

1 Summons
ISSUED BY CLERK

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**IN THE UNITED STATES DISTRICT COURT
04 SEP 27 FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO**

THE SANDUSKY COUNTY DEMOCRATIC
PARTY
1703 Moore St. Apt 5
Fremont, Ohio 43420

JUDGE JAMES G. CARR

and

Cause No.

THE OHIO DEMOCRATIC PARTY
271 E. State St.
Columbus, Ohio 43215

3:04 CV 7582

Plaintiffs,

v.

J. KENNETH BLACKWELL, Secretary of State,
in his official capacity,
180 E. Broad St. 16th Floor
Columbus, OH 43215

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs the Sandusky County Democratic Party and the Ohio Democratic Party seek declaratory and injunctive relief against Defendants and, in support, state as follows:

Preliminary Statement

1. In the 2000 presidential election, in almost every State – including Ohio – thousands of voters were turned away from the polls without having cast a ballot because the poll workers could not find their names on the official list of eligible voters for the polling place. Sometimes, eligible voters' names are not on the precinct register because the voters recently moved. Often, names are missing simply due to election officials' failures to

maintain accurate voter rolls or to inform registrants of their correct polling-place locations. In 2001, the Caltech/MIT Voting Technology Project estimated that roughly 3 million votes in the 2000 federal election had been lost due to these sorts of problems, and that half of them – roughly 1.5 million votes – could have been saved by use of “provisional” ballots. See Caltech/MIT Voting Technology Project, *Voting: What Is, What Could Be* 30 (2001).

2. “Provisional” voting allows a voter whose eligibility to vote is in question to cast a special ballot that will be segregated from the regular ballots and will be counted later, only if election officials verify his eligibility. Ordinarily, the voter places his provisional ballot in an envelope bearing his signature and information about the circumstances of the provisional vote. After the election, officials use the information on the outside of the provisional-ballot envelope to research the voter’s eligibility. If they verify that he was eligible to vote, the envelope is opened and the election officials count the votes he cast for the offices for which he is qualified to vote. If the election officials cannot verify the voter’s eligibility, the envelope remains sealed and the ballot goes uncounted.

3. In response to the myriad administrative problems that the 2000 presidential election revealed, Congress enacted the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*, known as “HAVA.” Among other things, HAVA mandates that all States permit a voter to cast a provisional ballot upon affirmation that the voter is registered in the proper jurisdiction and is eligible to vote in a federal election, even if the voter resides in another election precinct. And HAVA guarantees every voter who casts a provisional ballot in a federal election the right to have that vote counted if the appropriate election officials determine that the voter was registered and eligible to vote.

4. Ohio Secretary of State Directive 2004-33 ("Directive 2004-33") eviscerates the federal provisional-voting rights guaranteed by HAVA. Directive 2004-33 denies those rights to all but a small class of individuals, allowing the casting and counting of provisional ballots *only* for individuals who: have previously moved from one Ohio precinct to another Ohio precinct; *and* seek to cast provisional ballots in the precinct in which they now reside; *and* have not attempted to vote at their former polling place; *and* can convince the poll workers that they are eligible to vote in the new precinct. Contrary to HAVA, Directive 2004-33 denies a provisional ballot to an eligible voter who has not moved within Ohio and who learns on Election Day that, through no fault of his own, his name has been erroneously deleted from his precinct's voter registration list. It also unlawfully deprives a voter who mistakenly arrives at the "wrong" precinct within the county of his residence the right to cast a provisional ballot and to have that ballot counted. In addition, Directive 2004-33 lacks the requisite instruction to poll workers to notify eligible voters of their immediate right under HAVA to cast a provisional ballot. The Directive further violates HAVA by prohibiting the counting of provisional ballots cast by an individual who arrives at the "proper" polling place after first having attempted to vote at his previous precinct. Finally, Directive 2004-33 contravenes one of HAVA's central purposes by requiring poll workers immediately to confirm an individual's eligibility to vote, rather than allowing the casting of a provisional ballot simply upon proper affirmation by the individual.

5. The concerns about potential disenfranchisement under the Secretary of State's directive are especially acute in northwestern Ohio, where there is a particularly dense concentration of transient citizens. The populations of several counties in northwestern Ohio, including Sandusky, Huron, and Wood counties, contain significant numbers of persons

whose work and family obligations tend to require changes in residence at a notably frequent rate. The Ohio Democratic Party and the Sandusky Democratic Party represent the voting interests of many of these individuals and the SDP uniquely represents the interests of those individuals in Sandusky County. The prospect of particularly intense irreparable harm to these individuals, domiciled in this division of the northern district, requires the immediate attention of this Court.

