



DIRECTIVE 2018-19

July 9, 2018

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

Re: “APRI Exception” No Longer in Effect

SUMMARY

Prior to the General Election in 2016, the Secretary of State issued Directives 2016-39, 2016-41, and 2016-45, pursuant to Court Orders from the United States District Court for the Southern District of Ohio in the case of *Ohio A. Philip Randolph Institute et al. v. Husted*.¹ Those Directives required each board of elections to apply an interim remedy, the “APRI Exception,” to the provisional ballot eligibility determination of any provisional voter who was not registered to vote in the State of Ohio at least 30 days before the election and to count provisional ballots cast by certain individuals who had already been removed under the Supplemental Process. Subsequent Court Orders also required those Directives to be implemented for the primary/special and general elections in 2017 and the primary election of 2018 while the case was pending before the United States Supreme Court on a writ of certiorari.²

On June 11, 2018, the United States Supreme Court issued its decision in the case and reversed the judgment of the Sixth Circuit.³ The Supreme Court found that Ohio’s Supplemental Process “does not violate the Failure-To-Vote Clause or any other part of the NVRA.”⁴

As a result of that decision, on June 28, 2018, the District Court lifted its stay on proceedings in the case and issued an order that vacates all past orders requiring the interim remedy. The “APRI Exception” is no longer in effect.

INSTRUCTIONS

Each board of elections must immediately discontinue the processes set forth in Directives [2016-39](#), [2016-41](#), and [2016-45](#) (applying the “APRI Exception”). However, those unregistered voters who were permitted to vote and whose ballots were eligible to be counted under the “APRI exception” while it was in effect must remain re-registered and in “Active” status.

¹ *Ohio A. Philip Randolph Institute et al. v. Husted*, Case No. 2:16-cv-303, United States District Court for the Southern District of Ohio, Eastern Division.

² *Id.*, Orders issued April 25, 2017 and May 31, 2017. See also [Directive 2017-07](#), [Directive 2017-21](#), and [Directive 2018-11](#).

³ *A. Philip Randolph Inst. et al. v. Husted*, 838 F.3d 699 (Sixth Circuit 2016).

⁴ *Husted v. A. Philip Randolph Institute, et al.*, Slip Opinion, p.2.

The requirement in effect prior to this litigation resumes: in order to be eligible to vote in Ohio, an individual must be registered to vote in the state for at least 30 days before the election.⁵

As always, if an individual whose registration has been duly cancelled or who is not otherwise registered to vote casts a provisional ballot in an election, the completed Provisional Ballot Affirmation Statement serves to register the voter, even if the provisional ballot envelope is not opened and the ballot not counted.⁶

Directives [2016-39](#), [2016-41](#), and [2016-45](#) and Directives [2017-07](#), [2017-21](#), and [2018-11](#) are hereby rescinded.

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

Sincerely,


Jon Husted

⁵ OH Const. Art. V, §1.

⁶ R.C. 3505.182(F).