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## Chapter Canvassing the Vote

Directive 2017-13

permanent directive issued on 08/08/2017

**JON HUSTED**  
Ohio Secretary of State



Ohio Election Official Manual

### SECTION 1.01 PERMITTED ACTIVITIES PRIOR TO THE CLOSE OF POLLS

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#### A. Processing Absentee Ballots

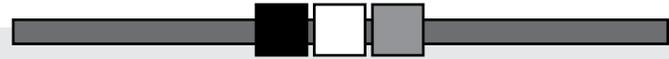
Boards of elections may begin processing, but not tabulating, absentee ballots not earlier than 19 days prior to Election Day. Please refer to Chapter 5, section 1.06 for details on what constitutes "processing" of absentee ballots.

#### B. Counting Absentee Ballots

Please refer to Chapter 5, Absentee Voting, Section 1.07 for the Mandatory step-by-step process for counting absentee ballots.

#### Reminders

All boards of elections must apply these following practices when reviewing voter-identifying fields on absentee ballot identification envelopes, as a companion to the instructions for administering absentee voting found in Chapter 5.



## 1. **Date of Birth**<sup>1</sup>

As long as a board can still identify the voter, technical mistakes in providing one's date of birth (such as accidental transposition of month and year numerals, mistakenly writing the current date, or inverting digits) are not valid reasons to reject a ballot.

In any instance of deficiency, the board must carefully review its voter registration records to determine if an error on the part of the board of elections is the cause of the deficiency before rejecting the ballot.

## 2. **Address**<sup>2</sup>

As long as a board can still identify a voter, technical mistakes in providing one's address are not valid reasons to reject a ballot.

- a. A candidate, question, or issue choice that has been circled by the voter;

When reviewing addresses, remember that the U.S. Postal Service may assign a delivery address (e.g., Columbus) that is not the same as the political subdivision (i.e., City, Village, or Township) in which the voter resides (e.g., the City of Bexley). The political subdivision, ZIP Code, and/or city (as assigned by the USPS) are generally not relevant to this determination.

The voter's address is sufficient when the number and street is in the county (e.g., 2598 Ruhl Avenue) regardless of the City and ZIP code (except when the same address exists in two different precincts within the same county).

The following examples assume the ballots were cast by voters in Franklin County:

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<sup>1</sup> [\*Instructions for administering absentee voting are found in Chapter 5.\*](#)

<sup>2</sup> [\*Instructions for administering absentee voting are found in Chapter 5.\*](#)





<b>Street No. &amp; Name</b>	<b>City / ZIP</b>	<b>Political Subdiv.</b>	<b>In County?</b>	<b>Valid?</b>
2598 Ruhl Ave.	Columbus, 43209	Bexley	Yes	Yes
2598 Ruhl Ave.	Bexley, 43209	Bexley	Yes	Yes
63 Pinebrooke	Westerville, 43082	Westerville	No	No

- b. **Under no circumstances shall a board of elections use any database other than the county’s voter registration system (CVRS) or the statewide voter registration database (SWVRD) when determining whether or not the address on an absentee ballot identification envelope is valid.** Specifically, boards of elections may not use the property records of a County Auditor or County Treasurer or any maps of a County Engineer to determine whether or not an absentee ballot identification envelope is valid.

**3. Identification**

A voter is not required to provide the same form of identification on an absentee ballot identification envelope that he or she provided when registering to vote.

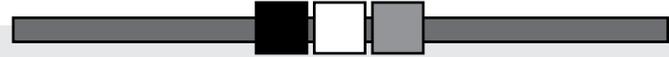
Under no circumstance shall a board of elections use any database other than the CVRS or SWVRD when determining whether or not identification provided on an absentee ballot identification envelope is valid. Specifically, boards of elections may not use any online search tool on the website for the Ohio Bureau of Motor Vehicles when determining whether or not an absentee ballot identification envelope is valid.

In all other matters relative to voter identification, boards of elections are reminded to follow the requirements of [\*Directive 2008-80\*](#).

**4. Data Fields with Null Values**

If a data field in the CVRS or SWVRD is “null” (i.e., no data is present, or the field has a placeholder value, such as “1/1/1800” for date of birth),





the voter has satisfied the requirement when the voter provides the relevant information on the absentee ballot identification envelope. Information contained on an absentee ballot identification envelope, provided under penalty of falsification, may be entered into the CVRS to complete the voter's record both in the CVRS and SWVRD.

All absentee ballots returned by the close of polls on Election Day, whether returned in person or by mail, must be included in the unofficial results if the ballots meet all other requirements of law.

Valid absentee ballots received after the close of polls on Election Day through the 10th day after the election, including ballots in which the identification envelopes were insufficient but were cured by the 7th day following the election, must be included in the official canvass.

For additional instructions and guidance on processing and counting of absentee ballots, please see [Chapter 5](#) of this manual.

## C. Determining Which Ballots May Be Remade

To enable board members to efficiently and effectively confirm which ballots must be remade, designated teams, consisting of an equal number of board employees from each major political party, may sort ballots with similar problems into separate categories for board members to review. For example, one category might include all ballots that were marked correctly, but are torn or mutilated. Another category might include ballots on which all the ovals were consistently circled, rather than filled in. The board members must review the categories of ballot to determine which ballots to remake.

### Categories of Ballots to be Remade

#### 1. **Folded, Torn, and Mutilated Ballots and/or Ballots with Technical and Printing Deficiencies**

If a designated team determines that a voter marked the ballot in accordance with the instructions printed on the ballot, but the automatic tabulating equipment is unable to read the ballot because





the ballot is folded, torn or mutilated, or the ballot has technical or printing deficiencies (e.g., timing marks on the ballot are misaligned, improperly cut ballots causing skew, etc.), the designated team may remake the ballot in anticipation of the board's determination. The remade ballot must continue to be segregated, along with the original ballot, and uncounted until the board of elections acts.