Parties

6. Plaintiff, the Ohio Democratic Party ("ODP") is a "major political party," as defined in Ohio Rev. Code § 3501.1(F)(1). To elect the candidate who receives the most votes in the November general election, the ODP has an interest in having all votes cast by registered and eligible voters properly counted and included in the election results. The ODP's adherents (the ODP's "members," *i.e.*, Democratic voters) face a real and imminent threat, through the enforcement of Directive 2004-33, of violation of their federal rights guaranteed by HAVA. The ODP sues on its own behalf and on behalf of its members.

7. Plaintiff, the Sandusky County Democratic Party ("SDP"), is a political association based in Sandusky, Ohio, which consists of individuals who reside in Sandusky County and who support, are affiliated with, or are otherwise members of the ODP. The members of the SDP also face the very real and imminent threat of irreparable harm as a result of the enforcement of Directive 2004-33. The SDP sues on its own behalf and on behalf of its members. The interests of the ODP and the SDP are largely congruent and these Plaintiffs will be referred to collectively as the "Party" unless otherwise noted.

8. Defendant J. Kenneth Blackwell is the Secretary of State of Ohio. In that capacity, he is Ohio's chief election officer and is responsible for administering all statewide

elections, including those for federal office. Among other duties, Defendant Blackwell: appoints all members of local boards of elections to serve as his representatives; issues instructions by directives and advisories to members of the boards as to the proper methods of conducting elections; prepares rules and instructions for the conduct of elections; determines and prescribes the forms of ballots and the forms of all blanks, cards of instructions, pollbooks, tally sheets, certificates of election, and forms and blanks required by law for use by candidates, committees, and boards; compels the observance by election officers in the several counties of the requirements of the election laws; and oversees the canvassing of election results and totals and announces election results. Defendant Blackwell is sued in his official capacity.

Jurisdiction and Venue

9. This case is brought under 42 U.S.C. § 1983. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343. Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Local Civil Rule 3.8 because a substantial part of the real and immediate harm faced by Plaintiffs and their members is threatened in this judicial district.

The Help America Vote Act of 2002

11. In 2002, Congress passed the Help America Vote Act, 42 U.S.C. §§ 15301 *et seq.* ("HAVA"). One of Congress's central purposes in enacting HAVA was to promote methods of conducting provisional voting that would "be the most convenient, accessible, and easy to use for voters." *Id.* §§ 15381(a)(1), 15381(b)(4).

12. Among other things, HAVA requires that all States permit certain individuals to cast provisional ballots, including any individual whose name does not appear on the official list of eligible voters for the polling place, but who declares that he is “a registered voter in the jurisdiction in which [he] desires to vote” and is “eligible to vote in an election for Federal office.” *Id.* § 15482(a). Any individual who so declares “shall be permitted to cast a provisional ballot.” *Id.*

13. HAVA mandates that an election official at the polling place “shall notify the individual that the individual may cast a provisional ballot in that election.” *Id.* § 15482(a)(1).

14. A voter who seeks to cast a provisional ballot under the circumstances described in paragraph 11 must complete a written affirmation stating that the individual is:

- (A) a registered voter in the jurisdiction in which the individual desires to vote; and
- (B) eligible to vote in that election.

Id. §15482(a)(2). Any voter who completes this affirmation “shall be permitted to cast a provisional ballot at that polling place.” *Id.*

15. After the polls close, HAVA requires the election officials at the polling place to transmit the provisional ballot or the voter information contained in the written affirmation to the appropriate state or local election officials for prompt verification of the individual’s eligibility to vote. *Id.* § 15482(a)(3). “If the appropriate State or local election official to whom the ballot or voter information is transmitted . . . determines that the individual is eligible under State law to vote, the individual’s provisional ballot shall be counted as a vote in that election in accordance with State law.” *Id.* § 15482(a)(4).

16. HAVA creates an absolute right to cast a provisional vote in a federal election and to have that vote counted, provided that the voter is a registered voter in the jurisdiction in which he seeks to vote, and that he is eligible to vote in that election.

Provisional Voting in Ohio Before Directive 2004-33

17. Notwithstanding the broad provisional voting rights guaranteed by HAVA, Ohio has never amended its statutory scheme to meet HAVA's mandate.

