



DISCLAIMER

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TABLE OF CONTENTS

INTRODUCTION & ACKNOWLEDGEMENTS	4
I. VOTER REGISTRATION	5
Who may register to vote?	5
When will the primary and general election be held?	5
What is the voter registration deadline for each election?	5
Where can a person apply for voter registration?	5
What information must be provided on a voter registration application?	5
How does a homeless person register to vote?	6
May a person register to vote by mail? If so, are there special requirements for first time voters who register to vote by mail?	6
Will mail-in voter registration applications be accepted if they are received by the registrar’s office after the registration deadline?	7
May a person correct or complete a form after the deadline for voter registration if it was submitted before the deadline?	7
Are there rules relative to assisting others with the completion of a voter registration application?	7
How many voter registration applications may individuals or groups conducting registration drives receive from the State Board of Elections or registrar offices?	7
Are there any special rules pertaining to the federal registration application?	7
May persons conducting voter registration drives make copies of completed voter registration applications before delivering them to the registrar’s office?	7
Are persons conducting voter registration drives required to deliver or mail completed voter registration applications to the registrar offices within a certain time limit?	7
When voter registration applications are mailed or delivered to election officials, how long will it take for the applications to be processed?	8
Can election officials delay the processing of a voter registration application or deny registration outright, based on their inability to match the applicant’s HAVA ID number with a record in the Social Security Administration or state driver’s license database?	8
If election officials delay or deny processing a voter registration application because the applicant’s HAVA ID number cannot be verified, will the applicant be notified?	8
What can a person do if her application is denied?	8
II. IDENTIFICATION REQUIREMENTS	9
What identification is required for voter registration?	9
What identification required at the polling place?	9
What identification is required to obtain or file an absentee ballot?	9
What identification is required to validate a provisional ballot?	9
III. VOTER REGISTRATION LIST MAINTENANCE	10
For what reasons can a person’s name be removed from a list of registered voters?	10
Under what circumstances will a person’s name be placed on a list of inactive voters?	10

OHIO VOTER PROTECTION LAWS IN A NUTSHELL

How does the voter get his name back on the active list?	10
What should the voter do if he changes his address?	12
What are the procedures for removing names of persons who have felony convictions from the registration polls?	12
May a person whose name has been removed because of a felony conviction have his right to vote restored?	12
What are the procedures for removing names of persons who have been found mentally incompetent?	12
What may a voter do if she learns her name has been removed from the registered voter's list in error?	12
Who may obtain a list of registered voters?	13
IV. ABSENTEE AND EARLY VOTING	14
Who is permitted to vote by absentee ballot?	14
How may a person request an absentee ballot?	14
When is the deadline for requesting an absentee ballot?	14
May a first time voter cast an absentee ballot?	14
What steps must a voter take if she requests but does not receive an absentee ballot?	15
How must voters cast an absentee ballot to ensure that it will be counted?	15
When is the deadline for casting an absentee ballot?	15
Are there any other requirements for casting an absentee ballot?	15
When will absentee ballots be counted?	15
What is the procedure for determining whether the absentee ballot will be counted?	16
What should a person do if he requested an absentee ballot but wants to vote in person on Election Day?	16
Is there early voting? If so, describe.	16
V. POLLING PLACE LOCATIONS AND PROCEDURES	17
What hours are the polls open on Election Day?	17
When is the final list of polling place locations made available to the public?	17
How are decisions about precincts and polling place locations made?	17
How and when will voters be notified about polling place changes?	17
What activities are restricted at polling places on Election Day?	17
What activities are permitted at polling places on Election Day?	18
Can voters request assistance with voting equipment at the polling place?	18
Can a child/minor enter the voting booth with the voter?	18
What accommodations must be made for non-English speakers or persons unable to read?	18
What accommodations must be made for voters with disabilities?	18
If a voter is in line to vote at poll closing time but has not reached the voting machine may the voter still vote?	19
May voters who have moved to a new address <i>in another precinct</i> but who have not registered at their new address, be allowed to vote at the precinct for their old address?	19
Are poll-watchers or other non-voters permitted inside the polling place?	19

VI. CHALLENGES AND VOTER INTIMIDATION	20
Can a person’s right to vote be challenged at the polls?	20
Who can challenge a person’s right to vote at the polls?	20
What can a person do if challenged at the polls?	21
What steps are taken if a voter’s name does not appear on the poll book?	22
What constitutes illegal intimidation of voters at the polls?	22
Are law enforcement officers allowed in a polling place during voting hours?	22
To whom should a person report acts of intimidation?	22
VII. PROVISIONAL BALLOTS	24
What is a provisional ballot?	24
Who may request a provisional ballot?	24
Why and when will provisional ballots be provided to voters?	24
Who decides whether a voter gets a provisional ballot?	25
What can a voter do if she requests but does not receive a provisional ballot?	25
What information must be provided to voters who cast provisional ballots?	25
How do election officials determine whether a provisional ballot will be counted?	25
Does the voter who cast a provisional ballot have a right to present evidence or appear before the election officials evaluating whether it will count?	25
When will provisional ballots be counted?	26
How can voters find out whether their provisional ballots they cast were counted?	26
Does the voter have a right to appeal?	26
ENDNOTES	27
APPENDIX A	32

INTRODUCTION

This publication is intended to distill complex election law for lawyers, advocates, voter registration campaigns and “Get Out the Vote” campaigns. It combines state election law with state regulations, rules, attorney general opinions and other election materials to provide a comprehensive interpretation of the law and practices that impact elections. While this publication does not cover every provision of state election laws, it highlights those provisions which in our experience have most impacted the voting rights of minority voters.

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VOTER REGISTRATION

Who may register to vote?

A person may register to vote in Ohio if the person is:

- at least 17 years of age and will be 18 years of age by the next general election;
- a citizen of the United States;
- a resident of the State of Ohio for thirty (30) days immediately preceding the election; and
- a resident of the county and precinct in which the person intends to vote for thirty (30) days immediately preceding the election.¹

Additionally, a 17 year old who satisfies all of the qualifications to become a registered voter, including turning 18 on or before the next general election, is entitled to vote in a primary election which takes place before his 18th birthday.²

When will the primary and general election be held?

Primary Election: March 4, 2008

General Election: November 4, 2008

What is the voter registration deadline for each election?

Primary Election: February 4, 2008

General Election: October 6, 2008

Where can a person apply for voter registration?

A person can register to vote in Ohio at the following locations:

- any state or local office of a designated agency that provides public assistance or disability programs;
- public high schools;
- vocational schools;
- public libraries;
- the office of the county treasurer in each county;
- the Bureau of Motor Vehicles;
- the office of the Secretary of State;
- any of the eighty-eight (88) county Board of Elections offices.³

What information must be provided on a voter registration application?

- Applicant's name;
- Applicant's address;
- Date the application is completed;
- Applicant's date of birth;
- Applicant's signature; and
- One of the following for identification purposes:
 - Applicant's driver's license number;

OHIO VOTER PROTECTION LAWS IN A NUTSHELL

- Last four digits of the applicant's social security number; or
- A copy of any of the following:
 - A current and valid photo identification*
 - A military identification
 - A current: utility bill, bank statement, paycheck, government check
 - Any other government document that shows the applicant's name and current address other than a Notice of Election or Notice of Voter Registration mailed by a Board of Elections.⁴

Any person who cannot sign her/his own application is required to mark the application with an "X," if s/he is able to do so. The person assisting the applicant with the application must certify the "X" as the applicant's signature by: 1) signing the applicant's name for her/him on the application as well and 2) adding her/his own signature to the application as the person providing assistance.⁵

If the applicant cannot make an "X", the applicant must indicate "in some manner" that s/he wants to register to vote or submit a change of name or address. Once this is done, the person assisting the applicant must sign the application, attesting to the applicant's intent.⁶

Finally, Ohio law does not permit a person to "print" his/her signature unless the person normally uses a printed signature as his/her legal mark rather than a cursive one.⁷

* **Note:** "photo identification" is defined for all election purposes as a document that:

- Shows the name of the individual to whom it was issued which conforms to the name in the poll list or signature book;
- Shows the current address of the individual to whom it was issued which conforms to the address in the poll list or signature pollbook, except for a driver's license or a state identification card, which may show either the current or former address of the individual to whom it was issued regardless of whether that address conforms to the address in the poll list or signature pollbook;⁸
- Shows a photograph of the individual to whom it was issued;
- Includes an expiration date that has not passed; and
- Was issued by the government of the United States or Ohio.⁹

How does a homeless person register to vote?

A homeless person who has a shelter or other location at which the person has been a consistent or regular inhabitant, and to which the person has the intention of returning, is deemed to reside at such location for the purpose of registering to vote.¹⁰ However, a homeless person is still required to provide identifying information when registering to vote.

May a person register to vote by mail? If so, are there special requirements for first-time voters who register to vote by mail?

