



January 21, 2022

Secretary of State Frank LaRose  
180 E. Broad Street  
Columbus, OH 43215

Re: Public Comment on Draft Permanent Directives

Dear Secretary LaRose and Staff,

Our organizations recently reviewed the draft permanent directives posted to your website for the Election Officials Manual (EOM), and we thank you for the opportunity to provide comment. We are committed to ensuring that every eligible Ohio voter is able to cast their ballot and look forward to working with you in the future to ensure reliable, secure, and well-run elections.

You will see that we provide feedback on your suggested changes, as well as offer recommendations on other areas where changes are necessary. As three of the key organizations of the Ohio Voter Rights Coalition and the nonpartisan Election Protection coalition, we base our comments on years of working directly with voters, poll workers, poll monitors, Boards of Elections (BOEs), and diverse stakeholders across Ohio.

We see a significant number of positive suggested edits, clarifications, and additions to the OEM, including ones that our groups suggested in our previous comments. We commend the Secretary of State's office for many provisions including:

- The addition of mandatory guidelines for the outsourcing of required mailings, which will ensure greater efficiency and security when working with vendors (2-46).
- Asking BOEs to adopt a policy to widen their communications reach by additionally posting to their website and social media accounts (2-48).
- The clarification that if a voter previously submitted an absentee ballot application but appears to vote early in person, the voter does not need to vote provisionally (5-4).
- Directing BOEs, if they receive an absentee ballot application intended for another county, to transfer it to the correct county (5-27).
- Directing BOEs to use telephone numbers and email addresses, if available, to quickly notify the voter about a deficiency on an ID envelope (5-40).

Below we have provided comments on parts of the OEM where we feel changes are necessary to ensure that Ohio's voting and election systems are secure, effective, and efficient, and that every eligible Ohioan has the right to vote and have that vote counted.

## **Chapter 2: Election Administration**

### *Election Administration Plans*

Thank you for continuing to require the use of Election Administration Plans (EAPs). Secured through a settlement with LWVO after the 2004 Election, EAPs have been an important planning tool for election officials for over a decade. These plans also provide voter advocates insight into all aspects of election operations.

However, changes to the ORC in regards to how elections are administered as well as the ongoing nature of the pandemic call for an update to the EAP template. The EAP template should require BOEs to directly report any polling location(s) where the number of poll workers has been reduced to the minimum required in state law. We specifically request that any reduction of poll workers at any polling location be justified in the EAPs, as well as contingency planning in case of unforeseen challenges such as technology problems, power outages, extreme weather events, public health concerns, and/or high turnout.

The coronavirus pandemic continues to rage on, and bad flu seasons and future pandemics are possible. EAPs should require BOEs to outline basic public health protocols, such as ensuring that early vote centers and Election Day polling locations have hand sanitizer, gloves, and materials to sanitize common touch points. Voters should be notified that they can ask for machines to be sanitized before they use them as well.

### *Advisory Elections*

The section on advisory elections is updated to note that BOEs must notify the Secretary of State's Elections Division of an election that is set to take place outside of a regularly scheduled election, and that the notification must be in writing at least 46 days prior to the election. We ask that you additionally note that if deviations occur, the reconfigured early in-person absentee voting schedule must be made publicly available.

### *Board Procedure - Emergency Meetings*

The OEM notes that "a board must immediately notify all media outlets that have **specifically** requested **advance** notice of the time, place, and purpose of the emergency meeting...". We request that you please delete the words specifically and advance in the quoted section (page 2-25) so as to ensure that the media can report the change without having to specifically ask for emergency meeting notices.

### *Precinct and Polling Location Changes*

We applaud the additional steps you have required BOEs to take in case a polling location change must be made in the 25 days prior to an election. We would like to

request however that the language in this section is stronger, particularly in items 5 and 6, which respectively state that BOEs should “**attempt** to communicate the change in polling locations to all community partners and local news outlets; and **make best efforts** to post signs at the previous polling locations...” The words “attempt” and “make best efforts to” should be deleted so as to make these steps mandatory.

