be shown to voters if they request to see it. Additionally, a board may, but is not required to, post a list of write-in candidates on its website.

## SECTION 1.06 ASSISTING VOTERS<sup>27</sup>

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Under both state and federal law, Ohio polling locations are required to be accessible to people with disabilities. The Help America Vote Act requires that all voters must have the ability to independently cast a private ballot.

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<sup>27</sup> [R.C. 3505.24](#).





The Americans with Disabilities Act sets standards for ensuring that people with disabilities have equal access to public services and facilities, including polling locations.

No person should be denied the right to vote because of mobility, vision, speech, cognitive, intellectual, or hearing impairments.

Any voter with a disability may ask for assistance in marking the ballot. Voters who require assistance may have a person of the voter's choice or two precinct election officials – each from a different political party – assist them. The voter may choose anyone he or she wants to provide assistance other than the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union, if any, or any candidate whose name appears on the ballot.<sup>28</sup>

Boards of elections must train their precinct election officials on the rights of voters with disabilities and how to assist and communicate effectively and politely with all voters.

The Secretary of State's Office publishes a Precinct Election Official Manual prior to each major election. It provides precinct election officials with guidelines for communicating and assisting a voter who has a disability.

## **SECTION 1.07 CHALLENGE OF ELECTOR BY PRECINCT ELECTION OFFICIAL**

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On Election Day, a voter may be challenged only by a precinct election official or the voting location manager and only for the following reasons:

- The voter is not a resident of the precinct;
- The voter is not a resident of Ohio;
- The voter is not a U.S. citizen; or

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<sup>28</sup> [R.C. 3505.24](#).





- The voter is not of legal voting age.<sup>29</sup>

If challenged by a precinct election official for one of the four reasons, above, the prospective voter should complete the Affidavit Oath Examination of Person Challenged ([Form 10-U](#)).

- If the voter completes [Form 10-U](#) and a majority of the precinct election officials is able to determine that the voter is eligible to cast a ballot, the voter must be given a regular ballot.
- If the voter refuses to complete [Form 10-U](#), the voter must vote a provisional ballot, and the precinct election official will need to make a note on the Precinct Elections Officials Problems and Corrections page or Precinct Election Officials Notes page that is included in the precinct election official kit.

If a majority of the precinct election officials is unable to determine the person's eligibility to cast a ballot, the precinct election officials shall provide a provisional ballot to the person.<sup>30</sup>

## **SECTION 1.08 OBSERVERS**

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### **A. General Rules**

#### **1. Qualifications**

All observers (except recount observers) must be qualified electors in the State of Ohio. However, observers do not need to be registered to vote in the particular county where they are appointed to observe.

#### **2. Persons Not Eligible to Observe**

The following people are not permitted to serve as observers at an in-person absentee voting location, at a board office prior to the official

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<sup>29</sup> [R.C. 3505.20](#); *Boustani v. Blackwell* (2006), 460 F.Supp.2d 822.

<sup>30</sup> [R.C. 3505.20](#).





canvass, or at a precinct on Election Day:<sup>31</sup>

- Uniformed peace officer;
- Uniformed state highway patrol trooper;
- Uniformed member of any fire department;
- Uniformed member of the armed services or the organized militia;
- No person wearing any other uniform; or
- No candidate, unless the candidate is also a member of the party controlling committee, or if the candidate is appointed to observe an official canvass, recount, or election audit.

### 3. Compensation

An observer may not accept compensation from a county, city, village, or township for serving as an observer.<sup>32</sup>

### 4. Oath

Every observer is required to take an oath prior to observing. The oath is prescribed by law as follows:

“You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and/or that you will not disclose or communicate to any person how any elector has voted at such election.”<sup>33</sup>

For observers on Election Day, a precinct election official must administer the oath. For all other types of observers, an election official, director, or deputy director may administer the oath. When an observer is observing

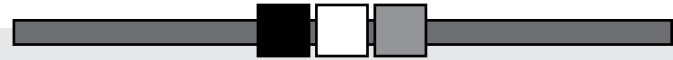
<sup>31</sup> [R.C. 3505.21\(B\)](#).

<sup>32</sup> [R.C. 3505.21\(F\)](#).