Yes, a person may mail a completed registration application to any of the following offices: any county Board of Elections, Secretary of State, any designated agency that provides public assistance or disability programs, county treasurer, any public high school or vocational school, or any public library.¹¹ There are no special requirements for first-time voters registering by mail.

Will mail-in voter registration applications be accepted if they are received by the registrar's office after the registration deadline?

Yes, but under limited circumstances. A mail-in voter registration application sent to the office of the Secretary of State or a Board of Elections must be postmarked no later than the thirtieth (30th) day before the election in which the person seeks to vote. If a registration does not have a legible postmark, the registration will be valid for that election if received by the Secretary of State or a Board of Elections office, no later than twenty-five (25) days before the election.¹²

May a person correct or complete a form after the deadline for voter registration if it was submitted before the deadline?

Yes, under some circumstances corrections are allowed. However, making such corrections does not mean the individual will be entitled to vote in the upcoming election.¹³

If a person who is otherwise qualified to vote has made a mistake that caused the person to be registered in a precinct which was not the person's place of residence, the Board of Elections, on full and satisfactory proof that such error was committed by mistake, may correct the registration form.¹⁴

Are there any rules relative to assisting others with the completion of a voter registration application?

Yes. When a person cannot sign her/his own application s/he is required to mark the application with an "X," if able. The person assisting the applicant with the application must certify the "X" as the applicant's signature by: 1) signing the applicant's name for her/him on the application as well and; 2) adding her/his own signature to the application as the person providing assistance.¹⁵ If the applicant cannot make an "X", the applicant must indicate "in some manner" that s/he wants to register to vote or submit a change of name or address. Once this is done, the person assisting the applicant must sign the application, attesting to the applicant's intent.¹⁶

How many voter registration applications may individuals or groups conducting voter registration drives receive from the State Board of Elections or registrar offices?

Ohio election law does not directly address this question. There is no provision that would limit the number of registration applications given to any person or group.

Are there any special rules pertaining to the federal registration application?

No.

May persons conducting voter registration drives make copies of completed voter registration applications before delivering them to the registrar's office?

Ohio election law does not directly address this question. There is currently no provision in Ohio law that prohibits such copying.¹⁷

Are persons conducting voter registration drives required to deliver or mail completed voter registration applications to registrar offices within a certain time limit?

OHIO VOTER PROTECTION LAWS IN A NUTSHELL

Yes, a registration application must be delivered to the office of a Board of Elections or the Secretary of State within ten (10) days of the completion of the application or by the thirtieth (30th) day before the election, whichever is earlier.¹⁸

However, if a person conducting a voter registration drive receives a completed application within twenty-four (24) hours of the thirtieth (30th) day before the election, the application must be delivered to the office of a Board of Elections or the Secretary of State within ten (10) days of its receipt.¹⁹

When voter registration applications are mailed or delivered to election officials, how long will it take for the applications to be processed?

A Board of Elections that receives a valid voter registration application must register the applicant within twenty (20) business days, unless the application is received during the thirty (30) days immediately preceding an election.²⁰

Can election officials delay the processing of a voter registration application or deny registration outright, based on their inability to match the applicant's HAVA ID number with a record in the Social Security Administration or state driver's license database?

No, election officials cannot delay the processing of a voter registration application or deny registration based on their inability to match a voter's ID number with the Social Security Administration or the Ohio Bureau of Motor Vehicles database. Rather, if the Ohio Secretary of State's office is unable to confirm a match, the local board of elections where the individual resides is alerted and the individual is registered but listed as "non-confirmed." This triggers the local board of elections to review the voter registration application and/or the county database for transposed numbers or misspellings. Non-confirmed voters are permitted to cast regular ballots.²¹

If election officials delay or deny processing a voter registration application because the applicant's HAVA ID number cannot be verified, will the applicant be notified?

Not Applicable in Ohio.

What can a person do if his application is denied?

An applicant will receive notice of an unaccepted registration application and the information needed to accept the registration and permit the applicant to be added to the voter rolls.²² The County Board of Elections is also required to notify applicants of their valid registration.²³ Therefore, if an applicant does not receive a notice of receipt, it could be an indication that his/her application was denied.

Effective June 1, 2006, the Secretary of State is required to maintain a voter registration database on the Secretary of State's web site.²⁴ An applicant could check the web site or call the Board of Elections for the county in which the applicant resides to discover whether the voter registration application was denied. Ohio law does not indicate whether an applicant would have to provide the Board of Elections with further information or whether the applicant would need to submit an entirely new registration application if the applicant's initial application was denied.

IDENTIFICATION REQUIREMENTS

What identification is required for voter registration?

The applicant must provide at least one of the following for identification purposes²⁵:

- Applicant's driver's license number;
- Last four digits of the applicant's social security number; or
- A copy of any of the following:
 - A current and valid photo identification;²⁶
 - A military identification card that does not contain the name or address of the voter presenting the identification to vote;²⁷
 - A current: utility bill, bank statement, paycheck, government check; or
 - Any other government document that shows the applicant's name and current address other than a Notice of Election or Notice of Voter Registration mailed by a Board of Elections.²⁸

What identification is required at the polling place?

All voters must provide proof of identity in one of the following forms:

- A current and valid photo identification;²⁹
- A military identification that does not contain the name or address of the voter presenting the identification to vote;³⁰
- A current: utility bill, bank statement, paycheck, government check; or
- Any other government document that shows the voter's name and current address other than a Notice of Election or Notice of Voter Registration mailed by a Board of Elections.³¹

What identification is required to obtain or file an absentee ballot?

To obtain or file an absentee ballot, the voter must provide one of the following for identification purposes:

- Voter's driver's license number;
- Last four digits of the voter's social security number; or
- A copy of any of the following:
 - A current and valid photo identification issued by the State of Ohio of the United States government;³²
 - A military identification;³³
 - A current: utility bill, bank statement, paycheck, government check; or
 - Any other government document that shows the voter's name and current address other than a Notice of Election or Notice of Voter Registration mailed by a Board of Elections.³⁴

What identification is required to validate a provisional ballot?

This answer depends upon the reason a person voted a provisional ballot. Please see the section on provisional ballots below.

VOTER REGISTRATION LIST MAINTENANCE

For what reasons can a person's name be removed from a list of registered voters?

Election officials may cancel a voter registration and remove a person's name from the voter registration list upon the occurrence of any of the following:

- at the voter's request;³⁵
- upon the filing of a notice of the death of the voter by the chief health officer or director of health;³⁶
- upon the voter's felony conviction;³⁷
- upon the change of the voter's residence to a location outside the county of registration;³⁸
- upon the adjudication of the voter as incompetent;³⁹
- where a notice of voter registration has been returned to a board of elections as undeliverable and the board has sent a confirmation notice⁴⁰ by forwardable mail to the voter: upon the failure of the voter to either (1) respond to the confirmation notice or (2) update the voter's registration and (3) vote at least once during a period of four consecutive years, which period shall include two general federal elections; or⁴¹
- if a voter's qualifications to vote are challenged, and the Board of Elections finds that the challenge should be granted based upon board records or after a hearing finding the voter is ineligible to vote.⁴²

Under what circumstances will a person's name be placed on a list of inactive voters?

Ohio law does not require Board of Elections to maintain an inactive list of voters. However, an applicant whose voter registration is accepted will be notified by nonforwardable mail. If the notification is returned, the Board of Elections will attempt to verify the correct address. If the Board is unsuccessful in verifying the voter's correct address, the voter's name will be marked in the pollbook to indicate the voter's notification was returned to the board. At the first election where a voter's name has been marked and voter attempts to cast a ballot, the voter will be required to provide identification to the officials and vote by provisional ballot.⁴³

If an unforwardable notice of the disposition of an otherwise valid registration application is returned undelivered, the person will be registered and sent a confirmation notice by forwardable mail. If the person fails to respond to the confirmation notice, update their registration, or vote by provisional ballot in any election during the period of two federal elections subsequent to the mailing of the confirmation notice, the person's registration shall be canceled.⁴⁴

How does the voter get his name back on the active list?

Not applicable; see above.

What should the voter do if he changes his address?

By the thirtieth (30th) day before the election, the voter should complete and submit a change of residence form in the same manner that a person completes and submits a voter registration application.⁴⁵ If the change of residence form is not submitted by the deadline, then the following rules apply.