## 2. **Voter Failed to Follow Instructions: Determining Voter Intent**

A board of elections has statutory authority to determine the intent of a voter who marked the entire ballot contrary to the instructions provided and to remake the ballot to reflect that intent.<sup>3</sup> If a voter failed to mark any of the ballot according to the instructions printed on the ballot, the board of elections, by majority vote in public session, must determine voter intent before remaking the ballot. Voter intent is determined by examining the ballot for a mark that was consistently made, contrary to voting instructions.

If a voter marked the entire ballot contrary to the instructions provided, the board must follow the guidelines set forth in [R.C. 3506.21\(B\)\(1\)](#) to determine voter intent on that ballot:

(B)(1) \*\*\* any of the following marks, if a majority of those marks are made in a consistent manner throughout an optical scan ballot, shall be counted as a valid vote:

- a. A candidate, question, or issue choice that has been circled by the voter;
- b. An oval beside the candidate, question, or issue choice that has been circled by the voter;
- c. 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; or

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<sup>3</sup> [R.C. 3506.21](#).





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

After a majority of board members determine voter intent, the board shall follow the procedures for remaking the optical scan ballot set forth in this chapter. If three of the board members do not agree as to how any part of the ballot shall be counted, only that part of the ballot on which three board members do agree shall be counted.<sup>4</sup>

If a voter's intent for any one contest on a ballot is indeterminate, a board is prohibited from remaking the ballot when any part of the ballot is correctly marked and is able to be scanned by automatic tabulating equipment.<sup>5</sup> In such a case, the board shall tabulate the ballot using the automatic tabulating equipment, which will record only the votes that the voter marked in accordance with the instructions.

### **Procedure for Remaking Ballot**

If the board has determined that a ballot needs to be remade because 1) it is folded, torn and/or mutilated, or the ballot has technical and/or printing deficiencies, or 2) because the voter marked the entire ballot contrary to the instructions, then a designated team remakes the ballot as follows:

- One team member must read aloud the voter's choice for a particular office or question/issue.
- Another team member, of the opposite political party, must fill in the corresponding oval consistent with the voter's choice.

**Note:** Both members of the team should verify that the remade ballot was marked consistent with the voter's choice.

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<sup>4</sup> Tie votes on voter intent are not submitted to the Secretary of State. [R.C. 3505.27](#).

<sup>5</sup> [R.C. 3506.21\(B\)\(2\)](#).





- The team must mark the original ballot with an identifying mark or code, such as “OVB1” (Original Voted Ballot 1).
- The team shall mark the remade ballot with an identifying mark or code to identify this remade ballot with the original ballot, such as “RB1” (Remade Ballot 1).

**Note:** Place the identifying mark or code in an area on the ballot that will not interfere with the tabulation process.

- After all the eligible ballots have been remade, the ballots shall be tabulated.

No remade ballot shall be tabulated unless and until a majority of board members has confirmed or determined its eligibility.

### **Retention of Original and Remade Ballots**

All boards of elections remaking any ballots under these procedures shall keep both the original voted ballot and the remade ballot for the duration of the applicable document retention period. See “Records Retention” later in this chapter.

## **D. Public Testing of Automatic Tabulating Equipment**

Each board of elections must test its automatic tabulating equipment prior to the start of the unofficial canvass, and again at the conclusion of the canvass to ensure the accurate counting of the votes cast for all offices and on all questions and issues.<sup>6</sup>

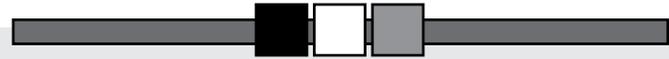
[R.C. 3506.14\(B\)](#) provides as follows:

Prior to the start of the count of the ballots, the board of elections shall have the voting machine or automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all questions and issues. Public notice of the time and place of the

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<sup>6</sup> [R.C. 3506.14\(B\)](#).





test shall be given by proclamation or posting as in the case of notice of elections. The test shall be conducted by processing a pre-audited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and issue, and shall include for each office one or more ballots that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes. In that test a different number of valid votes shall be assigned to each candidate for an office, and for and against each question and issue. If an error is detected, the cause for the error shall be ascertained and corrected and an errorless count shall be made and certified to by the board before the count is started. The tabulating equipment shall pass the same test at the beginning and conclusion of the election day count before the election returns are approved as official. On completion of the election day count, the programs, test materials, and ballots shall be sealed and retained as provided for paper ballots in section 3505.31 of the Revised Code.

Each board of elections must follow the instructions outlined in the section on “Public Tests” in [Chapter 4](#) of this manual when conducting its public pre- and post-election tests on its voting machines (i.e., DREs, iVotronics, etc.) and tabulating equipment.

## **E. Duties of Precinct Election Officials at Close of Polls**

Each board of elections must train its precinct election officials (PEOs) 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 close at 7:30 p.m.<sup>7</sup> unless a court order extends the voting period. Beginning about a half hour before the close of polls, the 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

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<sup>7</sup> [R.C. 3501.32\(A\)](#).





polls are closing shortly and that anyone in line will have the opportunity to cast a ballot.

## 1. **Announcement of Close of Polls**

At 7:30 p.m., the official closing time, the voting location manager must announce that “The polls are closed!”<sup>8</sup> If people are waiting to vote at closing time, they must be permitted to vote.<sup>9</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 precinct election official after the last person who is in line at 7:30 p.m. to prevent additional people from joining the line.

## 2. **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>10</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. PEOs should 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 by writing “After close of polls by order of the court” on the provisional envelope.

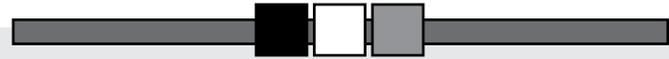
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<sup>8</sup> [R.C. 3505.26](#).

<sup>9</sup> [R.C. 3501.32\(A\)](#).

<sup>10</sup> 52 U.S.C.A. §21082(c).