<sup>33</sup> [R.C. 3505.21\(F\)](#).







over the course of multiple days, it is not necessary to administer the oath every day. It is sufficient for the observer to affirm to an election official each day that the observer understands that he or she is still under oath.

## 5. **Watching and Inspecting**

The role of observers is limited to observing the proceedings of an election. Accordingly, while observers are permitted to watch and inspect, observers are never permitted to handle any election materials.<sup>34</sup>

Observers are permitted to move freely about the polling location or any area where ballots are being cast, processed, counted, or recounted at a board of elections office, as applicable, to the extent that they do not engage in any prohibited activity. A board may deny an observer access to parts of its office where ballots are not being cast, processed, counted, or recounted.

## 6. **Observer Communication**

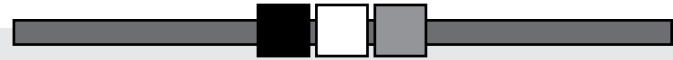
### a. **Communication with Election Officials**

Observers may not interfere with election officials administering the election. While observers are permitted to engage election officials in casual conversation during less busy times, even to gather information about the process, their statutory purpose is to watch. Observers may not enforce the law or advocate on behalf of voters. However, they may leave the voting area to contact the board of elections to raise concerns, which the board might address when appropriate.

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<sup>34</sup> Observers at a precinct are permitted to "watch every proceeding of the precinct election officials from the time of the opening until the closing of the polls." Observers are also permitted to "inspect the counting of all ballots in the polling location or board of elections from the time of the closing of the polls until the counting is completed and the final returns are certified and signed." [R.C. 3505.21](#).





b. Audio and video devices

Observers may not use any electronic or communication device or any audio/visual recording device in any manner that impedes, interferes with, or disrupts an election, or in any way intimidates a voter, risks violating the secrecy of the ballot or voter privacy. Observers using a cellular or digital telephone, walkie-talkie, or any other wired, wireless, or satellite audio communication device to discuss the election or a perceived problem with the administration of the election may not do so inside a polling location. Absent harassment,<sup>35</sup> nothing in this section shall be interpreted to prevent an observer from collecting or transmitting information from the registration lists posted throughout the day in each precinct.<sup>36</sup>

Observers may use communication devices and audio/video devices in and about the polling location subject to the following conditions:

- i. The devices must be set to produce no noise (low volume vibration settings are permitted);
- ii. The observer may send and receive text messages, e-mail communications, instant messages, and similar other non-verbal, electronic communications using a communications device or audio/video device;
- iii. The devices may not be used to take photographs, videos, or to record or transcribe any conversations inside the polling location (a camera, including a cell phone camera, is considered a device for purposes of these instructions);
- iv. The observer may not engage in an audible conversation inside the polling location using a communications device or audio/video device;

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<sup>35</sup> As defined by [R.C. 3501.90](#).

<sup>36</sup> [R.C. 3503.23\(C\)](#).





- v. The observer may not use the communications device or audio/video device in any manner that creates a disruption or disturbance within the polling location; and
- vi. The observer may not use the communications device or audio/video device in any manner that is intended or perceived to impede, interfere with, or disrupt an election, or in any way intimidate a voter, or risk violating a voter's privacy or the secrecy of a voter's ballot.

## 7. Limitations

### a. Statutory Prohibitions<sup>37</sup>

Although observers may freely move about the location at which they are observing, certain behavior is prohibited, including:

- i. Engaging in any kind of election campaigning;
- ii. Hindering or delaying an elector in reaching or leaving the polling location;
- iii. Impeding, interfering with, or disrupting the election in some manner;
- iv. Intimidating, harassing, or attempting to influence voters or precinct election officials;
- v. Carrying a firearm or other deadly weapon; or
- vi. Violating the secrecy of the ballot or the privacy of voters.

- b. Observers may not serve as enforcers of the laws nor act as advocates for voters before the precinct election officials.

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<sup>37</sup> Unless specifically exempted by law, all observers are subject to the statutory prohibitions in Title 35 of the Revised Code.





