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Issued Pursuant to Court Order

DIRECTIVE 2016-41

October 25, 2016

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

Re: Pursuant to a Court Order – Rescinding Directive 2016-37 & Requiring the Delivery in Certain Circumstances of a Provisional Ballot to an Individual with a Personal Illness, Physical Disability, or Infirmary

SUMMARY

On October 14, 2016, Directive 2016-37 was issued pursuant to a Court Order in the case of *Ohio A. Philip Randolph Institute et al. v. Husted*, Case No. 2:16-cv-303, requiring that “the Secretary of State shall refrain from denying an absentee ballot application on the basis that the applicant is not currently registered to vote.” The Court Order stated that this requirement would be in effect until “an Order is issued on the [pending] motions.” On October 19, 2016, the Court resolved the pending motions and the Secretary issued Directive 2016-39. Therefore, Directive 2016-37 is hereby rescinded.

Additionally, on October 25, 2016, the Court entered an Order for the issuance of this Directive, which governs the delivery in certain circumstances of a provisional ballot to an individual with a personal illness, physical disability, or infirmity. The instructions below detail this process.

INSTRUCTIONS

Boards of elections are required to have two board staff members—one Democrat, one Republican—deliver a provisional ballot to an individual who meets all of the following conditions:

- (1) The individual attests to the board that he or she has a personal illness, physical disability, or infirmity¹;
- (2) The individual attests to the board that he or she is unable to cast a ballot in-person during absentee voting or on Election Day;

¹ See Ohio Rev. Code § 3503.16(G).

- (3) The individual completes Form 11-I-2²;
- (4) The individual’s voter registration was cancelled in 2011, 2013, or 2015 under the “Supplemental Process”³;
- (5) The individual’s most recent address of registration in the Statewide Voter File is in the same county as the individual’s current address of registration as listed in the attestation;
- (6) The individual is requesting the delivery of the provisional ballot to an address in the same county as both the individual’s recent address of registration in the Statewide Voter File and the individual’s current address of registration as listed in the attestation; and
- (7) The individual is submitting the request to the board no later than noon on the Saturday prior to Election Day.

Boards are required to provide Form 11-I-2 to each individual contacting the board stating that he or she satisfies the conditions above.

If the individual completes Form 11-I-2, submits it to the board, and satisfies all of the conditions above, the board shall send two staff members—one Democrat, one Republican—to deliver a provisional ballot to the individual. The board will determine whether to count the provisional ballot using the process described within [Directive 2016-39](#).

If you have any questions concerning this Directive, please contact the Secretary of State’s elections counsel assigned to your county.

Sincerely,


Jon Husted

² Form 11-I-2 will be prescribed by the Secretary of State’s Office no later than October 25, 2016.

³ Boards are to determine whether the individual was cancelled under the “Supplemental Process” using the process described within [Directive 2016-39](#).