### 3. Closing the Polling Location

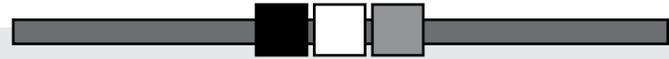
In precincts using DREs (touch screens), the PEOs must do all the following:

- Record the total number of regular ballots voted on the DREs using the public count.
- 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 Election Day 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 optical scanners, the PEOs must do all of the following:**

- Count and record the total number of regular paper ballots voted.
- 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 Election Day 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:**

- 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 of elections 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.

## F. 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. 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.

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>11</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.

## SECTION 1.02 UNOFFICIAL CANVASS

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The unofficial canvass of an election must be conducted on Election Night

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<sup>11</sup> [R.C.3505.31](#).





in accordance with state law.<sup>12</sup> The unofficial canvass must be conducted in full view of the members of the board of elections and any observer appointed in accordance with [R.C. 3505.21](#).<sup>13</sup> The counting of ballots for the unofficial canvass must be continuous.<sup>14</sup>

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 close of polls.<sup>15</sup>

The unofficial canvass must 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 close of polls.<sup>16</sup>

State law requires that all boards of elections provide regular periodic election results for specified contests to the Secretary of State's Office.<sup>17</sup> When the Secretary determines periodic Election Night reporting is required for specified contests (e.g. president, statewide offices, or statewide issues) instructions for reporting and uploading results will be provided.

Boards of elections must provide "supplemental statistics" when final results are reported or shortly thereafter. Boards of elections should not delay in reporting vote totals solely because the supplemental statistics are not yet

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<sup>12</sup> [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).

<sup>13</sup> [R.C. 3505.27](#).

<sup>14</sup> [R.C. 3505.27](#); [R.C. 3505.30](#).

<sup>15</sup> [R.C. 3505.27-3505.28](#); [R.C. 3509.06-3509.07](#); [R.C. 3511.11-3511.13](#).

<sup>16</sup> [R.C. 3505.183\(F\)](#) & [\(G\)](#); [R.C. 3505.32](#); [R.C. 3509.05\(B\)\(1\)](#).

<sup>17</sup> [R.C. 3505.27\(C\)](#).





available. In these cases, boards of elections should submit final results, then submit the supplemental statistics when ready. Likewise, vote totals and supplemental statistics should not be delayed because the board has not yet completed its ballot reconciliation procedures.

Supplemental statistics must be submitted before the board and its employees disband following completion of the unofficial canvass.

## A. Processes and Procedures

### Pre- and Post-Election Testing of Tabulating Equipment

Each board of elections must test its automatic tabulating equipment prior to the start of the unofficial canvass to ensure the accurate counting of the votes cast for all offices and on all questions and issues<sup>18</sup> and must follow the instructions outlined in the section on “Public Tests” in [Chapter 4](#) of this manual when conducting its public pre- and post-election tests on its voting machines (i.e., DREs, iVotronics, etc.) and tabulating equipment.

After the board successfully tests its automatic tabulating equipment, 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 outlined previously (e.g., a curbside ballot or a ballot placed into the emergency slot of the

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<sup>18</sup> [R.C. 3506.14\(B\)](#).





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 19 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.
- 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:<sup>19</sup>

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

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<sup>19</sup> [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 the instructions at the beginning of this chapter for more information on the proper procedures to remake an optical scan ballot.

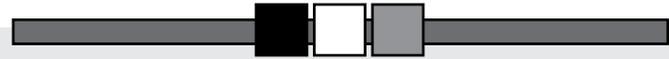
- An over-vote exists when the board determines the tabulator rejected the ballot because the voter marked the ballot more than the permissible number of times for a particular contest. No vote is tallied from that ballot for that contest. However, the board must examine the ballot to identify any other 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 section "Procedure for Remaking Ballot."

### 3. Processing and Tabulating Instructions for DREs

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.





## B. Unofficial Canvass of 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 [Chapter 9](#).

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.

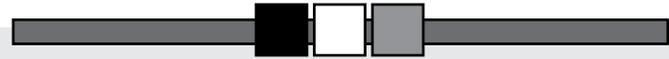
In either case, or if there are two or more write-in candidates with the same first or last name, the voter must provide sufficient information for election officials to determine the voter's intent in order for the vote to be counted.

When conducting hand counts of ballots, boards of elections must follow the instructions provided in [Chapter 9](#).

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 previous section in this chapter on remaking an optical scan ballot.

### 2. **Write-In Candidates on DREs**

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 PEOs 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.

## C. Final Reports

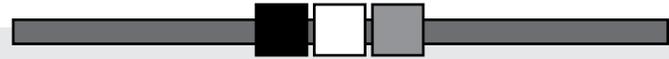
### 1. **Reporting Summary Results for Multi-County Jurisdictions<sup>20</sup>**

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 e-mail. It is imperative that the board of the less populous county make a final report to the

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<sup>20</sup> [R.C. 3505.30](#).





board of elections of the most populous county of the jurisdiction before the board members of the less populous county separate or adjourn.

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 by the date and time ordered by the Secretary of State in advance of 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 by the Secretary of State's Office 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 e-mail 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.

## 2. Final Unofficial Summary Reports<sup>21</sup>

### Even-numbered election year

All final summary reports must be transmitted to the Elections Division of the Secretary of State's Office. A signature form, which must be signed by the director, deputy director, and each board member present for the unofficial canvass, will be provided in advance of the election. The board may not authorize the use of digital or stamped signatures for these reports.

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<sup>21</sup> [R.C. 3505.30](#).



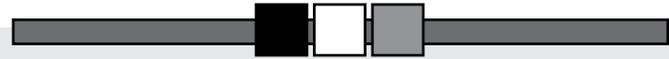


- a. On Election Night, after a board has completed its unofficial canvass, it must e-mail the Secretary of State's Office and attach a copy of the unofficial vote total summary report generated by the board's voting system. This report must be clearly labeled "<County>'s Unofficial Canvass" and it must contain only vote totals for that county.
- b. Each board of elections must submit a tally of valid votes for write-in candidates, if applicable, by the day and time specified by the Secretary of State's Office and using a reporting form that will be provided in advance of the election.
- c. 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" and be submitted to the Secretary of State's Office by a date and time provided to the board in advance of the election. The board may use its voting system, the Secretary of State Form, or some other method to provide this information.
- d. The board of the most populous county of any multi-county district, with write-in candidates described 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 day and time for this submission will be provided to the board in advance of the election. The contest(s) for which a board is the most populous county must be marked to clearly identify it as a contest containing vote totals from other counties.