## 8. Removal

Ohio law provides that election officials have a responsibility to permit the presence of observers throughout the election process. That responsibility carries with it a connected right to remove observers from their posts under very limited circumstances, including behavior inconsistent with Ohio law or Secretary of State Directive, or that interferes with, impedes, or disrupts an election.<sup>38</sup>

Only the voting location managers, directors, deputy directors, and appointing authorities have the authority to administratively remove observers from their posts. Law enforcement officials have the statutory duty to remove observers at the order of one of the above-listed election officials.<sup>39</sup>

If the observer is removed, the person removing the observer may request his or her certificate of appointment and return it to the board office with a notation that the observer was removed from the polling location.

### B. Who May Appoint Observers

Generally, the following “appointing authorities” are permitted to appoint observers at any primary, special, or general election:

1. Any political party (county or state) that is supporting candidates to be voted upon at that election.
2. Any group of five or more candidates.
3. A ballot issue committee recognized by the board of elections pursuant to law as supporting or opposing a ballot issue. Any committee that in good faith advocates or opposes a ballot question or issue may file a petition with the county board of elections asking to be recognized

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<sup>38</sup> [R.C. 3501.33](#); [R.C. 3505.21](#).

<sup>39</sup> [R.C. 3501.33](#); [R.C. 3505.21](#).





as the committee entitled to appoint observers for the election. Such petitions must be filed no later than 4:00 p.m. on the 20th day before election. If more than one committee files to be the recognized committee advocating or opposing a measure, the board must decide which committee will be recognized as being entitled to appoint observers. The board must make this decision not less than 12 days prior to the election and send a notice via registered mail to each committee.

### C. Forms

The Secretary of State's office prescribes forms for observer appointments. There are two forms for each of the six types of observers (Secretary of State prescribed Forms 214-220).

#### 1. **Notice of Appointment and Amendment of Appointment**<sup>40</sup>

An appointing authority must first notify the board of elections in writing of the names and addresses of its appointees and the location(s) at which they will serve.

Written amendments for a notification of appointment may be filed with the board of elections at any time until 4:00 p.m. the day before the observer is appointed to observe. An amendment may substitute one observer for another at the location identified in the original filing. However, an amendment cannot add a location that was not identified in the original filing. An amendment also cannot add additional observers at a location or expand the number of observers at a location beyond what is permitted by law.

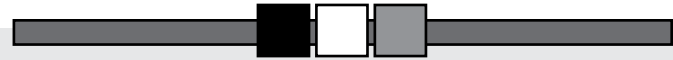
#### 2. **Certificate of Appointment**

After filing a timely notice of appointment with the board of elections, the appointing authority is responsible for issuing a certificate of appointment to the observer.

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<sup>40</sup> [R.C. 3505.21](#).





The duly appointed observer will present his or her certificate of appointment to the appropriate election official at the time that the observer arrives at the location where he or she will observe.

Appointing authorities are encouraged to file original documents with a county board of elections in person. However, filing by facsimile transmission or by e-mail with a PDF attachment is permissible. An appointing authority bears the risk of improper or incomplete transmittal of a notice of appointment or amendment for an observer.

## D. Types of Observers

There are six types of election observers in Ohio law. Keep in mind that one person is permitted to observe at multiple locations, as the observer may spend parts of Election Day at several different locations, or observe at different locations at different points in the election process.

### 1. Observers at an In-Person Absentee Voting Location;

An appointing authority is permitted to appoint one observer to the in-person absentee voting location.<sup>41</sup> Depending on the county, the location will either be the board office or a separate, designated site.

Because in-person absentee voting occurs over multiple days, it may be prudent for a board to permit the substitution of observers on different days. However, an appointing authority cannot have more than one observer observing the casting of ballots at an in-person absentee voting location at any one time.

- a. Timing of Notice of Appointment—No later than 11 days before the start of in-person absentee voting.
- b. Timing of Amendment—No later than 4:00 p.m. the day before the observer is appointed to serve.

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<sup>41</sup> [R.C. 3505.21\(A\)](#).





## 2. Observers at Precincts on Election Day;

An appointing authority may appoint one observer to observe the casting and counting of ballots at one or more precincts on Election Day. An observer may be appointed to observe at multiple precincts, but no more than one observer may be appointed to each precinct.<sup>42</sup>

**Note:** There are limitations on observers for ballot questions or issues. At any election, a precinct cannot have more than six total observers appointed by separate ballot issue committees. Where the number of observers exceeds six, the recognized ballot issue committees must agree on which observers will observe. If the committees fail to agree, the precinct election officials must choose six observers from the certified appointees in a manner that represents each side of the several issues.