We additionally suggest that at least some of these steps be taken any time there is a change in the polling location of an elector, including: notifying all impacted voters of the change by phone and email (if that information is available); updating website and social media to reflect new changes; and posting signs at the previous polling locations to direct voters to the correct polling location. Additionally, precinct/polling location changes and the reason for them should be published in a newspaper of general circulation. Simply sending a postcard or letter by mail may easily be missed, causing frustration and confusion which may lead to disenfranchisement.

We also believe that if/when there is a change in the boundaries of any precinct, a board should have only 15 days to notify the Secretary of State of the change, as opposed to the current provision in the OEM which gives BOEs up to 45 days after the change to notify the Secretary of State.

#### *Recruitment Goals*

The suggestion that BOEs consider assigning more than four precinct election officials to a precinct if high voter turnout is expected is a good goal. However, stronger language in regards to the recommendation (by swapping out “should consider” to “are encouraged”) in addition to further guidance on how/when to expect high voter turnout would be even more helpful to voters.

#### *Precinct Identification Signs*

The section on polling location supplies notes on page 2-60 that the precinct identifier sign should be placed above the table so it is in plain view of voters entering the polling location. We suggest that signs first be placed at building entrances so that if long lines form people know where to stand prior to being in the registration/voting booth room.

#### *Seventeen Year Old PEOS*

Our organizations are very supportive of programs that allow 17 year olds to serve as precinct officials. It provides a great opportunity for service and lessons in civic engagement. The section on page 2-75 which introduces this provision, however, suggests the program only applies to community or private school students. We ask that

you clarify the section to also explicitly state that BOEs may also work with public schools.

### **Chapter 3: Voter Registration**

#### *Defining Voter Activity*

Mandating that “...boards must check and verify each signature on an otherwise valid part-petition even if it exceeds the minimum number of signatures required for ballot access” is a great addition to the manual. We suggested, additionally, that verification should be tracked digitally, instead of the historical manual process to ensure signature verification can be later confirmed.

#### *Protecting Active Voters from the Supplemental Process*

We agree that voters who interact with the Bureau of Motor Vehicles and have had no change in address should expect that their voter registration will remain active. But given that there is a subset of Ohioans do not interact with the BMV<sup>1</sup>, we strongly recommend that the Secretary of State’s office expand this service to the other Ohio NVRA agencies, so that all voters who have had no change in their address are protected from being moved to inactive status or removed from the voter file. Generally speaking, having registrations updated at the BMV is a huge asset to voters. In 2020, we heard from a number of people who thought their registration had been updated because they interacted with other government agencies. To their surprise, their registration had not been updated. We ask that you issue updated directives for the timely, secure transmission of registrations from agencies to BOEs, and update the manual to inform BOEs on how they should rectify the matter when a voter shows up to vote when their registration hasn’t been transferred from the appropriate government agency.

### **Chapter 5: Absentee Voting**

#### *Mailing of Absentee Ballots*

In Section 1.04 on absentee voting (page 5-5) the EOM states that “Boards **may** begin mailing absentee ballots to those who have requested them on the first day after the close of voter registration before Election Day and **may** continue mailing absentee ballots as they receive valid applications up until 12:00 p.m. noon the Saturday before Election Day.” To ensure uniformity and efficiency among the state’s 88 counties and better service to all of Ohio’s voters, we suggest simply making the language a little stronger by changing the word may to must or should.

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<sup>1</sup> Why using Ohio BMV list to register voters misses many: far fewer young people drive <https://www.cleveland.com/datacentral/2019/09/why-using-ohio-bmv-list-to-register-voters-misses-many-far-fewer-young-people-drive.html>

### *Signature Matching*

We find it extremely problematic that for a voter to cast an absentee ballot, their signature must correspond with the signature that appears in the voter's registration file. Mail in voting is especially likely to be utilized by the disabled, elderly, and new Americans, all of whom this issue has been a concern for, and all of whom are more likely to have a mismatched signature. Every election official or BOE employee who is tasked with signature review should receive adequate training and every BOE should be required to have multiple signatures on file for a voter. BOEs should be required to outline their several step review process in the Election Administration Plan, so that it is clear to regulators, voters, and voter advocates. Finally, forms requiring signatures should include an area for voters to indicate if their signature may appear differently, due to a recent injury or illness.