### **Odd-numbered election years**

Except in odd-numbered years in which state issues appear on the





ballot, all final reports must be transmitted to the Elections Division via e-mail to the e-mail address provided by the Secretary of State's Office in advance of the election.

- a. After a board has completed its unofficial canvass, it must e-mail the Secretary of State's Office and attach a copy of the unofficial vote total 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.
- b. The board of the most populous county of any multi-county district must generate a separate report showing the combined vote totals for its county and the overlapping counties that report to the most populous county. This report must be clearly labeled "<County> 's Unofficial Canvass – Majority County." The board may use its voting system, Secretary of State Form or some other method to provide this information.

## **SECTION 1.03 REQUIRED ACTIVITIES PRIOR TO THE OFFICIAL CANVASS**

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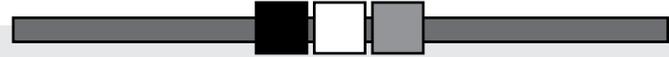
### **A. Provisional Ballot Review**

The board must verify the eligibility of persons who cast provisional ballots and the validity of the required provisional voter statements in preparation for the official canvass. Procedures for determining the validity of provisional ballots are provided in [Chapter 6](#). To aid in the efficiency of the official canvass, during the 10 days following the election, board personnel determining the preliminary eligibility of provisional ballots may group provisional ballots by category to be later voted upon by the board.

Reminders:

1. Boards of elections must determine the eligibility of every provisional ballot cast in that county before the board may open and canvass any





provisional ballots.<sup>22</sup>

2. Observers may be present, as provided by law, while the board determines the eligibility of provisional ballots.<sup>23</sup>
3. All boards of elections must apply these following practices when reviewing voter-identifying fields on provisional ballot affirmations, as a companion to the instructions for administering provisional voting found in Chapter 6.

a. *Date of Birth*<sup>24</sup>

As long as a board can still identify the voter, technical mistakes in providing one's date of birth (such as accidental transposition of month and year numerals, mistakenly writing the current date, or inverting digits) are not valid reasons to reject a ballot.

Prior to rejecting any provisional ballot because the date of birth on the envelope does not match the date of birth in the voter file,<sup>25</sup> the board must take a public vote at a meeting noticed for that purpose. (For administrative economy, a board of elections may instruct its staff to group "like" ballots together and vote on each group rather than each individual ballot). If three board members agree that the provisional ballot is in all other respects valid and sufficient (i.e., cast by an otherwise qualified elector who provided name, address, signature, and a valid form of identification), the ballot shall be counted.

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<sup>22</sup> [R.C. 3505.183\(F\)](#).

<sup>23</sup> [R.C. 3505.183\(F\)](#); [R.C. 3505.21](#).

<sup>24</sup> [Instructions for administering provisional voting are found in Chapter 6](#).

<sup>25</sup> [R.C. 3505.183\(B\)\(3\)\(e\)\(ii\)](#). State law permits a board of elections to count a provisional ballot when the any of the exceptions exist: a.) the month of birth and day of birth on the provisional envelope match the voter file, but the year of birth is different (e.g., the voter wrote the current year "2016" instead of voter's year of birth as recorded in the voter file) or b.) the voter's date of birth in the voter file is "1/1/1800;" or c.) the board of elections has found, by a vote of at least three of its members, the voter has met all of the other statutory requirements for counting a provisional ballot.





When a provisional ballot is otherwise valid and the sole deficiency is that a voter has provided something that purports to be a date of birth that does not match the voter's date of birth in the voter file, the board must count the ballot. As explained in [R.C. 3505.183\(B\)](#), if the space provided for the voter to write the voter's date of birth is blank, the ballot cannot be counted.

In any instance of deficiency, the board must carefully review its voter registration records to determine if an error on the part of the board of elections is the cause of the deficiency before rejecting the ballot.

b. *Address*<sup>26</sup>

As long as a board can still identify a voter, technical mistakes in providing one's address are not valid reasons to reject a ballot.

- i. When reviewing addresses, remember that the U.S. Postal Service may assign a delivery address (e.g., Columbus) that is not the same as the political subdivision (i.e., City, Village, or Township) in which the voter resides (e.g., the City of Bexley). The political subdivision, ZIP Code, and/or city (as assigned by the USPS) are generally not relevant to this determination.

The voter's address is sufficient when the number and street is in the county (e.g., 2598 Ruhl Avenue) regardless of the City and ZIP code (except when the same address exists in two different precincts within the same county).

The following examples assume the ballots were cast in a polling location in Franklin County:

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<sup>26</sup> [Instructions for administering provisional voting are found in Chapter 6.](#)





Street No. & Name	City / ZIP	Political Subdiv.	In County?	Valid?
2598 Ruhl Ave.	Columbus, 43209	Bexley	Yes	Yes
2598 Ruhl Ave.	Bexley, 43209	Bexley	Yes	Yes
63 Pinebrooke	Westerville, 43082	Westerville	No	No

ii. **Under no circumstances shall a board of elections use any database other than the county’s voter registration system (CVRS) or the statewide voter registration database (SWVRD) when determining whether or not the address on a provisional ballot affirmation is valid.** Specifically, boards of elections may not use the property records of a County Auditor or County Treasurer or any maps of a County Engineer to determine whether or not a provisional ballot is valid.

c. *Identification*

A voter is not required to provide the same form of identification on a provisional ballot affirmation that he or she provided when registering to vote.

Under no circumstance shall a board of elections use any database other than the CVRS or SWVRD when determining whether or not identification provided on a provisional ballot affirmation is valid. Specifically, boards of elections may not use any online search tool on the website for the Ohio Bureau of Motor Vehicles when determining whether or not a provisional ballot is valid.