For voters who move within the same precinct, a voter will be permitted to vote a regular ballot if the voter does the following:

- On election day, the voter:
 - appears at the voter's assigned polling place;
 - submits a change of residence form; and
 - shows one of the specified forms of identification.⁴⁶

For voters who move from one precinct to another within the same county, the voter must do one of the following:

- During the 28 days immediately before the election, the voter must appear at the voter's county Board of Elections office, submit a change of residence form, and vote by provisional ballot; or
- On election day, the voter must: appear either at the polling place in the precinct which corresponds to the voter's new residence, the voter's county Board of Elections office, or a site designated by that Board of Elections; submit a change of residence form, and vote by provisional ballot.⁴⁷

The provisional ballot will be counted if the Board of Elections determines that the voter is eligible to vote.⁴⁸

For voters who move from one county to another county, the voter must do one of the following:

- During the 28 days immediately before the election, the voter must appear at the voter's county Board of Elections office, submit a change of residence form, and vote by provisional ballot; or
- On election day, the voter must: appear either at the voter's county Board of Elections office, or a site designated by that Board of Elections; submit a change of residence form; and vote by provisional ballot.⁴⁹

The provisional ballot will be counted if the Board of Elections determines that the voter is eligible to vote.⁵⁰

For a voter who would otherwise qualify to vote under one of the three above circumstances but is unable to appear at one of the aforementioned locations because of personal illness, physical disability, or infirmity, the voter may vote by absentee ballot if the voter does all of the following:

- Using the voter's new address, applies for an absentee ballot between the twenty-seventh (27th) day prior to the election until the Saturday before the election;
- Makes a declaration that the voter has moved and is otherwise qualified to vote but that the

voter is unable to appear because of personal illness, physical disability, or infirmity;

- Completes and returns, along with the completed absent voter's ballot, a notice of change of residence; and
- Completes and signs a statement attesting that (1) the voter has moved, (2) has voted by absent voter's ballot because of personal illness, physical disability, or infirmity, and (3) will not vote or attempt to vote at any other location or by absent voter's ballot for that particular election.⁵¹

What are the procedures for removing names of persons who have felony convictions from the registration rolls?

At least once each month, the clerk of the Court of Common Pleas transmits to the county Boards of Elections the names of all persons who have been convicted during the previous month of crimes that would cause the individual to lose her/his right to vote. Reports of convictions under the laws of the United States that would disenfranchise a person that are provided to the Secretary of State by any United States Attorney must be forwarded by the Secretary of State to the appropriate Board of Elections.

Upon receipt of any of the above information, the Board of Elections will cancel the person's registration.⁵²

May a person whose name has been removed because of a felony conviction have his right to vote restored?

Yes. A person who has been convicted of a felony will become eligible to vote upon the occurrence of any of the following:

- the person's conviction is reversed or annulled;
- the person is granted parole, judicial release, or a conditional pardon;
- the person is released under a non-jail community control sanction (including probation) or a post-release control sanction; or
- the person is fully pardoned.⁵³

What are the procedures for removing names of persons who have been found mentally incompetent?

At least once a month, the probate judge is responsible for transmitting to the Board of Elections a list of the names and residence addresses of all persons over the age of eighteen who have been "adjudicated incompetent for the purpose of voting." Upon receipt of this information, the Board of Elections will cancel the person's registration.⁵⁴

What may a voter do if she learns her name has been removed from the registered voters' list in error?

A voter can seek to correct a precinct registration list that does not contain the voter's name by applying to the Board of Elections not later than twenty (20) days prior to the election.⁵⁵ If the

Board of Elections can determine on the basis of its own records that the precinct registration list should be corrected, it will grant the application. If the Board cannot make this determination from its own records, the Board will schedule a hearing and make its decision no later than ten (10) days before the election. However, if the application is received after the thirtieth (30th) day before the day of an election, the Board has discretion to postpone the hearing until after the election, but in no case later than the tenth (10th) day thereafter. The voter has the right to testify, call witnesses, and be represented by counsel at the hearing. Additionally, the Board may issue subpoenas to witnesses to appear and testify.⁵⁶

Additionally, as of June 1, 2006, the Secretary of State must establish and maintain a statewide voter registration database. While the Secretary is granted the authority to adopt rules for the maintenance and updating of the database, no rules have been adopted to date.⁵⁷ Therefore, it is not clear whether a voter whose name has been removed from the registration list in error will be required to follow the procedure(s) in place for correcting such error, prior to the adoption of the statewide voter registration database.

Who may obtain a list of registered voters?

Anyone may obtain the list because as of June 1, 2006, the Secretary of State must make the statewide voter registration database available on the Secretary's website.⁵⁸

In addition, fourteen (14) days before an election, the Board of Elections must prepare an official registration list for each precinct. A sufficient number of lists must be provided for distribution to candidates, political parties and organized groups who apply for them. The Board of Elections must have all precinct lists available at its offices. Additionally, each polling place must place a copy of its corresponding precinct list in a conspicuous place on election day allowing any person to enter the polling place to review it.⁵⁹

ABSENTEE AND EARLY VOTING

Who is permitted to vote by absentee ballot?

Any qualified elector may vote by absentee ballot.⁶⁰

How may a person request an absentee ballot?

A voter may request an absentee ballot by completing an Application for Absent Voter's Ballot, which can be obtained from the Secretary of State's office or your county board of elections. A voter is not required to use this form to request an absentee ballot.⁶¹

A voter has the option of requesting an absentee ballot, in writing, from the county board of elections in which the elector is registered. The written request is not required to be in any form, but must include all of the following information:

1. Your name
2. Your signature;
3. The address at which you are registered to vote;
4. Your date of birth;
5. A statement identifying the election for which you are requesting an absentee voter's ballot;
6. A statement that you are a qualified elector;
7. If the request is for a partisan primary election ballot, your political party affiliation; and,
8. If you want the ballots to be mailed, the address to which you want them mailed.⁶²

Any member of the organized militia who is called to active duty within the state may mail, fax or otherwise send an Application for Absent Voter's Ballots to the Board of Elections.⁶³ A family member of the militia member may also request an absentee ballot on behalf of the militia member. This request must be made in person at the Board of Elections or upon the written request mailed to the Board.⁶⁴ The ballots can be mailed or sent by fax to the militia member.⁶⁵

Members of the armed services, who are qualified electors but are not registered to vote in Ohio, may use the Federal Post Card Application (FPCA), available online at www.fvap.gov, to register to vote and to request an absentee ballot.⁶⁶

When is the deadline for requesting an absentee ballot?

If the application is mailed or faxed, it must be received by noon on the Saturday before the election. If the application is delivered in person to the Board, then the deadline is 4:30 p.m., the close of regular business hours on the day before the election.⁶⁷ If a voter is confined in a hospital because of an unforeseeable medical emergency, the voter has until 3:00 pm on election day to submit the application.⁶⁸

May a first time voter cast an absentee ballot?

Yes, a first time voter who meets the state eligibility requirements is permitted to vote by absentee ballot.⁶⁹

What steps must a voter take if she requests but does not receive an absentee ballot?

When a director of elections receives an application requesting an absentee ballot, “upon receipt” of such application s/he is required to determine if the application is complete and if it is from a qualified voter. If the answer to these questions is “yes,” Ohio law requires the director to mail or otherwise deliver the absentee ballot to the voter.⁷⁰ Therefore, while Ohio law does not set a specific number of days in which the absentee ballot must be sent to the voter, voters who request an absentee ballot but do not receive it within a reasonable amount of time, should contact their local Board of Elections.

Finally, a voter who has requested an absentee ballot but has not received it may vote by provisional ballot.⁷¹ The provisional ballot will be counted if the Board of Elections has not received the voter’s absentee ballot by the deadline.⁷²

How must voters cast an absentee ballot to ensure it is counted?

The voter should mark the ballot, fold it so that the stub and the signatures of the Board of Elections are visible, and place it in the identification envelope provided; to be valid, the stub must be attached. The voter must complete and sign the “statement of voter” on the outside of the envelope.

Additionally, the voter must either include her/his driver’s license number or last four digits of her/his social security number or include a copy of any of the previously specified forms of identification.

The voter must then deliver the identification envelope to the director of the Board of Elections from whom it was received. If the voter is unable to mail it or take it to the director, a family member may do it for the voter.⁷³

When is the deadline for casting an absentee ballot to ensure it is counted?

If cast, in person, at the county board of elections or in person at an alternate site designated by the county board of elections, the absentee ballot must be returned to the board of elections no later than the close of polls on Election Day.⁷⁴ If cast from anywhere in the United States, the absentee ballot must be postmarked by the day before the election in order to be counted and must be received by boards of elections before the eleventh day (by the tenth day) after the election to be eligible to be counted.⁷⁵ If cast from outside the United States, the absentee ballot must be received by the Board of Elections by the tenth (10th) day after the election.⁷⁶

Are there other requirements for casting an absentee ballot?

Yes. Absentee voters who are outside the United States on Election Day must check the box on the absentee ballot envelope indicating the voter will be outside the United States.⁷⁷

When will absentee ballots be counted?

The Board of Elections determines whether absentee ballots will be counted in each precinct, at the office of the Board of Elections, or at some other location⁷⁸. All absentee ballots are counted on the day of the election with the exception of mailed absentee ballots cast within the United States or by overseas voters, which are counted on the eleventh (11th) day after the election.⁷⁹

What is the procedure for determining whether the absentee ballot will be counted?

