

**READY 2016**



**ELECTION COUNTDOWN**

**Jon Husted**  
Ohio Secretary of State



## **Implementation of Directives 2016-39 and 2016-41**

**Provisional Ballots Cast by Voters  
Cancelled Since 2011 Under Ohio's  
Supplemental Process**

# Directives 2016-39 & 2016-41

Both Directives were issued in accordance with Orders from the United States District Court for the Southern District of Ohio, Eastern Division in the case of *Ohio A. Philip Randolph Institute, et al. v. Husted*, Case No. 2:16-cv-303.

# Web Tool

Boards are required to add the following language to any web tool used to aid voters in searching for their registration information – must use exact language:

*If you are unable to locate your voter registration information but think you are registered to vote and you have not moved outside of your county of prior registration, you may be eligible to cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address that may be counted. We encourage you to check your registration status by contacting your local county board of elections. To find your polling place, please [click here](#) or call your county board of elections. [Click here](#) for a full listing of Boards of Elections.*

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# Court Order

For purposes of the November 8, 2016 General Election, a provisional ballot cast during the in-person absentee voting period or on Election Day by a voter who is not registered to vote in the State of Ohio may be counted if all of the following apply (the “*APRI* Exception”):

# Court Order

1. The individual's voter registration was cancelled in 2011, 2013, or 2015 (confirmation card mailed in 2007, 2009, or 2011) pursuant to the Supplemental Process;
2. The voter's provisional ballot affirmation reflects an address within that precinct and the voter was previously registered to vote within that same county prior to cancellation;

# Court Order

3. The board of elections does not have information that the voter was deceased, incarcerated on a felony conviction, or adjudicated as incompetent under Ohio law by a county probate court after the individual's registration record was cancelled; and,
4. The voter's provisional ballot affirmation form and the ballot otherwise comply with all applicable laws and directives.

# Absentee Request - Mail

If you receive a request for an absentee ballot by mail from an individual who is not currently registered to vote, the following language shall be included in the notification of denial of the request:

*You may still cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address.*

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# Absentee Request – In-Person

If you receive a request for an absentee ballot in-person from an individual who is not currently registered to vote, the following language shall be included in the notification of denial of the request:

*You may still cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address.*

# Absentee Request – In-Person

An individual who is not currently registered to vote and submits a valid request for an absentee ballot may cast a provisional ballot during the in-person absentee voting period at an appropriate early voting location or the county board of elections.

# Absentee Request – In-Person

Once the voter casts a provisional ballot, the board should write “NR” (for not registered) and the date in ink on the top left-hand corner of the provisional ballot affirmation envelope (SOS Form 12-B) and retain it securely and separately from the board’s other provisional ballots.

Boards of elections will be required to provide the total count of provisional ballots counted using the *APRI* Exception after Election Day.

# Election Day

If an individual who is currently not registered to vote appears at a polling location on Election Day, he or she must be offered a provisional ballot.

PEOs do not determine whether an individual falls under the APRI Exception. That determination is made by the board after Election Day.

# Election Day

The board must provide ballots and envelopes in the quantity of at least 20 percent more than the number of provisional ballots cast in that precinct at the 2008 or 2012 Presidential General Election, whichever is higher.

# Absentee Request - Personal Illness, Physical Disability, or Infirmary

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 infirmity;
- 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;

# Absentee Request - Personal Illness, Physical Disability, or Infirmary

## 3) The individual completes Form 11-I-2; \_\_\_\_\_

Form No. 11-I-2 Prescribed by the Secretary of State (10-16)

*print clearly*

### **Application for Provisional Ballot by Voter With A Personal Illness, Physical Disability, or Infirmary**

*This form applies only to an individual who had his or her voter registration cancelled in 2011, 2013, or 2015 under the Supplemental Process, and who otherwise satisfies the requirements found in Directive 2016-39 and Directive 2016-41.*

**Current  
Full Name**  
*Required*

**1**

First

Middle

Last

Suffix

**Date of Birth**  
*Required*

**2**

Date of Birth

*Do not write today's date here.*

| M | M | / | D | D | / | Y | Y | Y | Y |

**Current  
Address of  
Residence**  
*Required*

**3**

Street Address

*No P.O. Boxes*

County

City/Village

ZIP

**Address at Which  
you Would Like  
the Provisional  
Ballot Delivered  
by Two Elections  
Officials**  
*Required*

**4**

Street Address

*No P.O. Boxes*

County

City/Village

ZIP

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# Absentee Request - Personal Illness, Physical Disability, or Infirmary

- 4) The individual's voter registration was cancelled in 2011, 2013, or 2015 under the "Supplemental Process";
- 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;

# Absentee Request - Personal Illness, Physical Disability, or Infirmary

- 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.