Observers appointed to precincts on Election Day are permitted to be present from the opening until the closing of the polls, as well as after the polls close. Accordingly, an observer would be permitted to be present from one-half hour before the polling location opens through the time the precinct election officials in that precinct finish processing the ballots cast or collected in that precinct, complete all other post-closing responsibilities, and return the ballots and other supplies to the board of elections.<sup>43</sup>

- a. Timing of Notice of Appointment—No later than 11 days before Election Day.
- b. Timing of Amendment—No later than 4:00 p.m. the day before Election Day.

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<sup>42</sup> [R.C. 3505.21](#).

<sup>43</sup> [R.C. 3505.21](#); [R.C. 3506.13](#).





### 3. Observers at a Board of Elections Office prior to the Official Canvass;

An appointing authority is permitted to appoint one observer to the board of elections office to observe the casting of provisional ballots at the board office after the close of registration, the casting and counting of ballots at the board of elections office on Election Day, and the processing of absentee ballots and provisional ballots leading up to the canvasses.<sup>44</sup>

Under appropriate circumstances, a board of elections may choose to permit an appointing authority to appoint more than one observer to a board of elections office. For instance, where the processing of provisional ballots will take place over a number of days, it would be prudent for the board to permit an appointing authority to appoint multiple observers and/or permit the substitution of observers.

**Note:** An observer appointed to observe at the board office is permitted to observe at the board office and at any precinct in the county. An appointing authority may only have one observer who is permitted to observe at both the board office and at any precinct in the county. That observer shall file his or her certificate of appointment with the board of elections, and then shall take a copy of the certificate with him or her to present to the voting location manager at any of the designated precincts.

A board of elections must notify appointed observers of the times when the board will be processing and counting absent voters' ballots. Likewise, a board of elections must notify all duly appointed observers of the times when the board will be determining the eligibility of provisional ballots to be counted.

- a. Timing of Notice of Appointment—No later than 11 days before the first date the observer is appointed to serve.

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<sup>44</sup> [R.C. 3505.21](#).







- b. Timing of Amendment—No later than 4:00 p.m. the day before the election or the first date the observer is appointed to serve.

#### **4. Official Canvass Observers;**

Certain appointing authorities are permitted to designate a qualified elector to observe the official canvass:<sup>45</sup>

- The county executive committee of each political party;
- Each committee designated in the petition nominating of an independent or nonpartisan candidate;
- Each committee designated in a petition to represent the petitioners for a ballot question or issue; or
- Any committee opposing a ballot question or issue that was permitted to have a qualified elector serve as an observer at the election.

Timing of Notice of Appointment—Prior to the start of the official canvass.

#### **5. Recount Observers**

Observers are permitted at recounts as follows:<sup>46</sup>

##### a. Candidate Recounts

Each candidate in a contest to be recounted may observe the recount and may designate one other person in addition to him or herself—not necessarily an elector—to also observe the recount on the candidate’s behalf. In the event that a county board of elections performs the recount at more than one station, the candidate may appoint a sufficient number of observers to

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<sup>45</sup> [R.C. 3505.32\(B\)](#).

<sup>46</sup> [R.C. 3515.03](#); [R.C. 3505.21](#).





have one observer at each station when that station is actively recounting ballots.

b. Question or Issue Recounts

The designated chairperson of a committee organized to support or oppose a ballot question or issue may observe a recount. Additionally, the committee may appoint legal counsel to observe the recount.

Timing of Notice of Appointment—No later than 5 days following board notification of the date and time of the recount.

A recount observer may freely observe the recount, but cannot interfere with the recount or touch the ballots. Because such challenges are reserved for a Contest of Election, observers at a recount may not challenge the board's determination of whether or not a ballot or vote is counted during a recount.<sup>47</sup>

**6. Post-Election Audit Observers**

Any entity that appointed observers pursuant to R.C. 3505.21, or official canvass observers pursuant to R.C. 3505.32, may appoint observers to the post-election audit.