A ballot will be counted unless: (1) the Board finds that the statement accompanying the absentee ballot is insufficient; (2) the signature on the ballot envelope does not match the registration signature; (3) the ballot envelope contains more than one ballot, or contains any voted ballot which the elector is not entitled to vote; (4) that Stub A is detached from the ballot; (5) the required identification is not included; or (6) the Board determines the person is not a qualified elector.⁸⁰ An absentee ballot received after the deadline will not be counted.⁸¹ Any of the precinct officials may challenge the right of the elector to vote upon any other grounds upon which the right of persons to vote may be challenged.⁸²

What should a person do if he requested an absentee ballot but wants to vote in person on Election Day?

Since the person's name will be marked in the precinct pollbook as having requested an absentee ballot, the person may only vote by provisional ballot.⁸³ The provisional ballot will be counted if the Board of Elections has not received the voter's absentee ballot by the deadline.⁸⁴

Is there early voting? If so, describe.

No, there is no manner to vote by regular ballot before the day of the election. However, Ohio law does permit voters to vote by absentee ballot beginning 35 days before the election.⁸⁵

POLLING PLACE LOCATIONS AND PROCEDURES

What hours are the polls open on Election Day?

Polls open at 6:30 a.m. and remain open until 7:30 p.m.⁸⁶

When is the final list of polling place locations made available to the public?

There is no provision in Ohio law that requires publication of a final list of all polling places. The Secretary of State's website permits voters to search year round for their polling locations.⁸⁷ Ohio law requires the Secretary of State's website to be activated during the thirty (30) days before the day of an election to permit voters to search for the voter's polling location on the Secretary of State's web site. Each county Board of Elections web site also lists polling locations on its web site.⁸⁸ In addition, the Board of Elections must publish a precinct registration list for each precinct and make the lists available at its office at least fourteen (14) days before an election.⁸⁹ However the list is not required to contain the polling location(s) for the precinct.⁹⁰ The Board of Elections is not permitted to change a polling place within twenty-five (25) days of an election absent an emergency.⁹¹

How are decisions about precincts and polling place locations made?

The Board of Elections divides political subdivisions within its jurisdiction into precincts. The board may change the location of the polling place for each precinct for any of the following reasons:

- For the convenience of the voters;
- In order to properly conduct elections; or
- To control/limit the number of voters in a precinct.

No precinct can have more than fourteen hundred (1400) electors after the Board takes into consideration the type and amount of available equipment, prior voter turnout, size and location of each polling place, available parking, availability of poll workers, and accessibility to the polling place. Furthermore, the Board must determine all precinct boundaries using geographical units used by the United States Department of Commerce and Bureau of the Census.⁹²

How and when will voters be notified about polling place changes?

At a time prior to the next election, the Board of Elections must mail each registered voter in the precinct a notice of the polling place change.⁹³

What activities are restricted at polling places on Election Day?

Only election officials, observers, police officers and voters waiting to vote or who are in the process of voting are allowed to be within 100 feet of the polling place. All others are restricted from loitering, congregating, or engaging in any kind of election campaigning within 100 feet of the polling place. The 100-foot zone must be marked by the presiding election judge, using two or more small U.S. flags placed so as to indicate the parameters of the restricted area.⁹⁴

What activities are permitted at polling places on Election Day?

Any voter who needs assistance at the polling place is permitted to receive assistance with certain restrictions. See the question below.

Can voters request assistance with voting equipment at the polling place?

Any voter who declares to the presiding judge, at the polling place, that the voter is unable to mark the ballot by reason of blindness or other disability may be accompanied into the voting booth and aided by any person of the voter's choice, other than the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate whose name appears on the ballot. The voter may also request and receive assistance from two election officials of different political parties.⁹⁵

Can a child/minor enter the voting booth with the voter?

No, unless the child/minor is assisting a voter who is blind, illiterate, or has some other disability.⁹⁶

What accommodations must be made for non-English speakers or persons unable to read?

The Board of Elections may appoint persons fluent in a non-English language to serve as interpreters to assist voters in certain precincts. An interpreter may only provide voters assistance in the non-English language to the extent that the same assistance could be provided in English to English-speaking voters.⁹⁷

Any person who declares to the presiding judge of elections that he is unable to mark the ballot because he is illiterate may be accompanied into the voting booth and aided by any person of the voter's choice, other than the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate whose name appears on the ballot. The voter may also request and receive assistance from two election officials of different political parties.⁹⁸

What accommodations must be made for voters with disabilities?

All polling places must be accessible to the disabled unless an exception is granted by the Secretary of State. Curbside voting must be available for disabled voters whose voting location is exempted.⁹⁹

Any voter who declares to the presiding judge that the voter is unable to mark the ballot by reason of blindness or other disability may be accompanied into the voting booth and aided by any person of the voter's choice, other than the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate whose name appears on the ballot. The voter may also request and receive assistance from two election officials of different political parties.¹⁰⁰

A voter may also designate a legally competent person who is 18 years of age as an attorney-in-fact who is authorized to sign the voter's name in the pollbook, as well as on any other election-related documents if that voter is unable to physically sign election documents.¹⁰¹ There are two ways a voter may name an attorney-in-fact.

- The voter may file with the voter's county Board of Elections a notarized form that includes or has attached all of the following:
 - the name of the voter;
 - an attestation of the voter that the voter is unable to physically sign election documents and that the voter desires an attorney-in-fact to sign such documents in the voter's

presence;

- the name, address, date of birth, and if applicable the Ohio Supreme Court registration number of the attorney-in-fact;
- a photocopy of the driver's license or state identification card; and
- the signature of the attorney-in-fact.¹⁰²

- The voter may acknowledge, before an election official and file with the voter's county Board of Elections, a form that includes or has attached all of the following:
 - the name of the voter;
 - an attestation of the voter that the voter is unable to physically sign election documents and that the voter desires an attorney-in-fact to sign such documents in the voter's presence;
 - an attestation from a licensed physician that the voter is disabled and, by reason of that disability, is physically unable to sign election documents;
 - the name, address, date of birth, and if applicable the Ohio Supreme Court registration number of the attorney-in-fact;
 - a photocopy of the driver's license or state identification card; and
 - the signature of the attorney-in-fact.¹⁰³

When a Board of Elections receives one of the above documents from a voter naming an attorney-in-fact, the Board must cause the poll list or signature pollbook for the relevant precinct to be so noted.¹⁰⁴

If a voter is in line to vote at poll closing time but has not reached the voting machine, may the voter still vote?

Yes, polling places must remain open until all voters who were in line at 7:30 p.m. have voted.¹⁰⁵

May voters who have moved to a new address in another precinct but who have not registered at their new address, be allowed to vote at the precinct for their old address?

No. However, such a voter is permitted to change his/her address and vote by provisional ballot up until and including the day of the election (see address changes under VOTER LIST MAINTENANCE above). The provisional ballot will be counted only if the Board of Elections determines that the voter is eligible to vote.¹⁰⁶

Are poll watchers or other non-voters permitted inside the polling place?

In addition to election officials and voters, the following individuals are permitted inside a polling place:

- peace officers;¹⁰⁷
- attorneys-in-fact or any other individuals who are assisting disabled or illiterate voters;¹⁰⁸
- election observers: who must be appointed prior to the day of the election by a political party or any group of five or more candidates;¹⁰⁹
- any person who wants to review the voter precinct list for that polling place;¹¹⁰ and
- individuals who are under the age of 18 and who are participating in a program undertaking a simulated election. Such a program must be authorized by the Secretary of State.¹¹¹

CHALLENGES AND VOTER INTIMIDATION

Can a person's right to vote be challenged at the polls?

Yes.

Who can challenge a person's right to vote at the polls?

Only a judge of elections may challenge a person's right to vote at the polls.¹¹² Additionally, Ohio law permits "any qualified elector" to challenge another registered voter's right to cast a ballot. Such challenge must be made on required forms, by letter or in person at the Board of Elections.¹¹³

Application for Correction of Precinct Registration List or Challenge to Vote

Upon receiving a challenge, under Ohio Revised Code Section 3503.24, the Board of Elections will first determine whether the individual making the challenge is a registered voter in the county and has completed either Form No. 257 or Form No. 259.¹¹⁴ The challenge will be denied if the challenger is not an elector in the county or the challenge forms are not used or incomplete.¹¹⁵

- The Board is required to forward the challenged voter a Notice of Hearing to his/her last known address by first-class forwardable U.S. mail, no later than three days prior to the date the hearing is scheduled that his/her right to vote has been challenged and must include a copy of the form completed by the challenger.¹¹⁶
- The Board must notify the challenged voter of the time and date of the hearing, of his/her right to appear and testify, to call and cross-examine witnesses, and be represented by counsel.¹¹⁷
- The challenger bears the burden of proving by "clear and convincing evidence," a higher standard of proof than "preponderance of the evidence," that the challenged voter's name should not be on the voter registration list and his/her name should be removed from the voter registration list.¹¹⁸
- After receiving and hearing all of the evidence at the hearing, the board is required to immediately decide whether the challenge is granted or denied. In the event of a tie among board members on whether to cancel the voter's registration, the tie will be resolved by the vote of the Ohio Secretary of State.¹¹⁹
- If the challenged individual's registration is deemed valid and the individual's eligibility is confirmed, the poll workers may not challenge the individual's eligibility to vote on Election Day.¹²⁰

