DIRECTIVE 2008-67
August 15, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS

RE: Procedures for Processing Absent Voter’s Ballots Prior to Election Day

More Ohio voters are taking advantage of voting by mail or early voting in a board of elections office. As a result, several boards of elections have expressed the concern that, for elections with an exceptionally heavy turnout of voters, such as a presidential general election, boards may have difficulty meeting the statutory reporting deadline for the unofficial count if they are required to wait until Election Day to begin processing and scanning absent voter’s ballots. In light of this, boards of elections are directed to follow the procedures below for processing absent voter’s ballots.

Procedures for Early Processing of Absent Voter Ballots
Boards of elections may begin processing absent voter’s ballots no sooner than ten days prior to Election Day. For the purposes of this directive, “processing” means the handling and examining of absent voter ballots, but excludes tabulation of them. “Processing” includes any of the following:

- Examining the sufficiency of absent voter’s ballot identification envelope and, if determined to be sufficient, opening the absent voter’s ballot envelope;

- Determining the validity of the absent voter’s ballot (e.g., whether the stub is removed);

- Preparing the absent voter’s ballot for scanning;

- Scanning of the absent voter’s ballot but only if the voting system used by a county board of elections allows the absent voter’s ballot to be fed through the ballot scanning device without tabulating or counting the votes on the ballots scanned; and

- Identifying absent voter’s ballots that cannot be “read” or are “rejected” by the ballot scanning device for purposes of determining if the ballot needs to be remade so that it can be read by the scanner.

If the voting system used by your board of elections allows you to feed the absent voter’s ballot through the ballot scanning device without “tabulating” or “counting” the votes on the ballot, your board may begin to scan absent voter’s ballots no sooner than ten days prior to Election Day.

If the voting system used by your board of elections does not allow you to feed the absent voter’s
ballot through the ballot scanning device without "tabulating" or "counting" the ballot, your board shall not scan absent voter's ballots prior to 12:01 a.m. on Election Day; however, your board may begin other processing of the ballots as described above.

No "counting" or "tabulating" of absent voter's ballots on the central tabulation server shall occur until 7:30 p.m. on Election Day.

**Remarks**

No ballot for which voter intent is at issue may be remade unless and until the board of elections has, by majority vote in public session, confirmed or determined voter intent. Please see Directive 2007-31 or the most recent directive in effect for prescribed procedures for remaking an optical scan ballot.

**Observers**

Observers, as that term is defined in R.C. 3505.21, may observe the examination and opening of identification envelopes for absent voter's ballots. If your board of elections decides to begin processing absent voter's ballots prior to Election Day, you must notify all appointed observers of the time and place at which the board will process absent voter's ballots prior to Election Day.

**Under no circumstances may tabulation of any votes occur before 7:30 p.m. on Election Day.** In the event of a court order extending polling hours in any precinct of the state, boards will receive instructions from the Secretary of State's office regarding when results may be released. In this circumstance, boards will be permitted to begin tabulation, but prohibited from releasing results until all polls in the state have closed. Pursuant to R.C. 3509.06(E), no person, including election officials and observers, shall disclose any count or any portion of a count of absent voter's ballots prior to the time of the closing of the polling places on Election Day, and no person shall recklessly disclose the count or any portion of the count of absent voter's ballots in such a manner as to jeopardize the secrecy of any individual ballot. This must be strictly observed.

If you have any questions concerning the handling of absent voter's ballots prior to Election Day or the procedures set forth in this directive, please contact the elections attorney assigned to your county at (614) 466-2585. Thank you for your efforts.

Sincerely,

Jennifer Brunner

Jennifer Brunner
Directive 2008-78
September 4, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS

RE: Eligibility of Former Ohio Residents to Vote in Presidential General Election in Ohio

A former Ohio resident, whether or not formerly registered to vote in Ohio, who satisfies all the requirements and conditions contained in R.C. 3504.01 to 3504.06 may vote in Ohio’s presidential general election either in person at the precinct polling location for the precinct in which that individual’s voting residence was located at the time he or she moved from this state or by absentee ballot, either by appearing at the board of elections office, unless the board has designated another site for voting pursuant to R.C. 3501.10(C) during the absentee voting period, or by receiving and returning the presidential absentee ballot by mail.