18. Under the Ohio elections code, which for all relevant purposes has remained the same since well before the enactment of HAVA, qualified and registered voters are permitted to cast provisional ballots only in a very narrow set of circumstances. *See* Ohio Rev. Code § 3503.16. The Ohio statutory scheme covers only those voters who have moved within the State, and allows such voters to cast provisional ballots at their new polling places only after they have fulfilled certain conditions. *Id.*

19. Specifically, before casting a provisional ballot under the Ohio system, a voter who has moved between precincts within a county must sign a notice of change in residence and attest that he or she will not attempt to vote at any other location in that election. *Id.* § 3503.16(B). A voter who has moved between counties must first appear at the county board of elections, or another location designated by the board, prior to or on the day of the election. *Id.* § 3503.16(C).

20. After Congress passed HAVA in 2002, significant changes were needed to bring Ohio's provisional-balloting system into compliance with federal law.

21. In 2003, Defendant Blackwell submitted to the federal Election Assistance Commission "A State Plan to implement the Help America Vote Act of 2002 in accordance with Public Law 107-252, § 253(b)." On March 24, 2004, the Ohio State Plan was published in the Federal Register. *See* 69 Fed. Reg. 14879, 2004 WL 578763 (F.R.).

22. The State Plan discussed “[t]he critical role of provisional voting in election reform,” and called provisional voting “a way to ensure every eligible voter who shows up at the polls on Election Day can cast a ballot.” State Plan at 33, 69 Fed. Reg. at 14895. Recognizing that the extant Ohio system already “protects those who changed their residence,” the State Plan promised that Ohio would be “sensitive” to the additional issue of voters who show up to vote having been “incorrectly purged from the voter registration list.” *Id.* The document further promised that “the Secretary of State is committed to making sure every voter and every vote counts No voter should be disenfranchised just because someone made a mistake, or the paperwork on a change of address was overlooked, misplaced, incorrectly recorded or just didn’t get entered into the database in time to be reflected on the voter rolls.” *Id.*

23. On Friday, August 27, 2004, a spokesman for Defendant Blackwell committed the Secretary of State’s office to a policy of accepting provisional ballots from most voters who appear on Election Day at the wrong polling places but in the right county. *See Scott Hiassen, Blackwell Backs Down on Ballot Ruling, Cleveland Plain Dealer, Aug. 28, 2004.* The spokesman promised that sometime during the week of September 1, election officials could expect orders to accept these provisional ballots in the coming election. *See id.* Referring to Ohio’s obligations under HAVA, the spokesman stated: “The intent of the federal law is not only to provide provisional ballots, but that those ballots be counted regardless of any error.” *Id.*

Ohio’s Provisional Ballot Directive 2004-33

24. The Secretary of State, however, issued no new directive on September 1. On September 16, 2004, Defendant Blackwell issued Directive 2004-33 (attached hereto as

Exhibit A), entitled "Issuing and Processing Provisional Ballots," to all Ohio county boards of elections. The provisional-voting procedures and requirements described in the Directive not only fall short of the commitments made by Blackwell's staff and the commitments expressed in the State Plan; more importantly, they also violate HAVA.

25. Although it is hardly a model of clarity, taken literally, Directive 2004-33 violates HAVA in at least five ways. First, the Directive, like the preexisting statutory scheme, limits the right to cast a provisional ballot to those Ohio voters who have moved from one Ohio precinct to another. The Directive includes the subheading, in bold face, "State Law: Provisional voting eligibility based on elector moving from one Ohio precinct to another," and states:

State law . . . provides that an eligible elector who moves from one Ohio precinct to another before an election may, in accordance with the procedures set forth in R.C. 3503.16, update his or her existing voter registration to the new voting residence address and vote a provisional ballot for the precinct in which the person's new voting residence is located. The provisional ballot will be counted in the official canvass if the county board of elections confirms that the person was timely registered to vote in another Ohio precinct, and that the person did not vote or attempt to vote in that election using the person's former residence address.

Directive 2004-33, at 1. Thus, under the Directive, unless a voter has moved from one precinct to another, that voter may not even cast a provisional ballot, let alone have the ballot counted.

26. In many cases, this will deprive voters of the right to cast a provisional ballot even if they are properly registered and attempt to vote in the precinct of their residence. If, through some error committed by state or local election officials, a voter has been mistakenly left off the registration list for the voter's precinct of residence, the Directive prohibits that voter from casting a provisional ballot unless the voter has moved. The Directive and the

Ohio statutes make no allowance for provisional voting to correct such errors on the part of the State.