If the Board cannot so determine, it will hold a hearing to take place no later than ten (10) days after the Board receives the challenge.¹²¹ However, if a challenge is filed after the thirtieth (30th) day before the day of an election, the Board, at its discretion, may postpone the hearing until no later than ten (10) days after the election.¹²² If a hearing is postponed, the Board shall cause the name of the challenged voter to be marked in the official registration list and in the poll list or signature poll book.¹²³ Such a challenged voter will only be permitted to vote a provisional ballot.¹²⁴ The provisional ballot will not be counted unless the hearing results in the elector's inclusion in the official registration list.¹²⁵

Challenge of Ohio Voter

Upon receiving a challenge, under Ohio Revised Code Section 3505.19, the Board of Elections will first determine whether the individual making the challenge is a registered voter in the state of Ohio.¹²⁶

Such challenge must be made by letter or in-person at the Board of Elections, prior to nineteen (19) days before the election.¹²⁷ The challenge must include:

1. the challenger's address and voting precinct;
2. the challenger's signature; and
3. the grounds upon which the challenge is made.¹²⁸

The Board is required to forward the challenged voter a Notice of Hearing indicating the voter's right to vote has been challenged and providing the following information:

- Notice of Hearing to his/her last known address by first-class forwardable U.S. mail, no later than three days prior to the date the hearing is scheduled that his/her right to vote has been challenged and must include a copy of the form completed by the challenger.¹²⁹
- The Board must notify the challenged voter of the time and date of the hearing, of his/her right to appear and testify, to call and cross-examine witnesses, and be represented by counsel; voter has a right to appear at the hearing and present evidence to board members to deny the challenge.¹³⁰
- The challenger bears the burden of proving by "clear and convincing evidence," a higher standard of proof than "preponderance of the evidence," that the challenged voter's name should not be on the voter registration list and his/her name should be removed from the voter registration list.¹³¹
- After receiving and hearing all of the evidence at the hearing, the board is required to immediately decide whether the challenge is "well-taken." In the event of a tie among board members on whether the challenge is "well-taken," the tie will be resolved by the vote of the Ohio Secretary of State.¹³²
- If the Board determines the challenges are well-taken, the voter's name cannot be removed from the voter registration rolls. Instead, the voter's name is marked on the precinct voter rolls and the poll workers are notified of the board's decision. The board's finding that a challenge is well-taken must be on the basis of: 1) citizenship; 2) age; 3) residency in the county when the challenge was made; 4) voter has not resided in the county for at least 30 days.¹³³
- If the board determines the challenge is not well taken, poll workers will be notified by the board's Director that the voter may not be challenged on Election Day.¹³⁴

What can a person do if she is challenged at the polls?

A person challenged at the polls by a judge of elections will be asked a number of questions based on the reason for the challenge (i.e., lack of citizenship, insufficient age, etc.). If the person cannot provide the required answers/documentation, then the person will be permitted to cast a provisional ballot.¹³⁵

In order for the provisional ballot to be counted, during the ten (10) days after the day of the election, the person must go to the office of the Board of Elections and provide any identification

or other documentation required to be provided by the applicable challenge questions asked of that person.¹³⁶

The Board of Elections then also examines its own records, the written affirmation executed by the person, and any further information submitted by the person on the day of the election to determine if the person is eligible to vote.¹³⁷

If the person is challenged by a judge of elections who believes the person is impersonating a voter, that person can be questioned by the judge of elections and required to sign a card. If the signature on the card, in the opinion of a majority of the judges of elections does not match the signature in the pollbook, the person will be permitted to vote by provisional ballot.¹³⁸

What steps are taken if a voter's name does not appear on the poll book?

If the voter declares that the voter is eligible to vote in the precinct in which the voter desires to vote, the voter is permitted to vote a provisional ballot.¹³⁹

To determine if the provisional ballot is to be counted, the Board of Elections examines its own records, the written affirmation executed by the person, and any further information submitted by the person on the day of the election to determine if the person is eligible to vote.¹⁴⁰

What constitutes illegal intimidation of voters at the polls?

- Obstructing access of an elector to a polling place;
- Obstructing, intimidating, or interfering with an elector who is registering or voting;
- Participating in a riot, violence, tumult, or disorder in and about a place of registration or election;
- Hindering or delaying an elector in reaching or leaving the place fixed for casting the elector's ballot;
- Giving, tendering, or exhibiting any ballot to any person either within the area between the polling place and the small flags of the United States placed on the thoroughfares and walkways leading to the polling place, or, if the line of electors waiting to vote extends beyond those small flags, within ten feet of any elector in that line; and/or
- Soliciting or in any manner attempting to influence any elector in casting the elector's vote.¹⁴¹

Are law enforcement officers allowed in a polling place during voting hours?

Yes. When requested by the Board or the Secretary of State, at least one policeman must be assigned in each precinct on election day. Such police officer shall have access at all times to the polling place.¹⁴² In addition, judges of elections may request assistance from the sheriff, police, or other peace officers to assist them in enforcing the peace and good order in and about the place of election.¹⁴³

To whom should a person report acts of intimidation?

A person can report acts of intimidation to a judge of elections. Judges of election are charged with keeping polling places open and unobstructed and must prevent and stop any improper practices, including intimidation.¹⁴⁴ Judges of elections may then call upon the sheriff, police or other peace officers to aid them in enforcing the law.¹⁴⁵

A person can also report acts of intimidation to the Secretary of State. The Secretary of State is required to compel the observance by election officials, including judges of election, of the requirements of the election laws.¹⁴⁶ The Secretary of State is also charged with investigating the administration of election laws, frauds, and any other irregularities and reporting violations of elections laws to the attorney general.¹⁴⁷

PROVISIONAL BALLOTS

What is a provisional ballot?

The term “provisional ballot” is not defined under Ohio law. However, broadly speaking, a provisional ballot is a conditional ballot that may be cast by a person when the local election officials cannot establish the person’s eligibility to vote.

Who may request a provisional ballot?

There are numerous circumstances identified in the chart below (Appendix A) when a voter may request a provisional ballot as a fail-safe measure to guarantee their right to vote:¹⁴⁸

- a person who attempts to vote at a polling place where s/he is registered but whose name is not on the official list, or an election official asserts the individual is not eligible to vote;
- a person who attempts to vote in a precinct where s/he is not registered and insists on voting in this precinct;
- a person who does not possess the required identification or refuses to provide the required identification;
- a person who does not possess the required identification and refuses to sign an affirmation statement;
- a person who has requested an absentee ballot under the Absent Voter’s Ballots Law or Armed Service Absent Voter’s Ballots Law and whose absentee ballot has not been returned;
- a person whose notification of registration has been returned undelivered and whose name has been marked on the official registration list and poll list or signature pollbook;
- a person who is challenged at his/her polling place by a judge of elections or whose application or challenge hearing has been postponed by the Board of Elections until after the election;
- a person whose notice of election was returned undeliverable, whose name has been marked, and whose photo identification does not contain the correct address, or who is unable to provide the correct form of identification, refuses to provide required forms of identification, or who signs an affirmation that indicates s/he does not possess the specified forms of identification;
- a person who moves outside his/her former precinct, or changes his name and remains inside the precinct;
- a person whose signature, in the opinion of the majority of the judges of election, does not match the signature on the registration form.¹⁴⁹

Why and when will provisional ballots be provided to voters?

There are numerous circumstances that can require a person to vote by provisional ballot (see Appendix A. A voter required to cast a provisional ballot may do so beginning on the 28th day before the election at the board of elections up to and including Election Day, wherein a voter may also cast a provisional ballot at his assigned precinct on Election Day.¹⁵⁰ At the time of voting a provisional ballot, a person must execute a written affirmation that the individual is (1) a registered voter in the jurisdiction in which the individual desires to vote, and (2) that the individual is eligible to vote in that election.¹⁵¹ Failure to execute the affirmation generally results in the person being required to appear at the Board of Elections to provide additional identifying information or sign an

affirmation in order for the provisional ballot to be counted.¹⁵²

In addition to the affirmation, the person may include any of the following information:

- current address;
- former address if photo identification does not contain the voter's current address;
- driver's license number or the last four digits of the voter's social security number;
- the reason for voting provisional ballot: which options are either (1) that the voter requested, but did not receive an absent voter's ballot or (2) other;
- a copy of any of the specified forms of identification; and
- any other additional information to assist the Board of Elections in determining the person's eligibility to vote, including the date and location at which the individual registered to vote.¹⁵³

Who decides whether a voter gets a provisional ballot?