- i. Timing of Notice of Appointment—No later than 5 days after the board gives notice of the date and time of the post-election audit.
- ii. Timing of Amendment—No later than the day before the post-election audit.

**E. International Observers**

Periodically, elected officials and government administrators from other countries come to the United States to learn more about our democratic

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<sup>47</sup> OAG 1974-103.





processes and public institutions, usually under the auspices of the U.S. Department of State, an academic institution, or other similar organizations. In certain cases, such visits are obligations of international treaties entered into by the federal executive branch and ratified by the United States Senate.

However, state law limits the individuals who are permitted to be present in a polling location on Election Day. Only an election official,<sup>48</sup> an observer, a police officer, a person reviewing the 6:30 a.m., 11 a.m. or 4 p.m. list of registered electors, a voter (including the voter's children who are of non-voting age when accompanied by the voter), or a person assisting another person to vote shall be allowed to enter the polling location during the election.<sup>49</sup> By not including "international observers" and others not specifically listed in state law, the Ohio General Assembly has prohibited their presence in a polling location on Election Day.

## **SECTION 1.09 CLOSING THE POLLS**

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Each board of elections must train its precinct election officials on how to close a polling location properly and on what steps need to be taken if voting hours are extended by court order.

All polls must close at 7:30 p.m.,<sup>50</sup> unless a court order extends the voting period. Beginning about a half hour before the close of polls, the precinct election officials (PEOs) should repeatedly announce the name of the precinct to voters waiting in line and make sure that all voters in line are in the correct polling location and precinct. PEOs should announce that the polls are closing shortly and that anyone in line will have the opportunity to cast a ballot.

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<sup>48</sup> [R.C. 3501.01\(U\)](#).

<sup>49</sup> [R.C. 3501.35\(B\)](#); [R.C.3503.23\(C\)](#).

<sup>50</sup> [R.C. 3501.32\(A\)](#).





## A. Announcement of Close of Polls

At 7:30 p.m., the official closing time, one precinct election official must announce that “The polls are closed!”<sup>51</sup> If people are waiting to vote at closing time, they must be permitted to vote.<sup>52</sup> To accommodate voters waiting in line, the PEOs must:

- Move the line inside the locked door of the polling location, if possible; or
- Place a PEO after the last person who is in line at 7:30 p.m. to prevent additional people from joining the line.

## B. Court Order

If there is a court order to keep a polling location open past 7:30 p.m., the PEOs need to know who the last person in line was at 7:30 p.m. They must then make sure of the following:

- Voters who were already in line at 7:30 p.m. get to vote a regular ballot.
- All voters who arrive at the polling location to vote between 7:30 p.m. and the court-ordered closing of the polling location must vote a provisional ballot.<sup>53</sup>
- These provisional ballots must be kept separate from other provisional ballots voted during the regular voting hours in case the court decision is later overturned. Note on each Identification Envelope - Provisional Ballot Affirmation (*Form 12-B*) that the provisional ballot was cast after 7:30 p.m. pursuant to a court order. To do so, the PEOs must write “After Close of Polls by Order of the Court” on the provisional envelope.

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<sup>51</sup> [R.C. 3505.26](#).

<sup>52</sup> [R.C. 3501.32\(A\)](#).

<sup>53</sup> 52 U.S.C.A. §21082(c).





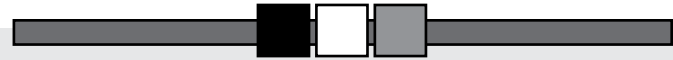
### C. Closing the polling location

- Record/count the total number of regular ballots voted (per local BOE instructions).
- Count and record the total number of paper provisional ballots cast by voters who arrived between 6:30 a.m. and 7:30 p.m.
- In case of a court order only, count and record the total number of provisional paper ballots cast by voters who arrived after 7:30 p.m.
- Count and record the total number of soiled or defaced paper ballots.
- Count and record the total number of unvoted paper ballots.
- Count and record the total number of signatures in the Signature Poll Book, or, if using electronic poll books, the PEOs must follow the instructions provided by the board for recording the number of signatures.
- Post precinct results at the polling location as directed by the board of elections.
- Record all ballot statistics (e.g., regular, provisional, soiled and defaced, unvoted) on the Balance/Reconciliation Sheet provided by the board of elections.
- Double-check ballot statistics, and sign the Closing Certificate and Election Day Balance/Reconciliation Sheet.

