



office maintaining election and other records kept in the ordinary course of business by the office.

5. From June 2003 until March 2008 I held the position of Director for the Franklin County Board of Elections. From March 2008 until January 2011 I held the position of Deputy Director for the Franklin County Board of Elections.
6. In these positions, I was responsible for the local administration of elections, including ballot layout and tabulation (including ballots for use by 17-year old voters in primary elections), reviewing and implementing directives issued by the secretary of state's office, precinct election official recruitment and training, in person and by mail absentee balloting operations, election day operations, voter registration activities, and administration of the county voter registration database.
7. I hold an undergraduate degree in Business Administration and a graduate degree in public policy and management from The Ohio State University.
8. I earned the designation Certified Elections and Registration Administrator through the Election Center and Auburn University.
9. The 2016 presidential primary election is the fourth presidential primary election during which I have served as an elections administrator at either the state or local level (2004, 2008, 2012 and 2016).
10. Secretary Blackwell issued Directive 2002-12 on April on April 19, 2002. A true and exact copy of this Directive kept by the Secretary of State's Office, which applied to the 2004 presidential election, is attached as "Attachment A".
11. Prior to the March 2008 Presidential Primary Election, the Franklin County Board of Elections received Directive 2008-22 issued by Secretary of State Jennifer Brunner instructing all boards of elections that "Ohio law allows 17-year old electors who will be 18 years of age on or before the date of the general election in 2008 to vote solely on the nomination of candidates. This is because they will be eligible to vote for the nominees for this office at the November general election." (available at <http://www.sos.state.oh.us/SOS/Upload/elections/directives/2008/Dir2008-22.pdf>). The Directive further instructed boards of elections: "Before counting a ballot cast by a 17-year old, board officials must determine if the ballot was properly cast for only eligible offices." The Directive prescribed instructions to be issued to 17-year old electors informing them that "As a 17-year-old voter who will be 18 years of age on or before the November general election, you may vote only on the nominations of candidates. This is because you will be

eligible to vote for the candidate(s) nominated for these offices at the November general election. You may NOT vote on any 'question' or 'issue' on the March primary election ballot, such as a school tax levy, charter amendment or local liquor option, because these questions and issues relate only to this primary election, and you must be at least 18 years of age to vote on them.”

12. The bipartisan staff of the Franklin County Board of Elections interpreted this Directive to mean that only votes cast for candidates for nomination, not election, were eligible to be counted when marked on a ballot by a 17-year old voter. As such, when reviewing ballots cast by a 17-year old voter at the 2008 primary election (that had been placed in specially-marked envelope for that purpose), the board staff remade ballots (by placing removable stickers over filled-in ovals) whenever a 17-year old voter had marked the optical scan ballot for a contest for election of a presidential delegate, election of a member of state or county central committee, a ballot question or issue, or a local option.
13. In addition to Directive 2008-22, Secretary Brunner's staff issued guidance to election officials, presidential campaign staff, and others, confirming the office's position permitting a 17-year old voter who will be 18 years of age on or before the November general election to vote only on the nomination of candidates. True and exact copies of this guidance kept by the Secretary of State's Office is attached as "Attachment B", "Attachment C", and "Attachment D".
14. In keeping with the procedures and instructions to boards of elections issued by Secretary Brunner in 2008, Secretary Husted issued Directive 2011-45 prior to the March 2012 Presidential Primary Election providing the same legal interpretation to county boards of elections. The instructions to 17-year old voters contained nearly identical language as the instructions issued by the previous administration: "As a 17-year-old voter who will be 18 years of age on or before the November 6, 2012 general election, you may vote only on the nominations of candidates at the March 6, 2012 primary election. This is because you will be eligible to vote in November for the candidate(s) nominated in March for these offices." The only non-substantive addition to the instructions was to inform the voter on the practical meaning of the legalese: "While you are 17, you may NOT vote on the election of presidential delegates and alternate delegate to a political party's nominating convention, state central or county central committee persons in March. In addition, you may NOT vote on any question or issue on the March primary election ballot, such as a school tax levy, charter amendment, or local liquor option, because these races, questions and issues relate only to this primary election, and you must be at least 18 years of age to vote on them." Therefore, Secretary Husted's 2011 guidance did not change Secretary Brunner's instructions. Election officials reviewing a ballot cast by a 17-year old voter at the 2012 primary election continued to remake the ballot to ensure that a 17-year old voter only had

votes counted on the nomination of candidates, and not a contest for the election of a presidential delegate, election of a member of state or county central committee, a ballot question or issue, or a local option.