Pursuant to the Ohio Revised Code, it is election officials at the polling place who "notify" the person that they are eligible to cast a provisional ballot,¹⁵⁴ however, no polling place election official may make a determination as to who is entitled to receive a provisional ballot.¹⁵⁵

What can a voter do if she requests but does not receive a provisional ballot?

There are no provisions that specifically deal with this situation.

What information must be provided to voters who cast provisional ballots?

Local election officials must give the provisional voter written information that includes a toll-free number that the provisional voter can call to find out whether the provisional ballot was counted and if not, the reason why the ballot was not counted.¹⁵⁶

How do election officials determine whether a provisional ballot will be counted?

Depending on the reason a voter was required to vote a provisional ballot, the Board of Elections will review different evidence to determine whether the provisional ballot will be counted. See Appendix A for a listing of the evidence the Board of Elections will consider in making this determination.

Does the voter who cast a provisional ballot have a right to present evidence or appear before the election officials evaluating whether it will count?

No, a person who votes by provisional ballot has no general right to appear or present evidence before the Board of Elections makes its final determination.

However, a voter who cast a provisional ballot because s/he was unable to provide one of the specified forms of identification or because his/her eligibility to vote was challenged at the polling place is required to appear at the office of the Board of Elections within ten (10) days after the election.¹⁵⁷ At that time, the voter who could not provide one of the specified forms of identification when s/he voted must provide one of the specified forms of identification in order for his/her vote to be counted.¹⁵⁸ The challenged voter must provide the Board of Elections with evidence necessary to establish his qualifications to vote, which will change depending on the basis of the challenge (e.g.

age, residency, citizenship, etc.) for his/her vote to be counted.¹⁵⁹

When will provisional ballots be counted?

After the Board of Elections determines the eligibility of every provisional ballot cast in a particular county, then all of the eligible provisional ballots will be counted in that county.¹⁶⁰

How can voters find out whether the provisional ballots they cast were counted?

A provisional voter can call a toll-free number that will tell the provisional voter if the provisional ballot was counted; if not, the reason why it was not counted; and how to contact the Board of Elections to register to vote or to resolve problems with his/her voter registration.¹⁶¹ This provisional ballot hotline is operational from the thirteenth (13th) day after an election until the end of the month following the election. For example, in 2008:

- for the March 4 election, the hotline will be active from March 17 to April 30;
- for the November 4 election, the hotline will be active from November 17 to December 31.¹⁶²

Does the voter have a right of appeal?

No.

ENDNOTES

- 1 Ohio Rev. Code § 3503.01 & 3503.07 (2007).
- 2 Ohio Rev. Code § 3503.011 (2007).
- 3 Ohio Rev. Code §§ 3503.10; 3503.11(2007).
- 4 Ohio Rev. Code § 3503.14 (2007).
- 5 Ohio Rev. Code § 3503.14(C) (2007).
- 6 *Id.*
- 7 Ohio Rev. Code § 3501.011 (2007).
- 8 In registering to vote for the first time, an applicant's name and address obviously cannot "conform to the poll list or signature pollbook", however, this definition is not modified for the purposes of the voter registration application.
- 9 Ohio Rev. Code § 3501.01(AA) (2007).
- 10 Ohio Rev. Code § 3503.02(I) (2007).
- 11 Ohio Rev. Code § 3503.19(B)(2) (2007).
- 12 Ohio Rev. Code § 3503.19 (A) (2007).
- 13 *See Sandusky County Democratic Party v. Blackwell*, 339 F.Supp. 2d 975 (N.D.Ohio 2004), *aff'd in part and rev'd in part on other grounds*, *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565 (6th Cir. 2004).
- 14 Ohio Rev. Code § 3503.30 (2007).
- 15 Ohio Rev. Code § 3503.14(C) (2007).
- 16 *Id.*
- 17 *See Project Vote, et al. v. Blackwell*, Case No. 1:06 cv 1628 (2006)(enjoining defendants from enforcing Ohio's "Direct Return Requirement" of voter registration applications from third-party voter registration groups. Enforcing this law would have prevented these groups from performing quality control procedures on voter registration applications to guarantee the applications were correctly completed prior to submitting the applications to boards of elections).
- 18 Ohio Rev. Code § 3599.11(B)(2)(a) (2007).
- 19 *Id.*
- 20 Ohio Rev. Code § 3503.19(C)(1)(2007). There is no time limit indicated for the processing of applications received within the thirty (30) days immediately preceding the day of an election.
- 21 Per a conversation on January 4, 2008 with Gus Maragos, Ohio Statewide Voter Database Coordinator.
- 22 OHIO SECRETARY OF STATE, 2007 VOTER INFORMATION GUIDE 9, *available at* <http://www.sos.state.oh.us/sos/PublicAffairs/VoterInfoGuide.aspx?Section=14>. Note that while the Secretary of State's web site indicates that a voter will receive notice of a deficient registration application, Ohio law does not guarantee this as HB 3 removed this requirement from the statute. *See* Ohio Rev. Code § 3503.19(C) (amended by AM. SUB. H.B. 3 (2005)).
- 23 Ohio Rev. Code § 3503.19(C)(1) (2007).
- 24 Ohio Rev. Code § 3503.15(G)(1) (2007).
- 25 Ohio Rev. Code § 3503.14(A) (5)(a-c) (2007).
- 26 Secretary of State Directive 2008-80 (2008). Voter Identification Requirements (explaining that an Ohio driver's license or Ohio issued photo identification card may be used that does not contain the voter's address appearing in the board of elections' records. In this instance, election officials are required to record the last four (4) digits of the voter's driver's license or Ohio ID card number).
- 27 Ohio Rev. Code § 3503.14 (A)(5)(c)(2008); *see also*, Secretary of State Directive 2008-80 (2008). Voter Identification Requirements (acknowledging that effective September 23, 2008, H.B. 562 no longer requires a military identification to include the voter's name or address; election officials must be able to determine that the individual offering the military ID is the person attempting to vote and has met all other qualifications to vote in the election).
- 28 Ohio Rev. Code § 3503.14(A)(5)(c) (2007).
- 29 Secretary of State Directive 2008-80 (2008). Voter Identification Requirements (explaining that an Ohio driver's license or Ohio issued photo identification card may be used that does not contain the voter's address appearing in the board of elections' records. In this instance, election officials are required to record the last four (4) digits of the voter's driver's license or Ohio ID card number).

OHIO VOTER PROTECTION LAWS IN A NUTSHELL

- 30 Ohio Rev. Code § 3503.14 (A)(5)(c)(2008); *see also*, Secretary of State Directive 2008-80 (2008). Voter Identification Requirements (acknowledging that effective September 23, 2008, H.B. 562 no longer requires a military identification to include the voter's name or address; poll workers must be able to determine that the individual offering the military ID is the persons attempting to vote and has met all other qualifications to vote in the election).
- 31 Ohio Rev. Code § 3505.18(A)(1) (2007).
- 32 Secretary of State Directive 2008-80 (2008) (explaining that an Ohio driver's license or Ohio issued photo identification card may be used that does not contain the voter's addresses appearing in the board of elections' records. In this instance, election officials are required to record the last four (4) digits of the voter's driver's license or Ohio ID card number.
- 33 Ohio Rev. Code § 3503.14 (A)(5)(c)(2008); *see also*, Secretary of State Directive 2008-80 (2008). Voter Identification Requirements (acknowledging that effective September 23, 2008, H.B. 562 no longer requires a military identification to include the voter's name or address; poll workers must be able to determine that the individual offering the military ID is the persons attempting to vote and has met all other qualifications to vote in the election).
- 34 Ohio Rev. Code §§ 3509.03-.031, .05 (2007).
- 35 Ohio Rev. Code § 3503.21(A)(1)(2007).
- 36 Ohio Rev. Code §§ 3503.18, 3503.21(A)(2)(2007).
- 37 Ohio Rev. Code §§ 3503.18, 3503.21(A)(3)(2007).
- 38 Ohio Rev. Code § 3503.21 (A)(5)(2007).
- 39 Ohio Rev. Code § 3503.21 (A)(4)(2007).
- 40 Ohio Rev. Code §§ 3501.01(W), 3503.19(C)(3)(2007).
- 41 Ohio Rev. Code §§ 3503.19(C)(3), 3503.21 (2007).
- 42 Ohio Rev. Code § 3503.24(B-C) (2007).
- 43 Ohio Rev. Code § 3503.19(C)(1)-(2) (2007).
- 44 Ohio Rev. Code § 3503.19(C)(3) (2007).
- 45 Ohio Rev. Code §§ 3503.16(A) (2007), 3503.19(A) (2007).
- 46 Ohio Rev. Code § 3503.16(B)(1)(a) (2007).
- 47 Ohio Rev. Code § 3503.16(B)(2) (2007).
- 48 Ohio Rev. Code § 3505.183(B)(3) (2007). For further information on what evidence the board considers to determine voter eligibility, see the Provisional Voting section.
- 49 Ohio Rev. Code § 3503.16(C) (2007).
- 50 Ohio Rev. Code § 3505.183(B)(3) (2007). For further information on what evidence the board considers to determine voter eligibility, see the Provisional Voting section.
- 51 Ohio Rev. Code § 3503.16(G) (2007).
- 52 Ohio Rev. Code § 3503.18 (2007).
- 53 Ohio Rev. Code § 2961.01(A) (2007).
- 54 Ohio Rev. Code § 3503.18 (2007).
- 55 *See* Ohio Rev. Code § 3503.23 (2007)(indicating the Board of Elections is not required to publish a precinct registration list until fourteen (14) days before an election); *see also* Ohio Rev. Code § 3503.24 (2007) .
- 56 Ohio Rev. Code § 3503.24 (2007).
- 57 Ohio Rev. Code § 3503.15 (2007).
- 58 Ohio Rev. Code § 3503.15(G)(1) (2007).
- 59 Ohio Rev. Code § 3503.23 (2007).
- 60 Ohio Rev. Code § 3509.02(A) (2007).
- 61 OHIO SECRETARY OF STATE, 2007 VOTER INFORMATION GUIDE 9, *available at* <http://www.sos.state.oh.us/sos/PublicAffairs/VoterInfoGuide.aspx?Section=16>.
- 62 *Id.*
- 63 Ohio Rev. Code § 3509.031(A) (2007).
- 64 Ohio Rev. Code § 3509.031(B) (2007).
- 65 Ohio Rev. Code § 3509.031(A)(11), (B)(10) (2007).
- 66 OHIO SECRETARY OF STATE, 2007 VOTER INFORMATION GUIDE 9, *available at* <http://www.sos.state.oh.us/sos/PublicAffairs/VoterInfoGuide.aspx?Section=16>.
- 67 Ohio Rev. Code § 3509.03(A) (2007).