# Absentee Request - Personal Illness, Physical Disability, or Infirmary

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 must 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.

# Processing Provisional Ballots

Boards must apply the *APRI* Exception to the provisional ballot eligibility determination of any provisional voter who is not registered to vote in the State of Ohio at least 30 days before the election.

# Processing Provisional Ballots

If the board determines, as evidenced by the voter having a “cancelled” status in the SWVRD, that the voter previously was registered to vote in the State of Ohio, it must determine the validity of the provisional ballot using the following steps in conjunction with the mandatory process for determining eligibility of provisional ballots in Chapter 6, Provisional Voting, of the Ohio Election Official Manual:

# Processing Provisional Ballots

- a. Identify the most recent address of registration in the Statewide Voter File for the voter (because merged records can result in multiple records for a single voter, it is necessary to identify the most recent address of registration on file prior to cancellation). Proceed to “step b” below.

# Processing Provisional Ballots

- b. If the most recent address of registration in the Statewide Voter File for the voter is in a different county than the address provided by the voter on the provisional affirmation, the board must reject the provisional ballot. If the most recent address of registration in the Statewide Voter File for the voter is the same as the address provided by the voter on the provisional affirmation or is in the same county, proceed to “step c” below.

# Processing Provisional Ballots

- c. Identify the “reason” code in the SWVRD. If the reason code is “Cancelled – Deceased,” “Cancelled – Incompetent,” or “Cancelled – Incarcerated” the board must reject the provisional ballot. (A “merged” record is not a “cancelled” record.) If the reason code is something other than death, adjudication of incompetency by a probate judge, or incarceration on a felony conviction, proceed to “step d” below.

# Processing Provisional Ballots

- d. Identify the date of cancellation in the SWVRD. If the date of cancellation is prior to 2011, the board must reject the provisional ballot. If the date of cancellation in the SWVRD is after January 1, 2011, proceed to “step e” below.

# Processing Provisional Ballots

- e. Determine if the voter was cancelled under the “Supplemental Process” of the state’s general voter records maintenance program.

# Processing Provisional Ballots

If the board's records do not differentiate between a cancellation under the "NCOA Process" and a cancellation under the "Supplemental Process," the board must contact the Secretary of State's elections counsel assigned to its county.

# Processing Provisional Ballots

The Secretary of State's elections counsel will compare the information from the voter's provisional ballot affirmation to the NCOA list from the year in which the voter was sent a confirmation notice (four years prior to the year of cancellation).

# Processing Provisional Ballots

The provisional ballot of a voter whose registration was cancelled under the “NCOA Process” cannot be counted under the *APRI* Exception. If the voter’s registration was cancelled under the “NCOA Process,” the board must reject the provisional ballot.

# Processing Provisional Ballots

The provisional ballot of a voter whose registration was cancelled under the “Supplemental Process” must be counted under the *APRI* Exception if the provisional ballot affirmation and the provisional ballot otherwise comply with all applicable laws, as directed in the mandatory process for determining eligibility of provisional ballots in Chapter 6, Provisional Voting, of the Ohio Election Official Manual.

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The seal of the Ohio Secretary of State, featuring a circular design with the text "THE SECRETARY OF STATE" and "OHIO" around the perimeter, and a central emblem.

# Processing Provisional Ballots

Remember that boards of elections will be required to provide the total count of provisional ballots counted using the *APRI* Exception separate from all other counted provisional ballots when the board submits its supplemental report at the conclusion of the official canvass following Election Day.

# Processing Provisional Ballots

For ease of reference, a board should write “APRI” on the top of any provisional ballot affirmation envelope containing a provisional ballot that is counted pursuant to the exception.

Boards also need to report the year that the voter’s registration was cancelled pursuant to the Supplemental Process. Accordingly, the board also should write the year that the voter’s registration was cancelled next to “APRI” on the top of the provisional ballot affirmation envelope.

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Questions?

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