15. The language of the Election Official Manual (issued in relevant part as Directives 2015-26 and 2015-29) was publicly posted for comment on August 14, 2015 and September 11, 2015, respectively. The Fair Election Legal Network offered comment on September 23, 2015 relative to the draft instructions to boards of elections for the counting of ballots cast by 17-year old voters. A true and exact copy of the Fair Election Legal Network comment is attached as "Attachment E".
16. Boards of elections are instructed to provide to a 17-year old voter the notice prescribed by the Secretary of State's Office informing the 17-year old voter that he or she "not vote" for the contest on the ballot for the election of delegate to a national convention, member of state central committee, member of county central committee, or on a ballot question, issue or local option. As such, a 17-year old voter who already received or has cast an absentee ballot (either by mail or in person at her board of elections) was instructed to not vote in these contests.
17. Boards of elections begin separating absentee ballots from their respective identification envelopes (including absentee ballots cast by 17-year olds) beginning the 10<sup>th</sup> day before election day (Saturday, March 5, 2016). As a result, a 17-year old voter who properly marked her ballot consistent with the instructions has had her ballot separated from her envelope and it has been comingled with the other absentee ballots. It cannot be retrieved or segregated. Similarly, if the boards were to contact the 17-year old voter whose ballot has already been cast giving them an opportunity to cast a second ballot (in addition to the ballot that has already been cast, separated from the identification envelope, and scanned through the tabulation system) it would be both an administrative burden and impracticable at this late date.
18. If 17-year olds were permitted to vote on the election of delegate to a national convention at the March 15, 2016 presidential primary election, boards of elections would have to reprint instructions that have already been printed and packed in precinct supply kits and in some cases delivered to the polling places in time for Tuesday's election. They would have to inform precinct election officials, many who have already been trained for this election, that, contrary to their training, 17-year old voters can indeed vote for election of delegate to the national convention.
19. The weekend before an election is traditionally the busiest time for a local elections administrator.

20. Ohio law states that delegates to national conventions are not nominated, they are “chosen by direct election.” R.C. 3513.13. That same statute reads: “Each person seeking to be elected as delegate or alternate to the national convention of the person's political party shall file with the person's declaration of candidacy and certificate a statement in writing signed by the person in which the person shall state the person's first and second choices for nomination as the candidate of the person's party for the presidency of the United States.” The same statute authorizes certificates of elections to be issued to the “candidates seeking election as delegates and alternates.” R.C. 3513.12. A certificate of election as a delegate entitles that individual to attend that party's national convention and to vote on the nomination of candidates for President and Vice-President by that political party. This construction – the election of delegates and alternate delegates – was affirmed by State Representative Kathleen Clyde (then a law clerk in the Office of the Ohio Secretary of State) to a constituent. (See “Attachment C”).
21. State law permits the name of the first choice for president to appear on the ballot as a cue to voters. If the name of the first choice for president is not to be printed on the ballot, the names of candidates for election as delegate and alternate delegate would appear on the ballot (see R.C. 3513.151 & R.C. 3513.12).
22. Any individual may contact the Secretary of State's Office to receive a list of the various delegates and alternate delegates. Additionally, the Secretary of State's Office issued an email to news outlets throughout the state providing a link to the filing documents for the various candidates for president. (A true and exact copy is attached as “Attachment F”). The link is still active, and is <ftp://sosftp.sos.state.oh.us/free/publications/2016CandidateFilings/>. The filing documents contain the names of the delegates and alternate delegates. Many news outlets published this information on their websites. See, e.g., Stephen Roy Wilder, *List: Ohio's GOP Delegates*, Cincinnati Enquirer, Dec. 28, 2015, available at <http://www.cincinnati.com/story/news/politics/elections/2015/12/28/list-ohios-gop-republican-delegates/77565010/> & Jackie Borhardt, *Hillary Clinton Files for Ohio's Democratic Presidential Primary*, Cleveland Plain Dealer, Dec. 15, 2015, available at [http://www.cleveland.com/open/index.ssf/2015/12/hillary\\_clinton\\_files\\_for\\_ohio.html](http://www.cleveland.com/open/index.ssf/2015/12/hillary_clinton_files_for_ohio.html).
23. The person nominated for president by a party convention can be a person whose name did not appear on the presidential primary ballot in Ohio.
24. A true and exact copy of a sample of a certificate of election issued by the Ohio Secretary of State to delegates and alternate delegates elected at the 2008 presidential primary election is attached as “Attachment G”.

25. A true and exact copy of a sample of a certificate of nomination of Barack Obama of Illinois for President and Joe Biden of Delaware for Vice-President issued by the chairman of the 2012 Democratic National Convention is attached as "Attachment H".

FURTHER AFFIANT SAYETH NAUGHT.



Matthew M. Damschroder

Sworn to and subscribed before me, a Notary Public, on this 10th day of March, 2016.



Notary Public

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
NOTARY PUBLIC  
COMMISSION EXPIRES 03/31/17