In all other matters relative to voter identification, boards of elections are reminded to follow the requirements of [\*Directive 2008-80\*](#).

d. *Data Fields with Null Values*

If a data field in the CVRS or SWVRD is “null” (i.e., no data is present, or the field has a placeholder value, such as “1/1/1800” for date of birth), the voter has satisfied the requirement when the voter provides the relevant information on the provisional





ballot affirmation. Information contained on a provisional ballot affirmation, provided under penalty of falsification, may be entered into the CVRS to complete the voter's record both in the CVRS and SWVRD.

## B. Document Review

Prior to the 11th day after an election, a board of elections must examine its poll books, poll lists or signature poll books, and tally sheets, and compare the information contained in those documents to the summary statements prepared by the PEOs.<sup>27</sup> The board must note and reconcile any error, defect, or omission that it detects during its examination of those records.

## SECTION 1.04 OFFICIAL CANVASS

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### A. Timeline

Boards of elections may begin the official canvass of an election no earlier than the 11th day after the election, and must begin no later than the 15th day after the election. Each board of elections must complete its official canvass and certify the results no later than the 21st day after the election.<sup>28</sup>

### B. Process and Procedures

#### All Voting Systems

All valid ballots cast in an election – including eligible ballots cast at the polling locations on Election Day, eligible provisional ballots, and eligible absentee ballots – must be included in the official canvass.

Each board of elections must test its automatic tabulating equipment before starting the count and after concluding the count, to verify the central

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<sup>27</sup> [R.C. 3505.32\(D\)](#).

<sup>28</sup> [R.C. 3505.32\(A\)](#); [R.C. 3513.22\(A\)](#).





tabulation system's accurate count of the votes cast for all offices and on all questions and issues.<sup>29</sup> Each board of elections must follow the instructions outlined in the section on "Public Tests" in [Chapter 4](#) of this Manual when conducting its public pre- and post-election tests on its voting machines (i.e., DREs, iVotronics, etc.) and tabulating equipment.

### **Tabulation Instructions for Ballots Containing Votes NOT Included in the Unofficial Canvass**

The board of elections first must tally all eligible ballots that were not included in its unofficial canvass.<sup>30</sup> Those ballots include the following: Provisional ballots;<sup>31</sup> absentee ballots postmarked on or before the day before Election Day that had not been received by the close of polls, but were received no later than 10 days after Election Day;<sup>32</sup> timely mailed UOCAVA ballots that had not been received as of the close of polls, but were received not later than 10 days after Election Day;<sup>33</sup> and challenged ballots the board has determined are eligible.<sup>34</sup>

The board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots in accordance with the inspection and tabulation instructions for central-count optical scan ballots provided in the previous unofficial canvass section of this chapter.

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<sup>29</sup> [R.C. 3506.14\(B\)](#).

<sup>30</sup> [R.C. 3505.32\(C\)](#).

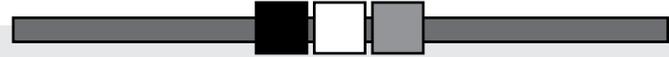
<sup>31</sup> [R.C. 3505.183\(F\)](#).

<sup>32</sup> [R.C. 3509.05\(B\)](#).

<sup>33</sup> [R.C. 3511.11\(C\)](#).

<sup>34</sup> [R.C. 3503.24\(D\)\(1\)](#); [R.C. 3505.27](#).





## **Tabulation of Results for the Official Certification**

After tabulating all ballots that were not included in the unofficial canvass, the board of elections must continue the official canvass process as follows:

### **1. Optical Scan Ballots**

The board must:

- Upload the memory cards containing votes that were centrally-counted during the unofficial canvass (a county using a GEMS server may “re-import” the data containing votes that were centrally counted during the unofficial canvass in lieu of using external media, if the system is capable of doing so, or by rescanning all of the ballots).
- Upload the precinct/polling location memory cards containing votes that were counted during the unofficial canvass, if applicable.
- Verify the count matches the unofficial count.

If the count does not match the unofficial count, the board must contact a Secretary of State’s Elections Administrator before continuing the canvass.

If the counts match, the board must combine the results of the re-run memory card tabulation of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

### **2. Direct Recording Electronic Voting Machines (DREs)**

The board must:

- Upload the precinct cartridges, PCMCIA cards, and/or other removable memory devices containing votes that were counted during the unofficial canvass.
- Verify the count matches the unofficial count.





If the count does not match the unofficial count, the board must contact a Secretary of State's Elections Administrator before continuing the canvass.

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

If the counts match, the board shall combine the re-run results of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

### C. Resolving Ties

If, after canvassing all votes, more than the number of candidates to be nominated or elected to an office received the largest and an equal number of votes, the chair of the board of elections, in the presence of a majority of the board members at a properly-noticed public meeting of the board, must break the tie by lot<sup>35</sup> and declare the winner *before* the board certifies the results of the election for that office and orders a recount.<sup>36</sup>

A majority of the board members must sign the declaration, which must be dated. The board may not authorize the use of digital or stamped signatures for this declaration. The board must post a copy of the declaration in a conspicuous, accessible place in the board office for at least five days.<sup>37</sup>

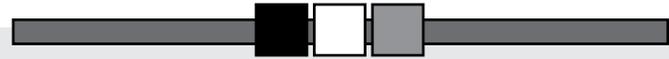
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<sup>35</sup> [R.C. 3505.33](#). Examples of methods used to break a tied candidate race "by lot" include, but are not limited to, the chair flipping a coin, drawing straws, picking a name written on paper out of a hat, or cutting cards.

<sup>36</sup> By contrast, a board does not break a tie in the case of a ballot issue that received an equal number of votes for and against the issue; that issue failed by operation of law, because it did not receive a majority of affirmative votes. A tie in an issue election results in the failure of the issue.

<sup>37</sup> [R.C. 3505.33](#).