A. Eligibility

To be eligible to participate in Ohio’s presidential election, the former Ohio resident must, according to R.C. 3504.01 “otherwise possesses the substantive qualifications to vote in this state, except the requirements of residence and registration.” That means the individual:

- Must be a United States citizen who will be at least 18 years of age as of the day of the presidential general election;
- Must have resided in Ohio at least 30 consecutive days immediately before moving from Ohio (being previously registered to vote there is not a requirement under the law);
- Must have been otherwise eligible to vote in Ohio before moving from Ohio; i.e., may not be currently incarcerated for a felony conviction or adjudicated incompetent to vote by a court of competent jurisdiction, or been twice convicted of violations of Ohio’s election laws;
- Must have moved his or her residence from Ohio not more than 90 days before the day of the presidential general election;
- Must not have registered to vote in the state to which the former resident has moved his or her residence; and
- Must declare under penalty of election falsification that, as a result of having recently moved from Ohio, he or she is not entitled to vote in the presidential election of the state in which the former resident currently resides.

B. Requesting the Presidential Ballot

A former resident who satisfies all the requirements listed above may vote in Ohio for presidential and vice-presidential electors, but for no other offices or issues. A former resident must vote in the Ohio precinct in which the former resident’s qualifying residence was located at the time he or she moved from Ohio. To cast this vote, the former resident must meet the following two conditions:
1. Complete in duplicate, and under penalty of election falsification, no later than 4 p.m. on the 30th day before the presidential general election, the Secretary of State's form certifying the former resident's intent to vote in Ohio's presidential election, Form 107-A, "Certificate of Intent to Vote for Presidential and Vice-Presidential Electors." This form allows an eligible former resident to certify the intent to vote in Ohio's presidential election and to either appear in person in Ohio on Election Day to vote or to request an absentee ballot for the presidential election. Certificates of intent must contain the former resident's former qualifying residence address in Ohio and must be filed in person or by mail at the board of elections of the county where the individual was last a qualifying former resident of Ohio.

2. R.C. 3504.02 does not specify when the certificate of intent must be filed or received by the board of elections, only that it must be completed no later than the 30th day before the presidential election. Therefore, if a certificate of intent is received with a timely submitted absentee ballot application and if all other requirements of R.C. 3504.01 to 3504.06 are met, an absentee ballot shall be provided to (if appearing in person) or mailed to the elector with instructions that the elector is entitled to vote only the presidential ballot and that votes on any other ballots are invalid. If a certificate of intent is received by Election Day without an absentee ballot application and no subsequent absentee ballot application is received by the board of elections from the former resident, the poll book and any poll lists shall be appropriately marked with a notation that the elector is entitled to vote only the presidential election ballot, and the elector shall be permitted to vote only the presidential election ballot on Election Day. In the event that such an elector appears at the board of elections and claims to have been denied a presidential ballot by a precinct judge, he or she shall be permitted to vote a provisional presidential ballot at the board of elections. If such an elector votes a provisional ballot, either at the board of elections or at a precinct polling location, the validity of the ballot shall be determined based on the criteria contained in this directive.

3. The former Ohio resident who completes the certificate of intent shall be subject to voter identification requirements as they apply to absentee or in-person voting.

4. Ballots returned with a postmark before presidential Election Day but received within 10 days after the election shall be counted if all else is in order.

Boards of elections shall provide the certificate of intent prescribed by the Secretary of State's office upon request. The currently prescribed certificate (Form 107-A) is provided as an attachment to this directive. The PDF version of the form is available on the BOE Extranet.

C. Board of Elections to Provide List of Former Resident Voters

A board of elections that receives a completed and timely filed certificate of intent shall create a list of former residents who appear from their applications and certifications to be eligible to vote in Ohio's presidential election. On or before Election Day, the board shall deliver to all affected polling places a list of persons who have filed certificates of intent to vote as former resident voters.

D. Voting by the Former Resident of the Presidential Ballot

A former resident who appears for the purpose of voting at the appropriate precinct polling place on Election Day shall sign that voter's name in the poll book or poll list, and a notation shall be made on the list of persons who have filed certificates of intent to vote as former resident voters as well as a notation in the poll book or on the poll list, "Former Resident's Presidential Ballot."
E. Notice to Secretary of State

A board of elections that receives a valid and timely-filed Form 107-A from any former resident must send a copy of that form to the Ohio Secretary of State's Elections Division so that it is received by within seven days of receipt or by Election Day, whichever is earlier.

F. Penalty for Violation of Law

It should be noted that, while the law requires Form 107-A to contain the general notice that the penalty for election falsification is a felony of the fifth degree, the penalty for willfully making a false statement or affidavit under sections R.C. 3504.01 to 3504.06 is a felony of the fourth degree, a more severe penalty.

If you have any questions concerning this advisory, please contact your assigned elections attorney via email or at telephone number (614) 466-2585.