- 68 Ohio Rev. Code § 3509.03(B)(2)(2007).
- 69 See Ohio Rev. Code § 3509.02(A)(2007) (implying a first-time voter must meet the state eligibility requirements of a registered voter to vote absentee).
- 70 Ohio Rev. Code § 3509.04(B) (2007).
- 71 Ohio Rev. Code § 3509.09(B)(1) (2007).
- 72 Ohio Rev. Code § 3509.09(C)(3) (2007).
- 73 Ohio Rev. Code § 3509.05(A) (2007).
- 74 Ohio Rev. Code § 3509.05(A)(2008).
- 75 *Id.* at (C)(1)(2008). OH Secretary of State Directive 2008-82. Guidelines for Absentee Voting (explaining procedures and deadlines for casting and counting absentee ballots cast in person and absentee ballots mailed from anywhere in the United States) (2008).
- 76 Ohio Rev. Code § 3509.05(B) (2007).
- 77 Ohio Rev. Code § 3509.05(A) (2007).
- 78 Ohio Rev. Code § 3509.06(A) (2007).
- 79 Ohio Rev. Code § 3509.05(B)(1) (2008).
- 80 Ohio Rev. Code § 3509.07 (2007).
- 81 Ohio Rev. Code § 3509.05 (2007).
- 82 Ohio Rev. Code § 3509.06(D) (2007); *see also* Ohio Rev. Code § 3509.07 (2007).
- 83 Ohio Rev. Code § 3509.09(A) (2007).
- 84 Ohio Rev. Code § 3509.09(C)(3) (2007).
- 85 Ohio Rev. Code § 3509.01(2008).
- 86 Ohio Rev. Code § 3501.32 (2007).
- 87 <http://www.sos.state.oh.us/sosapps/elections/pollinglocationsquery.aspx>; *see also* <http://www.sos.state.oh.us/sosapps/elections/voterquery.aspx>
- 88 Ohio Rev. Code § 3503.15(G) (2007).
- 89 Ohio Rev. Code § 3503.23(A) (2007).
- 90 *See id.*
- 91 Ohio Rev. Code § 3501.18(A) (2007).
- 92 Ohio Rev. Code § 3501.18 (2007).
- 93 Ohio Rev. Code § 3501.21 (2007).
- 94 Ohio Rev. Code § 3501.30(A)(4) (2007).
- 95 Ohio Rev. Code § 3505.24 (2007).
- 96 *See* Ohio Rev. Code § 3501.35(B) (2007).
- 97 Ohio Rev. Code § 3501.221(A) (2007).
- 98 Ohio Rev. Code § 3505.24 (2007).
- 99 Ohio Rev. Code § 3501.29 (2007).
- 100 Ohio Rev. Code § 3505.24 (2007).
- 101 Ohio Rev. Code § 3501.382(A)(1) (2007).
- 102 Ohio Rev. Code § 3501.382.(A)(1)(a) (2007).
- 103 Ohio Rev. Code § 3501.382(A)(1)(b) (2007).
- 104 Ohio Rev. Code § 3501.382(B)(2) (2007).
- 105 Ohio Rev. Code § 3501.32 (2007).
- 106 Ohio Rev. Code § 3505.183(B) (2007). For further information on what evidence the board considers to determine voter eligibility, see the Provisional Voting section.
- 107 Ohio Rev. Code § 3501.34 (2007).
- 108 Ohio Rev. Code §§ 3501.382, 3505.24 (2007).
- 109 Ohio Rev. Code § 3505.21 (2007).
- 110 Ohio Rev. Code § 3503.23(C) (2007).
- 111 Ohio Rev. Code § 3501.051(A) (2007).
- 112 Ohio Rev. Code §§ 3505.20 (2007).
- 113 Ohio Rev. Code §§ 3503.24 and 3505.19 (2008).
- 114 Ohio Rev. Code § 3503.24 (2008); *see also* Ohio Secretary of State Directive 2008-79 (2008). Required Procedures in Administering Voter Challenge Statutes, R.C. 3503.24 and 3505.19.
- 115 *Id.*

OHIO VOTER PROTECTION LAWS IN A NUTSHELL

- 116 *Id.* at 3.
117 *Id.*
118 *Id.*
119 *Id.* at 2-3.
120 *Id.* at 3.
121 Ohio Rev. Code § 3503.24(B) (2007).
122 Ohio Rev. Code § 3503.24(D)(1)(2007).
123 Ohio Rev. Code § 3503.24(D)(2) (2007); Ohio Secretary of State Directive 2007-06, 13 (2007). Voter Identification Requirements; Absentee Voting Requirements; Provisional Voting Requirements; and Verification of Parking at Polling Places for Persons with Disabilities (Handicapped Parking) (advising boards not to postpone hearings for challenges received within 30 days of the election until after the election; see also Ohio Secretary of State Directive 2008-79, 6 (2008). Required Procedures in Administering Voter Challenge Statutes, R.C. 3503.24 and 3505.19 (advising boards not to postpone hearings for challenges received within 30 days of the election until after the election).
124 *Id.*
125 Ohio Rev. Code § 3503.24(D)(3)(2007).
126 Ohio Rev. Code. § 3505.19 (2008); see also Ohio Secretary of State Directive 2008-79 (2008). Required Procedures in Administering Voter Challenge Statutes, R.C. 3503.24 and 3505.19.
127 *Id.* (KM COMMENT: this should only reference the directive, not the revised code in previous footnote.
128 *Id.* at 4.
129 *Id.* at 5.
130 *Id.*
131 *Id.*
132 *Id.*
133 *Id.* at 5-6.
134 *Id.* at 6.
135 Ohio Rev. Code § 3505.20 (2007).
136 Ohio Rev. Code § 3505.181(7) (2008).
137 Ohio Rev. Code § 3505.183(B) (2007).
138 Ohio Rev. Code § 3505.22 (2007).
139 Ohio Rev. Code § 3505.181 (2007).
140 Ohio Rev. Code § 3505.183(B) (2007).
141 Ohio Rev. Code §§ 3501.90, 3501.35 (2007).
142 Ohio Rev. Code § 3501.34 (2007).
143 Ohio Rev. Code § 3501.33 (2007).
144 *Id.*
145 *Id.*; see also Ohio Rev. Code § 3501.35 (2007).
146 Ohio Rev. Code § 3501.05(M) (2007). HB 3 also creates a new private cause of action for any voter who has been subjected to “harassment” in violation of the election laws. Ohio Rev. Code § 3501.90 (2007).
147 Ohio Rev. Code § 3501.05(N)(1) (2007).
148 Ohio Rev. Code § 3505.181(A) (2007).
149 See Ohio Secretary of State Directive 2008-81, 6 (2008). Guidelines for Provisional Voting (explaining that a voter whose signature appears not to match can provide one of the specified forms of ID, with his name and current address as it appears in the poll list or signature poll book should not be given a provisional ballot).
150 Ohio Rev. Code § 3503.16(B)(2)(a)(i)(2008).
151 Ohio Rev. Code § 3505.181(B)(2) (2007).
152 Ohio Rev. Code § 3505.181(B)(8) (2007).
153 Ohio Rev. Code § 3505.182 (2007).
154 Ohio Rev. Code § 3505.181(B) (2007).
155 Sandusky County Democratic Party v. Blackwell, 387 F.3d 565 (6th Cir. 2004).
156 Ohio Rev. Code § 3505.181(B)(5)(a) (2007).
157 Ohio Rev. Code § 3505.181 (B)(8) (2007).
158 Ohio Rev. Code § 3505.181 (B)(8)(a) (2007).
159 Ohio Rev. Code § 3505.181(B)(8)(b) (2007).