## D. Reports

Templates for reporting results to the Secretary of State's Office and, in some instances, to other boards of elections or public agencies will be provided by the Secretary of State's Office in advance of the election.

All certifications and reports must be signed by the appropriate board personnel before being submitted to the Secretary of State's Office, to another board of elections, or to another public entity. The board may not authorize the use of digital or stamped signatures for these reports. Each board of elections must submit the signature form, which will be provided under separate cover, for the purpose of certifying the official election results including valid write-in vote totals, the supplemental reports for absentee ballots and provisional ballots and the ballots cast by precinct to the Secretary of State's Office.

### 1. Certification of Official Summary Results to the Secretary of State<sup>38</sup>

- a. After a board has completed its official canvass, it must e-mail the Secretary of State's Office and attach a copy of the official vote total summary report generated by the board's voting system. This report must be clearly labeled "<County>'s Official Canvass" and must contain only vote totals for that county.
- b. The board of elections for the most populous county of any jurisdiction must generate a separate report from its voting system, create a report outside of its voting system, or use a reporting form that will be provided under separate cover for this purpose. This report must be clearly labeled "<County>'s Official Canvass – Most Populous County." 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.

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<sup>38</sup> [R.C. 3505.33](#); [R.C. 3505.36](#).





The contest(s) for which a board is the most populous county must be marked to clearly identify it as a contest containing vote totals from other counties.

## 2. **Certification of Official Summary Results to Senate President<sup>39</sup>**

Each board of elections must send to the President of the Senate a copy of the board's general election official results for the joint offices of Governor and Lieutenant Governor, and the offices of Attorney General, Auditor of State, Secretary of State, Treasurer of State, and Justices of the Ohio Supreme Court. Also, official election results must be sent to the President of the Senate whenever a state issue(s) appears on the ballot.

In addition, the most populous county of a district contest for U.S. House of Representatives must send a copy of its official, district-wide results for that district contest to the President of the Senate.

Official results for the President of the Senate must be sent to:

President of the Ohio Senate  
Ohio Statehouse  
1 Capitol Square, 2nd Floor  
Columbus, Ohio 43215

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<sup>39</sup> [R.C. 3505.33](#).





### 3. Certification of Official Summary Results for Local Liquor Option Questions and Local Questions and Issues

Each board of elections must send a completed copy of Secretary of State [Form 126-B](#) to the Secretary of State's Election Division via e-mail and a copy of the completed form to the Ohio Division of Liquor Control<sup>40</sup> via e-mail to:

[LiquorLicensingMailUnit@com.state.oh.us](mailto:LiquorLicensingMailUnit@com.state.oh.us) or mail to the following address:

Division of Liquor Control  
6606 Tussing Road  
Reynoldsburg, Ohio 43068-9005

Depending on the type of question or issue, a board of elections also must send certification of results to other offices. For the board's convenience, the Secretary of State's Office has prescribed forms for the certification of results for some types of questions and issues. The master list of forms and the prescribed forms are available to boards of elections on the Secretary of State's website.

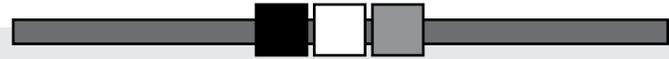
Only the most populous county for a multi-county question or issue must provide certification to the other offices listed below.

- a. The board of elections must certify the results of an election on tax levies and bond issues to the following offices and agencies:
  - The county auditor of each county in which the election was held.
  - The fiscal officer of the subdivision in which the election was held.

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<sup>40</sup> [R.C. 4301.39\(A\)](#).





- The Tax Commissioner of the State of Ohio at:  
  
Tax Equalization Division  
30 E. Broad St., 21st floor  
P. O. Box 530  
Columbus, OH 43216-0530
  - The Secretary of State.
- b. The board of elections must certify the results of an election on a school district income tax on [Form 125-A](#) to the following offices and agencies:
- The board of education that placed the issue on the ballot.
  - The Tax Commissioner of the State of Ohio at:  
  
Tax Equalization Division  
30 E. Broad St., 21st floor  
P.O. Box 530  
Columbus, OH 43216-0530
  - The Secretary of State.

#### 4. Absentee and Provisional Ballot Supplemental Reports

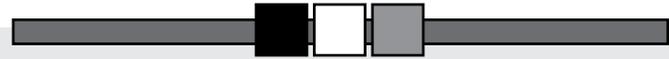
Additionally, because state law requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted,<sup>41</sup> each board of elections must provide supplemental data for absentee and provisional ballots.<sup>42</sup> The reporting form will be provided by the Secretary of State's Office.

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<sup>41</sup> [R.C. 3501.05\(Y\)](#).

<sup>42</sup> [R.C. 3501.11\(P\)](#).





## 5. Electronic Precinct-Level Official Abstract

In even-numbered election years and whenever a state issue appears on the ballot, each board of elections must upload an electronic precinct-level abstract of votes to the Secretary of State on a date to be specified for that election. The upload tool will allow you to do this efficiently and without data entry errors. You must use the file format provided by Secretary of State's Office.

Additionally, boards of elections are required to provide, via e-mail, a separate report from the county's central tabulating system detailing turnout by precinct.

## E. Voter History

For purposes of assigning voter history, a voter record should be marked as having voted in an election, only if any of the following are true:

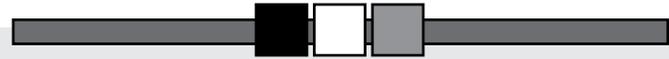
- The voter signed the signature pollbook on Election Day.
- The voter timely returned the voter's identification envelope (including UOCAVA and Federal Write-In Absentee Ballot (FWAB)), regardless of whether the ballot was eligible to be counted.
- The voter is an eligible elector of the state of Ohio and cast a provisional ballot, regardless of whether the ballot was eligible to be counted.

Following each primary election, a board of elections must program its county voter registration system to reflect a voter's party affiliation in accordance with [R.C. 3513.05](#).