#### **In precincts using electronic poll books, the PEOs must:**

- Transport any electronic poll book, any removable data storage unit, and any paper record produced by the poll book to the board office in the same manner in which all other election materials are transported to the board office.
- Seal each electronic poll book with a tamper-evident seal before returning it from the polling location to the board of elections' office.





- If an electronic poll book uses a removable data storage unit or produces a paper record, seal the data storage unit and the paper record with a tamper-evident seal and place them in an appropriate storage container before returning them to the board office.

**Finally, in all precincts, the PEOs must:**

- Bring in the flags and take down signs inside and outside the polling location.
- Close out and pack up the voting equipment following the directions provided by the board of elections.
- Securely pack ballots and supplies and immediately return them to the board of elections or a designated drop off location as outlined in the following section.

**D. Secure Return of Ballots and Election Day Supplies**

At the close of polls, all ballots and election supplies (i.e., poll books, poll lists, tally sheets, election reports, and other materials) must be returned by a bipartisan team to the board of elections office or other location designated and staffed by the board. The bipartisan team must consist of the voting location manager and an employee or appointee of the board who is a member of a different political party than the voting location manager and “has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties [of promptly and securely transporting and delivering ballots and election supplies to the board of elections].”<sup>54</sup>

When transporting ballots and election supplies, the bipartisan team must travel in the same vehicle. The board is permitted to have one or more additional persons, such as a law enforcement official, accompany the bipartisan team. One bipartisan team may transport the ballots and election supplies for an entire multi-precinct polling location.

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<sup>54</sup> [R.C. 3505.31](#).





## SECTION 1.10 PARTISAN PRIMARY ELECTIONS

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### A. Challenges Based on Party Affiliation

Precinct election officials, board of elections members, directors, deputy directors, and clerks can only challenge the right to vote of any elector on the grounds that the voter is not affiliated with or is not a member of the political party whose ballot the person desires to vote, if that official has personal knowledge that the individual is a member of a different party.<sup>55</sup>

Boards of elections may not require every voter, or every voter who previously voted a ballot for a different political party, to sign a “Statement of Person Challenged as to Party Affiliation” (Forms [10-W](#), [X](#), or [Z](#)) before permitting that person to cast a ballot, either in person or by mail. Such blanket policies impose an affirmative duty on elections officials that is not contemplated in [R.C. 3513.19](#), which reads “[i]t is the duty of any precinct election official, *whenever any precinct election official doubts* that a person attempting to vote at a primary election is legally entitled to vote at that election, to challenge the right of that person to vote.” (emphasis not in original) State law contemplates infrequent party challenges, based upon the election official’s personal knowledge, similar to infrequent challenges based on whether a person is a legally qualified elector and whether a person has received or been promised some valuable reward or consideration for the person’s vote.<sup>56</sup> Any such challenge is serious and must not be subject to unilateral, blanket action.

Ohio’s primary process strikes a balance between the statutory deference to an individual voter’s participatory rights and the political parties’ associative rights. The prohibition against any precinct election official or board of elections member, director, deputy director, or clerk from challenging the right to vote of any elector on the grounds that the voter is not affiliated with

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<sup>55</sup> [R.C. 3513.19\(A\)\(3\)](#).

<sup>56</sup> [R.C. 3513.19\(A\)](#).





or is not a member of the political party whose ballot the person desires to vote, unless that official has personal knowledge to the contrary, protects this balance. In these rare instances, either Form [10-W](#), [X](#), or [Z](#) should be used, depending on the circumstance, pursuant to [R.C. 3510.06\(D\)](#) and [R.C. 3513.20](#).

## **B. Issuing a ballot during a primary election**

When issuing a ballot during a primary election the precinct election official should ask the voter what type of ballot he or she would like – a political party ballot or an issues only ballot. If a voter asks what his or her choices are, the precinct election official should explain the political party ballot choices, if any. Once a voter indicates his or her choice of ballot, political party or issues only, the precinct election official must record the voter's choice of ballot in the Signature Poll Book regardless of a change in political party or not by marking either 1) the appropriate political party for the ballot requested by the voter, or 2) that the voter requested an issues only ballot.