27. Second, regardless of whether a voter has moved from one Ohio precinct to another, the Directive violates HAVA by withholding provisional ballots from any voter who is not a resident of the precinct in which he seeks to vote. Directive 2004 states that “pollworkers in a precinct must confirm before issuing a provisional ballot that the person to whom the provisional ballot will be issued is a resident of the precinct, or portion of the precinct, in which the person desires to vote.” Directive 2004-33, at 1. The Directive requires county boards of elections to provide each precinct with “a complete and correct map of, and street listing for, that precinct.” *Id.* The Directive continues:

Before issuing a provisional ballot as provided for under state or federal law, the pollworkers must confirm that the voting residence address claimed by the voter is located within the area shown on the precinct map and listed on the street listing.

Only after the precinct pollworkers have confirmed that the person is eligible to vote in that precinct shall the pollworkers issue a provisional ballot to that person. Under no circumstances shall precinct pollworkers issue a provisional ballot to a person whose address is not located in the precinct, or portion of the precinct, in which the person desires to vote.

Id.

28. As noted above, however, HAVA mandates that States collect and count provisional ballots for a federal election from any voter who affirms that he is registered “in the jurisdiction” in which he desires to vote and is eligible to vote in that federal election. *See* 42 U.S.C. § 15482(a)(2). The terms “precinct” and “jurisdiction” are by no means interchangeable. Although HAVA does not define “jurisdiction,” Congress directed that HAVA be construed in harmony with the National Voter Registration Act of 1993 (“NVRA”), which does define jurisdiction. *See* 42 U.S.C. § 15545(a)(4). NVRA uses the

term "registrar's jurisdiction" to refer to the geographic scope of the unit of government that maintains the voter-registration rolls. *See* 42 U.S.C. § 1973gg-6(j). Under this definition, in Ohio, where voter registration is maintained by each county board of elections, *see* Ohio Rev. Code § 3501.11(T), (U), "jurisdiction" necessarily refers to "county." Directive 2004-33 therefore violates HAVA by depriving a voter who arrives at the "wrong" precinct within the county of his residence the right to cast a provisional ballot, and to have that ballot counted.

29. Third, Directive 2004-33 violates HAVA's requirement that poll workers notify voters of their right to cast a provisional ballot. As previously noted, once an individual declares that he is a registered voter in the jurisdiction where he desires to vote and is eligible to vote in that federal election, if the poll worker does not find his name on the official list of eligible voters for that polling place, HAVA mandates that the poll worker "shall notify" the voter that he may cast a provisional ballot in that election. 42 U.S.C. § 15482(a)(1). That mandate holds firm even if the poll worker contacts the county election board and determines that the individual resides in another precinct and is eligible to vote at another polling place in the jurisdiction. Under HAVA, the individual must be given the option of either going to the second polling place and casting a standard (nonprovisional) ballot or staying at the first polling place, executing a written affirmation, and then casting a provisional ballot.

30. But Directive 2004-33 denies the voter that option. While HAVA directs that the poll worker "shall notify" the voter that he may cast a provisional ballot, the Directive contains no such requirement and sets forth a time-consuming process for determining the voter's "proper" precinct:

If the pollworkers determine that the address of a person who desires to vote in a particular location is not located within that precinct, the pollworkers must contact the board of elections, and the board shall advise both:

1. The precinct in which the voter's address is located, and
2. The location of the polling place for that precinct.

Directive 2004-33, at 2.

31. Fourth, Directive 2004-33 unlawfully requires that a provisional ballot will be counted only if the county board of elections "confirms that the person was timely registered to vote in another Ohio precinct and that the person did not vote *or attempt to vote* in that election using the person's former voting residence." Directive 2004-33, at 1 (emphasis added). Thus, if voter who has recently moved from one precinct to another goes to his old polling place, attempts to vote, learns from the poll workers there of the voter's "correct" polling place, goes to that new precinct before the polls close, receives and casts a provisional ballot, that ballot will not be counted because the voter "attempt[ed] to vote in that election using the person's former voting residence." *Id.* Directive 2004-33 therefore imposes an additional limitation on provisional voting in Ohio, in violation of HAVA, denying provisional ballots to any voter who attempts to vote at a different polling place earlier in the day.