- 160 Ohio Rev. Code § 3505.183(D) (2007).
- 161 Ohio Rev. Code § 3505.181(B)(5)(b) (2007).
- 162 Questions and Answers for the County Board of Elections (Current as of August 1, 2007), pg. 22. This document was provided by the Ohio Secretary of State's Elections Division.
- 163 Thus, it appears that a person who changes his/her name and moves from one county to another may not vote by provisional ballot in a state election. The Help America Vote Act of 2002 (HAVA) requires individuals be permitted to cast provisional ballots if the individual declares they are eligible to vote in the federal election but whose name does not appear on the official list of eligible voters where an election official asserts the individual is not eligible to vote. 42 U.S.C. § 302 (2002).
- 164 OHIO LEGISLATIVE SERVICE COMMISSION, FINAL ANALYSIS OF AM. SUB. H.B. 3, 18-21 (2007).



APPENDIX A

APPENDIX A

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	PROCEDURE FOR PROVISIONAL BALLOT TO BE COUNTED
1. An individual who appears at the polling place to vote and declares that the individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election, but the name of the individual does not appear on the official list of eligible voters for the polling place OR an election official asserts that the individual is not eligible to vote. R.C. 3505.181(A)(1).	The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
2. An individual who appears at the polling place to vote and either declares that the individual is eligible to vote in a jurisdiction other than the jurisdiction in which the individual desires to vote OR an election official determines by using the precinct voting location guide that the individual is not eligible to vote in that jurisdiction AND the individual refuses to travel to the correct jurisdiction or the office of the Board of Elections to cast a ballot. R.C. § 3505.181(C).	The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
3. An individual who appears at the polling place to vote and who has but is <i>unable</i> to provide to precinct election officials any of specified forms of identification, but does provide those officials with the last four digits of his/her social security number (“SSN”). R.C. 3505.18(A)(2) and 3505.181(A)(2).	The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
4. An individual who appears at the polling place to vote, who has but is <i>unable</i> to provide to precinct election officials any of specified forms of identification, and who has a SSN but is <i>unable</i> to provide the last four digits of his or her SSN. This individual is one who has some form of the identification or a SSN, but, for example, the individual does not have the identification with him/her at the polling place or does not remember his/her SSN at the polling place. R.C. 3505.18(A)(3) and 3505.181(A)(3).	<p>Within ten (10) days after the day of the election, the individual must go to the office of the Board of Elections and provide any of the specified forms of identification, or provide the last four digits of the individual’s social security number. R.C. §3505.181(B)(8).</p> <p>The Board of Elections then also examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).</p>
5. An individual who appears at the polling place to vote and who <i>does not have</i> any of specified forms of identification to provide to the precinct election officials, who cannot provide the last four digits of a SSN because s/he <i>does not have</i> a SSN. R.C. 3505.18(A)(4) and 3505.181(A)(4).	The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
6. An individual who appears at the polling place to vote and who does not have any of specified forms of identification to provide to the precinct election officials, who cannot provide the last four digits of a SSN because s/he does not have a SSN, and who <i>declines to execute an affirmation</i> . R.C. 3505.18(A)(5) and 3505.181(A)(12).	<p>Within ten (10) days after the day of the election, the individual must go to the office of the Board of Elections and provide any of the specified forms of identification, or provide the last four digits of the individual’s social security number, or execute an affirmation. R.C. §3505.181(B)(8).</p> <p>The Board of Elections then also examines its</p>

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	PROCEDURE FOR PROVISIONAL BALLOT TO BE COUNTED
	own records, the written affirmation if applicable, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
7. An individual who appears at the polling place to vote and who has but <i>declines to provide</i> any of the specified forms of identification or who has a SSN but <i>declines to provide</i> the last four digits of that SSN. R.C. 3505.18(A)(6) and 3505.181(A)(13).	Within ten (10) days after the day of the election, the individual must go to the office of the Board of Elections and provide any of the specified forms of identification, or provide the last four digits of the individual’s social security number. R.C. §3505.181(B)(8). The Board of Elections then also examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
8. An individual who appears at the polling place to vote and whose name in the poll list or signature pollbook has been marked under the Absent Voter's Ballots Law or Armed Service Absent Voter's Ballots Law because the individual has requested either of those types of absentee ballots. In this category, the director of the board of elections may or may not have received a sealed identification envelope purporting to contain the individual's voted absent voter's ballots or armed service absent voter's ballots. R.C. 3505.181(A)(5), 3509.09(B), and 3511.13(B).	If the Board of Elections has received the sealed identification envelope by the deadline for submitting an absentee ballot, and the signature on the identification envelope matches the signature on the individual’s voter registration form, then the absentee ballot will be counted. R.C. §3509.09(C) and §3511.13(C). If the signatures on the identification envelope and voter registration form do not match, or if the board of elections has not received the sealed identification envelope by the deadline for submitting an absentee ballot, then the provisional ballot will be counted so long as it is determined valid under R.C. §3505.183. R.C. §3509.09(C) and §3511.13(C).
9. An individual who appears at the polling place to vote and whose <i>notification of registration</i> has been returned undelivered to the Board of Elections, and whose name in the official registration list and poll list or signature pollbook has been marked. R.C. 3503.19(C)(2), 3505.181(A)(6).	The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).
10. An individual who appears at the polling place to vote and is <i>challenged</i> by a judge of elections. These challenges may relate to citizenship, whether the individual has resided in Ohio for 30 days immediately preceding the election, whether the individual is a resident of the precinct where the individual offers to vote, whether the individual is of legal voting age, or another matter necessary to determine the individual's qualifications as an elector at the election in question. R.C. 3505.181(A)(7) and 3505.20.	During the ten (10) days after the day of the election, the individual must go to the office of the Board of Elections and provide any identification or other documentation required to be provided by the applicable challenge questions asked of that individual under section 3505.20. R.C. § 3505.181(B)(8)(b). The Board of Elections then also examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	PROCEDURE FOR PROVISIONAL BALLOT TO BE COUNTED
	voter is eligible to vote. R.C. § 3505.183(B).
<p>11. An individual who appears at the polling place to vote and whose <i>application or challenge hearing</i> has been postponed by the Board of Elections under specified circumstances until after the day of an election. The context is that an application has been submitted at least 20 days before an election for the correction of a precinct registration list <u>or</u> a challenge of the right to vote of a registered elector has been made by a qualified elector of the county at least 20 days before an election. R.C. 3503.24(D)(1) and 3505.181(A)(8).</p>	<p>If, after the hearing provided by R.C. § 3503.24 the Board of Elections determines that the individual was eligible to vote, the ballot will be counted.</p>
<p>12. An individual who appears at the polling place to vote, whose <i>notice of an election</i> was returned undelivered to the Board of Elections, whose name in the official registration list as well as in the poll list or signature pollbook consequently has been marked, and who either: (1) provides a photo identification that does not contain the individual's current address; (2) provides the last four digits of the individual's SSN; (3) is unable to provide any of the required forms of identification; (4) refuses to provide any of the required forms of identification; <u>or</u> (5) executes an affirmation that indicates that the individual does not have any of the specified forms of identification and cannot provide the last four digits of a SSN because s/he does not have a SSN. R.C. 3501.19(C).</p>	<p>The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).</p>
<p>13. An individual who: (1) changes his/her name and remains in the precinct; (2) moves from one precinct to another within a county; (3) moves from one precinct to another and changes his/her name; or (4) moves from one county to another within Ohio, and who signs the requisite forms and statements.¹ Some of these individuals may vote a provisional ballot at the polling place on the day of election or, if they so choose, <i>before the day of an election</i> and within specified time periods, at the office of the Board of Elections or another location in the county designated by the Board of Elections instead of at the Board's office. R.C. 3503.16(B)(1)(b) and (2) and (C), and 3505.181(A)(9).</p>	<p>The Board of Elections examines its own records, the written affirmation, the requisite forms and statements and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).</p>
<p>14. An individual who appears at the polling place to vote and whose signature, in the opinion of a majority of the judges of election, is not that of the person who signed that name in the registration forms. The context is that a judge of elections has reason to believe that a person is impersonating an elector, questions the person as to his or her right to vote, and requires the person to sign his or her name on a card, and the majority of the precinct officers are of the opinion that the signatures do not match. R.C. 3505.181(A)(10) and 3505.22.</p>	<p>The Board of Elections examines its own records, the written affirmation, and any further information submitted by the individual on the day of the election to determine if the voter is eligible to vote. R.C. § 3505.183(B).</p>