## F. Timeline for Reports

The Secretary of State's Elections Division must receive each board of elections' properly-completed certification, signature form, report forms, electronic precinct-level abstract via upload (if applicable), and electronic turnout detail by precinct via e-mail (if applicable) on the date specified.





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

## G. Certificates of Nomination / Election

No certificate of nomination or election shall be issued to a person, and no person elected shall enter upon the performance of the duties of the office, until that person or that person's campaign committee, as appropriate, has fully complied with the campaign finance reporting laws.<sup>43</sup>

### 1. Certificates of Nomination

A board of elections must issue certificates of nomination to each person who the board had declared nominated at a primary election, except as follows:

- Board of elections in the most populous county of a multi-county district issues the certificates of nomination for that district.
- The Secretary of State issues certificates of nomination for statewide offices, and for the offices of representatives to congress.<sup>44</sup>

Boards of elections issue and deliver a certificate of election to persons elected as a member of a party controlling committee.<sup>45</sup> The board of elections in the most populous county of a multi-county district issues the certificates of election for members of the party controlling committee for that district.

Certificates of nomination or elections should not be issued before the expiration of the time by which applications for recounts may be made. Boards of elections may not issue a certificate of nomination or election in a contest for which a recount is requested, or conducted automatically, until after the recount is complete.

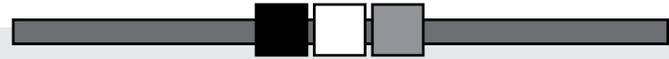
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<sup>43</sup> [R.C. 3517.11\(D\)](#).

<sup>44</sup> [R.C. 3513.22\(E\)](#).

<sup>45</sup> [R.C. 3513.24](#).





## Number of Write-In Votes Required for Nomination

In no event shall a write-in candidate be nominated as a political party's candidate for any contest in which the only candidates are write-in candidates unless the total number of votes cast for the write-in candidate receiving the highest number of votes is equal to or greater than the number of petition signatures that would have been required for printing that write-in candidate's name on the primary ballot.<sup>46</sup>

### 2. Certificates of Election for Even-Numbered Year Elections

Boards of elections must issue certificates of election to each person who the board had declared elected at a general election, except that:

- The board of elections in the most populous county of a multi-county district issues the certificates of election for that district.
- The Secretary of State issues certificates of election for statewide offices, offices of representatives to congress, and offices of state board of education members.

Certificates of election should not be issued before the expiration of the time by which applications for recounts may be made. Boards of elections may not issue a certificate of election in a contest for which a recount is requested, or conducted automatically, until after the recount is complete.

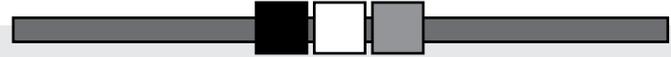
### 3. Certificates of Nomination for Odd-Numbered Year Primary Elections

In odd-numbered years when no primary election is held, the election officials whose duty it would have been to provide for and conduct the primary election shall declare each of the party candidates to be nominated as of the 90th day before the primary election, issue appropriate Certificates of Nomination ([Form 155-A](#)) to them, and certify

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<sup>46</sup> [R.C. 3513.23\(B\)](#).





their names to the proper election officials, in order that their names may be printed on the official ballots provided for use in the next general election in the same manner as though a primary election had been held and such persons had been nominated at such election.<sup>47</sup>

#### 4. Governor's Commissions

Holders of certain public elective office cannot perform any duty pertaining to their offices without first having obtained from the governor a commission. The officers required to be commissioned by the governor are the state executive officers, county officers, and judges of any court of record, including a county court. Each such officer who receives compensation shall pay a fee to the Secretary of State for making, recording, and forwarding the commission.

Judges of the county courts pay a \$2 commission fee; all other officers and judges pay a \$5 commission fee.

**Note:** "County court" is defined in [R.C. 1907.01](#) and is not the same as a court of common pleas; therefore, a judge of a court of common pleas pays the \$5 commission fee.

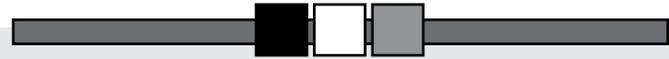
When the result of the election of any such officer is officially known to the board of elections of the proper county, the board responsible for issuing the certificate of election shall not deliver that certificate to the officer- or judge-elect. Instead, the board shall collect from the officer- or judge-elect the appropriate commission fee and shall immediately forward by mail to the Secretary of State the officer-elect's certificate of election and the appropriate commission fee.<sup>48</sup>

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<sup>47</sup> [R.C. 3513.02](#).

<sup>48</sup> [R.C. 107.05](#); [R.C. 107.06](#); [R.C. 107.07](#).





## 5. Amendments

The board of elections may amend its election results until the 81st day following the date of an election. In the event a board of elections finds it necessary to amend its election results and any such amendment would make a material change to information previously submitted to the Secretary of State or would change the ultimate outcome of a contest, the director must contact the Secretary of State's Office. When providing amended results to the Secretary of State's Office, the board must clearly indicate the office or question or issue results they are amending. The Secretary of State may specify an earlier date upon which the election results are deemed final, if so required by federal law.<sup>49</sup>

## SECTION 1.05 RECORDS RETENTION<sup>50</sup>

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### A. Generally

Records in the board's custody must be retained for time periods in accordance with law establishing specific retention periods, and in accordance with retention periods or disposition instructions established by the state records administration and the county records commission. Please contact your county records commission for the proper procedures and forms before destroying any records.

The county records commission is composed of a county commissioner, prosecuting attorney, auditor, recorder and clerk of court of common pleas. The commission meets at least every six months. The commission creates rules for retention and disposal of county records, reviews and revises retention schedules, and ensures proper procedures are followed for disposal of county records.

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<sup>49</sup> [R.C. 3505.32](#).

<sup>50</sup> [R.C. 149.38](#).





The Secretary of State has a retention schedule for all election-related documents and forms. A board of elections must adhere to the retention schedule issued by the Secretary of State for all records and forms included in the schedule. If a board has a record that is not listed in the Secretary of State retention schedule, it should refer to the county retention schedule. If neither schedule references the record, the board should contact its legal counsel, the county prosecuting attorney, for advice on how long to retain the record.