32. Fifth and finally, even if a voter satisfies each of these unlawful requirements of Directive 2004-33, the Directive erects an additional hurdle, unauthorized by HAVA, to provisional voting in Ohio. As noted, HAVA mandates that an individual who affirms in writing that he is "a registered voter in the jurisdiction in which the individual desires to vote" and is "eligible to vote in that election" "shall be permitted to cast a provisional ballot at that polling place." 42 U.S.C. § 15482(a)(2). Directive 2004-33, however, permits the issuance of

a provisional ballot “[o]nly after the precinct pollworkers have confirmed that the person is eligible to vote in that precinct.” Directive 2004-33, at 1.

33. This requirement directly contravenes one of the central purposes of HAVA. HAVA specifically addresses the Election Day problem of voters whose eligibility is in doubt because, for example, their names do not appear on the registration list at a given polling place. To avoid unnecessary delays and other deterrents to those voters on Election Day, HAVA requires States to collect provisional ballots merely upon the voters’ assertions of their eligibility. *See* 42 U.S.C. § 15482(a)(2). Prompt verification of the voters’ eligibility occurs shortly *after* Election Day, once the proper election officials receive the provisional ballots from the polling places. *Id.* §§ 15482(a)(3), (4). Directive 2004-33, however, unlawfully requires individuals to convince poll workers of their eligibility in person, on Election Day, prior to receiving a provisional ballot. . This policy is also likely to cause significant delays at the polls, which will drive away voters who are themselves properly registered and at the correct precinct.

CAUSE OF ACTION

Section 1983 Claim for Violations of Rights Granted by the Help America Vote Act of 2002

34. Plaintiffs incorporate paragraphs 1 through 33 as if fully set forth herein.

35. HAVA requires that all States permit individuals to cast provisional ballots, including any individual whose name does not appear on the official list of eligible voters for the polling place, but who declares that he is “a registered voter in the jurisdiction in which the individual desires to vote” and is “eligible to vote in an election for Federal office.” 42 U.S.C. § 15482(a). Any individual who so declares “shall be permitted to cast a provisional ballot.” *Id.* HAVA requires election officials at the polling place to notify individuals of their

right to cast a provisional ballot. *Id.* § 15482(a)(1). HAVA also mandates that all eligible voters' provisional ballots be counted under the State's normal ballot-counting procedures. *Id.* § 15482(a)(4).

36. As described above, Directive 2004-33 violates HAVA in at least five fundamental ways.

37. First, Directive 2004-33 unlawfully limits the right to cast a provisional ballot to those Ohio voters who have moved from one Ohio precinct to another, leaving no opportunity to cast a provisional ballot and to have that ballot counted if a non-moving voter's name is erroneously omitted from a precinct's voter-registration list.

38. Second, Directive 2004-33 violates HAVA by depriving a voter who arrives at the "wrong" precinct within the county of his residence the right to cast a provisional ballot and to have that ballot counted.

39. Third, Directive 2004-33 violates HAVA's mandate that poll workers notify voters of their right to cast a provisional ballot if they satisfy HAVA's affirmation requirement.

40. Fourth, Directive 2004-33 unlawfully prevents the counting of provisional ballots cast by individuals who first attempt to vote at the "wrong" polling place but then cast a provisional ballot at the "proper" polling place.

41. Fifth, Directive 2004-33 violates HAVA by requiring poll workers, as a precondition to issuing a provisional ballot to an individual who satisfies HAVA's written-affirmation requirement, to confirm the individual's eligibility to vote.

42. Directive 2004-33 creates a real and imminent threat that Plaintiffs' members will be deprived of their federal rights to cast provisional ballots and to have those ballots

counted. Plaintiffs and their members are being deprived of federal rights guaranteed under HAVA and 42 U.S.C. § 1983.

43. Moreover, Directive 2004-33 threatens Plaintiff Ohio Democratic Party's interests in assuring that Democratic candidates receive all the votes to which they are legally entitled.

WHEREFORE, Plaintiffs the Sandusky County Democratic Party and the Ohio Democratic Party ask this Court to enter an Order:

- (1) Declaring that the provisions of Ohio Secretary of State Directive 2004-33 prohibiting Defendant from collecting and counting provisional ballots from an eligible voter unless that voter has moved from one Ohio precinct to another violate rights granted to Plaintiffs and their members by the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;
- (2) Declaring that the provisions of Ohio Secretary of State Directive 2004-33 prohibiting Defendant from collecting and counting provisional ballots merely because the individual voters attempt to vote at the "incorrect" or "wrong" polling place within the jurisdiction in which they reside and are registered to vote violate rights granted to Plaintiffs and their members by the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;
- (3) Declaring that the provisions of Ohio Secretary of State Directive 2004-33 failing to offer individual voters the option of casting provisional ballots at the polling places where they initially arrive to vote, violate rights granted to Plaintiffs and their members by the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;