Next the precinct election official must give the voter the proper ballot or appropriate authority to vote slip/device and direct the voter to the appropriate voting location in the polling location.

## **SECTION 1.11 REQUIRED POSTINGS**

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### **A. Generally**

The posting of a number of voting-related signs inside and outside the polling location is required.

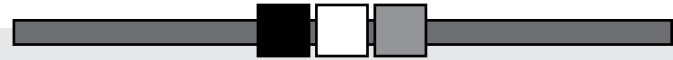
### **B. Signs Outside**

Precinct election officials must place one (large) flag at the entrance to the polling location.

Precinct election officials must place two (small) flags 100 feet from the entrance to the polling location. The placement of the flags establishes the







“neutral zone” of the polling location. Permissible and prohibited conduct within the neutral zone of the polling location is discussed in Section 1.13.

Directional signs can be placed to lead voters from the parking lot or street to the entrance of the polling location.

### C. Signs Inside

Boards of elections must direct PEOs to display several notices and signs where voters easily can see them:

- Precinct signs that identify the precinct, especially in multiple precinct polling locations, must be placed wherever a line might form;
- Voting Rights Information Poster;
- General information on federal and state laws regarding prohibitions on fraud and misrepresentation;
- Special Voting Instructions Poster that indicates how to cast a regular ballot and a provisional ballot;
- Official sample ballot;
- Full text of condensed ballot language for state or local question(s) or issue(s);
- Notice regarding voting more than once at the same election ([Form 10-V](#)); and
- Any other notice required by law.

One set of the notices and signs must be displayed at approximate eye level for voters who are seated or using a wheelchair. To ensure visibility for persons using wheelchairs, the tops of the signs should be about four feet from the floor.

Prior to each election, boards of elections must consult the Secretary of State’s website for the most-current list of signs and notices required for a polling location.





## **SECTION 1.12 PROHIBITIONS**

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### **A. Congregating, Campaigning, Distributing Food, or Soliciting Inside a Polling Location**

A polling location is a “neutral zone.” Accordingly, Ohio law imposes specific limitations on who may enter a polling location and what conduct is permissible therein. Only an election official,<sup>57</sup> an observer,<sup>58</sup> a police officer, a person reviewing the 6:30 a.m., 11 a.m. or 4 p.m. list of registered electors, a voter (including the voter’s children who are of non-voting age when accompanied by the voter), or a person assisting another person to vote shall be allowed to enter the polling location during the election.<sup>59</sup>

Two small United States flags must be placed 100 feet from the entrance to each polling location on the thoroughfares or walkways leading to the polling location (or as near to 100 feet as possible). No one, other than an election official, observer, police officer, or an elector waiting to mark, marking, or casting his/her ballot, may “loiter, congregate, or engage in any kind of election campaigning” within this “neutral zone” or within 10 feet of any elector waiting in line to vote if the line of voters extends beyond the flags.<sup>60</sup> Ohio law prohibits anyone from soliciting or attempting to influence any elector’s vote at a polling location and from preventing or delaying an elector from entering or leaving a polling location.

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<sup>57</sup> [R.C. 3501.01\(U\)](#). An “election official” includes the following individuals: (1) Secretary of State; (2) Employees of the Secretary of State serving in an elections-related capacity; (3) Members, Director or deputy director, and/or employees of a board of elections (including part-time and temporary employees); and (4) Voting location manager and other precinct election officials.

<sup>58</sup> [R.C. 3505.21](#).

<sup>59</sup> [R.C. 3501.35\(B\)](#); [R.C. 3503.23\(C\)](#).

<sup>60</sup> [R.C. 3501.30\(A\)\(4\)](#).





Campaigning, displaying campaign material or distributing food inside of the neutral zone of a polling location is prohibited.<sup>61</sup> However, nothing in Ohio's election laws prohibit a person or entity from campaigning, displaying campaign material, or distributing food outside of the neutral zone of a polling location (i.e., outside of the flags marking the 100 foot barrier or beyond 10 feet from any elector waiting in line to vote, if the line to vote extends beyond the flags).