Sincerely,

Jennifer Brunner

Jennifer Brunner
CERTIFICATE OF INTENT
TO VOTE FOR PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTORS
by former Ohio resident who resided in Ohio
within 90 days of the presidential election
(R.C. 3504.01 to 3504.06)

This Certificate of Intent must be completed no later than 30 days before the presidential election and must be completed in DUPLICATE. If you are voting an absentee ballot, this Certificate of Intent and any required identification document must be mailed or submitted to the board of elections of the county where you last resided in Ohio no later than noon the Saturday before presidential Election Day. If you are voting by mail, your ballot must be returned with a postmark no later than the day before the presidential election. If you are returning to Ohio and voting in person in your precinct on the presidential Election Day, this Certificate of Intent must be received by the board of elections no later than the day before the election. When you sign this Certificate of Intent you are certifying that you completed it at least 30 days before the presidential election. You are advised to submit this Certificate of Intent as soon as you complete it to ensure that you may vote in Ohio at the presidential election.

QUALIFICATIONS to vote in Ohio as a former resident who resided in Ohio within 90 days of the presidential election:
- Must be a U.S. citizen,
- Must be eighteen years of age or over by the presidential Election Day,
- Must have lived in Ohio for at least 30 days before moving residence from Ohio,
- Must have moved residence from Ohio not more than 90 days before the day of the presidential election,
- Must not have registered to vote or voted in a state to which you have moved residence,
- Must not, because of removal of residence from this state, be entitled to vote for the offices of president and vice-president or for presidential and vice-presidential electors in the state where you will or do reside at the time of the presidential election.

If you meet all of the above qualifications, you may complete this form IN DUPLICATE no later than 30 days before the presidential election and submit it to the board of elections in the county where you last resided in Ohio. You do not need to be currently registered to vote in Ohio. This Certificate of Intent authorizes you to vote in Ohio ONLY as presidential and vice-presidential electors as a former Ohio resident who resided in Ohio within 90 days of the presidential election, but not for any other candidates or issues. Please complete the information below:

1. Year of presidential election for which I am submitting this Certificate of Intent: ____________________________ (Year)

2. Name: ____________________________ 3. Date of Birth: __________/________/________

3. Last residence in Ohio:
   (Street Address) ____________________________ (City) ____________________________ (County) ____________________________ (Zip Code)

4. On the date of above presidential Election Day, I will be a resident of the state of ____________________________ residing at
   (Street Address) ____________________________ (City) ____________________________ (Zip Code)

5. I understand that when I vote I will be required to provide voter identification as listed below.* I wish to cast my ballot in the following manner (check one):
   __________ In person at an Ohio precinct polling location in my former county of residence on Election Day,
   __________ By absentee ballot by mail. Please send my absentee ballot to me at the following address:
   (Street Address) ____________________________ (City) ____________________________ (State) ____________________________ (Zip Code)
   __________ In person by absentee ballot (before Election Day) at the board of elections or other designated location in the county where I last resided in Ohio.

I hereby certify my intention to vote in Ohio for presidential and vice-presidential electors. By signing this form, I certify that I meet the qualifications listed above to be legally qualified to vote in Ohio as a former resident who resided in Ohio within 90 days of the presidential election. For the purpose of this certification, I declare that I have removed myself from this state by removing my residence from Ohio. I understand that this Certificate of Intent entitles me to vote for no other offices or issues in Ohio. Further, I declare under penalty of election falsification that the statements herein contained are true to the best of my knowledge and belief; that I am legally qualified to vote; that I am not registered to vote in any other state; and that I have not voted in any election in any other state since removing myself from the state of Ohio.

______________________________ (Signature of Applicant)  ____________________________ (Date)
WILLFULLY MAKING A FALSE STATEMENT OR AFFIDAVIT UNDER R.C. 3504.01 - 06 IS A FELONY OF THE FOURTH DEGREE.
WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

*ONE of the following forms of identification is required for voting in person:
  - Your Ohio driver’s license state issued ID card, OR
  - Last four digits of your social security number, OR
  - Current (within 12 months) utility bill, bank statement, government check, paycheck OR other government document that shows my name and former qualifying residence address in Ohio.

*ONE of the following forms of identification is required for voting an absentee ballot:
  - Your Ohio driver’s license number: ____________________________ (located left hand side, middle of card, beginning with two letters)
  - Last four digits of your social security number: _________, OR
  - I am enclosing a COPY of one of the following: a current and valid photo identification, a military identification, or a current (within 12 months) utility bill, bank statement, government check, paycheck or other government document that shows my name and former qualifying residence address in Ohio.