A copy of the most recent retention chart for board of elections is available in [Chapter 16 Additional Resources](#) of this manual.

The Secretary of State's Office does not have the authority to advise a board of elections on how to respond to a request for public records. A board should consult with its legal counsel regarding any request for public records before it responds to the request. Additionally, any questions regarding how to dispose of a public record should be directed to the board's legal counsel.

## **B. Ballots, Poll books, and Provisional Envelopes Sealed Following an Election**

Ballots<sup>51</sup> are not subject to disclosure or inspection pursuant to a request for public records and must remain under seal until any possible recount or election contest is completed.<sup>52</sup> A court order may require ballots to remain under seal for a longer period of time.

Poll books are not subject to disclosure or inspection pursuant to a request for public records and must remain under seal until the board has completed its official canvass of the election.<sup>53</sup> A court order may require poll books to remain under seal for longer period of time.

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<sup>51</sup> “[B]allots includes any forms in which a record of a vote exists.” [2004 OAG 050, p. 4.](#)

<sup>52</sup> [2004 OAG 050.](#)

<sup>53</sup> [2004 OAG 050.](#)





Provisional ballot envelopes are not subject to disclosure or inspection pursuant to a request for public records and must remain under seal until any possible recount or election contest is completed.<sup>54</sup> A court order may require provisional ballot envelopes to remain under seal for a longer period of time.

A board of elections also is prohibited from releasing information through the free access system established pursuant to [R.C.3505.181\(B\)\(5\)\(b\)](#) (the toll-free number provided to a provisional voter for the voter to determine whether his or her ballot has been counted) to anyone other than the voter to whom that information pertains.<sup>55</sup>

If a board receives a request for copies of a ballot, poll book, or provisional ballot envelope during the time period in which it must remain under seal, the board is encouraged to consult with its legal counsel.

### C. Ballots – Paper and Electronic

After the time for any possible recount or election contest has passed, a board still must retain all ballots created for use in an election. All ballots (both used and unused) prepared for a federal election must be retained by the board for at least 22 months following the election. All ballots (both used and unused) prepared for a non-federal election must be retained by the board for at least 60 days following the election. Please be advised that a court order or pending litigation might require a board to retain ballots for a longer period.

[R.C.3505.31](#) provides as follows:

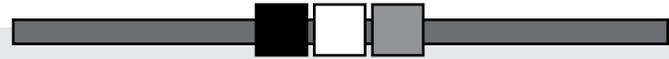
The board shall carefully preserve all ballots prepared and provided by it for use in an election, whether used or unused, for sixty days after the day of the election, except that, if an election includes the nomination or election of candidates for any of the offices of president,

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<sup>54</sup> [2011 OAG 012](#).

<sup>55</sup> [2011 OAG 012](#).





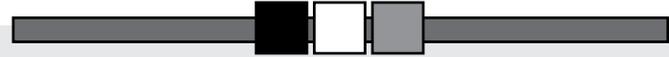
vice-president, presidential elector, member of the senate of the congress of the United States, or member of the house of representatives of the congress of the United States, the board shall carefully preserve all ballots prepared and provided by it for use in that election, whether used or unused, for twenty-two months after the day of the election.

Election data stored on the internal memory of a voting machine, memory card, and tabulation servers must be treated as a ballot and retained either for 60 days or 22 months, depending on the type of election. A board may transfer data from its tabulation server or memory cards to another storage source before the expiration of the retention period as long as the board provides public notice of at least two business days of the time and place of the transfer. Please note that the CD-ROM/DVD/USB memory device containing the transferred voting information must be kept by the board for a period of six years from the date of the election at which the records were initially created.

A board is not permitted to clear the internal memory of any voting machine used in an election before the expiration of the retention period for ballots unless the board conducts a re-canvass of the election and transfers the data to another source. [R.C.3505.31](#) (3rd paragraph) provides as follows:

In counties where voting machines are used, if an election is to be held within the sixty days immediately following a primary, general, or special election or within any period of time within which the ballots have been ordered preserved by the Secretary of State or a court of competent jurisdiction, the board, after giving notice to all interested parties and affording them an opportunity to have a representative present, shall open the compartments of the machines and, without unlocking the machines, shall recanvass the vote cast in them as if a recount were being held. The results shall be certified by the board, and this certification shall be filed in the board's office and retained for the remainder of the period for which ballots must be kept.





After preparation of the certificate, the counters may be turned back to zero, and the machines may be used for the election.

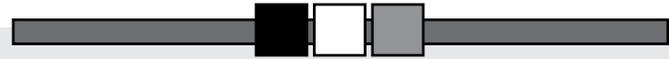
A board must adhere to the following procedures in conducting the re-canvass:

- Public notice of the re-canvass must be provided at least five business days prior to the re-canvass.
- The re-canvass must be open to the public.
- Before transferring data retained on DRE internal memory, the board must:
  - Create a separate election data file on its tabulation server,
  - Download the data from the internal memory onto a memory card(s),
  - Download the voting results from the cards into the separate election data file on its tabulation server,
  - Re-run (tabulate) the voting results contained on the cards,
  - Verify the count matches the unofficial certification count, and
  - Certify the results of the re-canvass.

**Note:** If the count does not match, the board must compare the original voting results still contained on the voting machine internal memory to the unofficial results on the tabulation server and determine the cause of the difference.

The seal on the canister or the tape on the verified voter paper audit trail (VVPAT) must not be broken for the re-canvass. If the VVPAT seal must be broken for any auditing reason other than for recount purposes, the board must notify the Elections Division of Secretary of State's Office.





After the data has been downloaded from the internal memory of the machine, the board must ensure the data has been retained on the tabulation server before clearing the memory of the machine. Please note that, the board must keep the data that has been transferred onto the tabulation server for 60 days after the day of an election for a non-federal election, or 22 months after the day of an election for a federal election.