Ohio law prohibits anyone from procuring or offering "money or other valuable thing to or for the use of another, with the intent that it or part thereof shall be used to induce such person to vote or to refrain from voting."<sup>62</sup> Food, discounts, and other such inducements are "things of value" for purposes of the election law statutes on bribery.<sup>63</sup>

## **B. Collecting Signatures at a Polling Location**

Occasionally, groups may station persons outside of a polling location to gather signatures on a petition. Persons are not permitted to collect signatures inside of a polling location or within the "neutral zone" outside of the polling location (i.e., within the area marked by the placement of two small U.S. flags).<sup>64</sup> However, there is no prohibition against collecting signatures outside the neutral zone.

## **C. Problems with Conduct at a Polling Location**

Boards of elections must instruct PEOs to contact the board office or the appropriate law enforcement official immediately if they experience a problem with the conduct of any person at a polling location.

<sup>61</sup> [R.C. 3501.35\(A\)](#).

<sup>62</sup> [R.C. 3599.01\(A\)\(3\)](#); See also the prohibitions contained in [R.C. 3599.02](#).

<sup>63</sup> Even a professor's award of extra credit to a student who votes in an election has been considered to be "a thing of value." [Ohio Attorney General Opinion No. 96-033](#).

<sup>64</sup> [R.C. 3501.35\(A\)](#). *United Food & Commercial Workers Local 1099 v. City of Sidney* (6th Cir. 2004), 364 F.3d 738 (circulators were not deprived of their free speech rights when they were prohibited from collecting signatures within the "campaign-free zone").





## D. Unlawful Possession of Ballots

No PEO can possess or transfer possession of a ballot outside of his or her official Election Day duties.<sup>65</sup>

## SECTION 1.13 MEDIA ACCESS TO POLLING LOCATIONS

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### A. Media Access inside the Polls

Elections officials must grant members of the media reasonable access to polling locations. This mandate stems from a United States Court of Appeals decision, which held that the media must be granted “reasonable access \* \* \* for the purpose of news-gathering and reporting so long as [the members of the media] do not interfere with poll workers and voters as voters exercise their right to vote.”<sup>66</sup>

In its decision, the court did not define “reasonable access.” Therefore, a board of elections must consider the following factors to ensure that the voting process is not disrupted:

- whether the media representative is credentialed (i.e., is the person from an accredited media source);<sup>67</sup>
- the length of time the media is present at a polling location;
- the length of voter lines at the polling location;
- the size and layout of the polling location;
- protecting voter secrecy during the media's presence;

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<sup>65</sup> [R.C. 3505.25](#).

<sup>66</sup> *Beacon Journal Publishing Company, Inc. v. Blackwell* (6th Cir. 2004), 389 F.3d 683 at 685; [R.C. 3501.35\(B\)\(2\)](#).

<sup>67</sup> A board of elections does not issue credentials to a member of the media. A member of the media already should possess press credentials. These credentials are sufficient to grant the member access to a polling location.





- the conduct of the media representative; and
- the effect of the presence of the media on voters and election officials.

No person – including a representative of the media – may disrupt the voting process, interfere with the election, intimidate voters, or jeopardize the secrecy of any ballot. If a member of the media interferes with the administration of the election, intimidates a voter, or jeopardizes the secrecy of a ballot, he or she may be removed from the polling location. The media must respect a voter's right to privacy by requesting the voter's permission prior to recording the voter or the voter's actions while in or about the polling location.

No person may attempt to subvert the statutory observer process by attempting to gain access to a polling location as member of the media.

PEOs should inform the director and deputy director if the media visits a polling location.

## **B. Exit Polling at a Polling Location**

Exit polling is not electioneering and is therefore permissible within 100 feet of the entrance to a polling location (i.e., within the area marked by the placement of two small U.S. flags).<sup>68</sup>

Persons conducting exit polls may not enter a polling location, interfere with or disrupt the election, or otherwise violate the law. Further, persons conducting exit polls at a polling location may not wear anything that may be construed as campaigning for or against any candidate or issue on the ballot.

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<sup>68</sup> *American Broadcasting Co., Inc. v. Blackwell* (S.D. Ohio 2006), 479 F.Supp.2d 719 at 744.