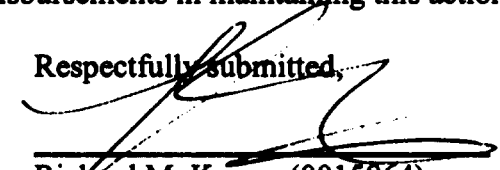
- (4) Declaring that the provisions of Ohio Secretary of State Directive 2004-33 preventing the counting of provisional ballots cast by individual voters who first attempt to vote at the “wrong” polling place within the jurisdiction in which they reside but then cast provisional ballots in the “proper” polling place violate rights granted to Plaintiffs and their members by the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;
- (5) Declaring that the provisions of Ohio Secretary of State Directive 2004-33 requiring poll workers, as a precondition to issuing a provisional ballot to an individual voter who satisfies HAVA’s written-affirmation requirement, to confirm the individual’s eligibility to vote violate rights granted to Plaintiffs and their members by the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;
- (6) Preliminarily and permanently enjoining Defendant, his employees, agents, representatives, and successors in office from applying the provisions of Ohio Secretary of State Directive 2004-33 that violate the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;
- (7) Requiring Defendant promptly to issue a new directive to all Ohio county boards of elections, instructing them to issue and count provisional ballots in accordance with the Help America Vote Act of 2002, 42 U.S.C. §§ 15301 *et seq.*;
- (8) Awarding Plaintiffs their attorneys’ fees and costs in accordance with 42 U.S.C. § 1988; and

(9) Granting Plaintiffs such additional relief as the interests of justice may require, together with their costs and disbursements in maintaining this action.



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EXHIBIT A

DIRECTIVE 2004-33

September 16, 2004

ALL COUNTY BOARDS OF ELECTIONS

Issuing and Processing Provisional Ballots

All boards of elections must instruct their pollworkers on the provisional voting procedures authorized by state and federal law.

State Law: Provisional voting eligibility based on elector moving from one Ohio precinct to another

Ohio law provides that every United States citizen who is of the age of 18 years or over and who has been a resident of the state 30 days immediately preceding the election at which the citizen offers to vote, is a resident of the county and precinct in which the citizen offers to vote, and has been registered to vote for 30 days, has the qualifications of an elector and may vote at all elections in the precinct in which the citizen resides. R.C. 3503.01.

State law further provides that an eligible elector who moves from one Ohio precinct to another before an election may, in accordance with the procedures set forth in R.C. 3503.16, update his or her existing voter registration to the new voting residence address and vote a provisional ballot for the precinct in which the person's new voting residence is located. The provisional ballot will be counted in the official canvass if the county board of elections confirms that the person was timely registered to vote in another Ohio precinct, and that the person did not vote or attempt to vote in that election using the person's former voting residence address.

Because R.C. 3599.12 specifically prohibits anyone from voting or attempting to vote in any election in a precinct in which that person is not a legally qualified elector, pollworkers in a precinct must confirm before issuing a provisional ballot that the person to whom the provisional ballot will be issued is a resident of the precinct, or portion of the precinct, in which the person desires to vote.

In order for that confirmation process to work, the boards of elections must include with the supplies for each precinct a complete and correct map of, and street listing for, that precinct. Both the map and street listing must clearly indicate any splits within the precinct.

Before issuing a provisional ballot as provided for under state or federal law, the pollworkers must confirm that the voting residence address claimed by the voter is located within the area shown on the precinct map and listed on the street listing.

Only after the precinct pollworkers have confirmed that the person is eligible to vote in that precinct shall the pollworkers issue a provisional ballot to that person. Under no circumstances shall precinct pollworkers issue a provisional ballot to a person whose address is not located in the precinct, or portion of the precinct, in which the person desires to vote. However, no provisional ballot will be disallowed because of pollworker error in a split precinct.

If the pollworkers determine that the address of a person who desires to vote in a particular location is not located within that precinct, the pollworkers must contact the board of elections, and the board shall advise both:

1. The precinct in which the voter's address is located, and
2. The location of the polling place for that precinct.

If you have any questions regarding this Directive, please call my Elections Division at 614-46-2585.

Sincerely,

A handwritten signature in black ink that reads "J. Kenneth Blackwell". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

J. Kenneth Blackwell