### *Absentee In-Person Line Maintenance*

The increase in popularity of early voting across Ohio has given rise to a concern at early voting locations - disregard of electioneering rules. Lines at early voting centers often grow beyond the view of election officials; our coalition received regular reports of campaigns and candidates not adhering to electioneering rules by campaigning too close to the line. Election officials and poll workers must be responsible for ensuring that this type of behavior does not happen. We recommend that BOEs have additional staff placed throughout the long lines to ensure that electioneering rules are followed throughout the line.

### *Processing Absentee Ballot Applications*

We ask that you require BOEs to regularly and uniformly track and report the number of absentee ballots requested, the number of applications and ballots denied, and the reasons for those denials. This information is critical for improving voter education and identifying areas where BOEs can improve. We suggest that the information be easily accessible on boards' websites and reflected in the SOS' statewide absentee supplemental report.

### *IDs accepted at Early Vote Center and on Election Day*

In the case that a copy of a current utility bill, bank statement, government check, paycheck, or other government document is used as a form of ID to vote at an early vote center or on Election Day, the OEM only notes under utility bill that a printout of an electronically transmitted statement is acceptable. The Ohio Revised Code section 3505.18 groups these items together, does not differentiate between them, and does

not specify in what form the copy must be. We ask that you allow voters to use a printout of any of these forms of ID to vote.

## **Chapter 6: Provisional Voting**

### *Inclusion of Incarcerated Voters*

The process outlined for provisional voters in special circumstances covers voters with disabilities and personal illness, but leaves out eligible voters who are confined in jails, workhouses, or other incarcerative settings. These voters may also be impacted by the APRI exception, but there is no provision to ensure that they can obtain a provisional ballot. The EOM must be strengthened to ensure all eligible voters can access provisional ballots.

### *Tracking Ballots*

We ask that you require BOEs to uniformly track and report the number of provisional ballots that are issued, the reasons for issuing provisional ballots, the number of applications and ballots denied, and the reasons for those denials. We have found that reports from different counties issue different “reasons for ballot denial” and that is inconsistent with other counties. Uniform information collection is critical for improving voter education and identifying areas where the system needs improvement.

### *Curing Provisional Ballots*

Whenever a BOE receives a provisional ballot from a voter who failed to provide identification on Election Day, whose provisional ballot envelope is missing information or is otherwise defective, or whose eligibility has been challenged and needs to provide information to resolve the challenge, the board should promptly contact the provisional voter to provide an opportunity to supplement their provisional ballot envelope so the ballot can be counted. BOEs should utilize telephone numbers and email addresses to complete this process as quickly as possible. If they do not have phone or email contact info, they should check with other agencies who may have more accurate data. However, if electronic contact is not possible, BOEs must attempt to contact the provisional voter by forwardable mail as quickly as possible. Any information to supplement the provisional voter’s eligibility must be received by the board no later than seven days following the election.

## **Chapter 7: Election Day Voting**

### *Curbside Voting*

Making curbside voting permanently available at early voting locations is a great step forward in helping eligible Ohioans access their right to vote. Asking BOEs to clearly display information regarding parking for curbside voting and explain eligibility requirements for curbside voters is also very helpful. We suggest further strengthening these recommendations by:

- 1 - asking BOEs to allocate a certain number of spaces for curbside voting that is proportional to their county population.
- 2 - creating a method for voters to request assistance at early vote locations or on Election Day without needing to enter the facility. Curbside, as written, requires a voter to “send another *person* into the polling location.” COVID has shown us the need for isolation which may prevent a person who is physically unable to enter the polling location and from bringing another person with them to vote.
- 3 - clearly explain eligibility requirements for curbside voting to ensure uniformity, and prohibit BOEs and/or poll workers from refusing curbside assistance to voters who may not look impaired, given that many disabilities or health conditions may not be visible to the plain eye. Some BOEs turned away voters when poll workers didn’t think they appeared to have a physical need.

## **Chapter 9: Post-Election Activities**

### *Recount: Notices and Observers*

The chapter on post-election activities is about recounts and audits. However, information about recount observers is found in Chapter 7 (Election Day). As a recount is a post-election activity, it would be most helpful for that information to all be grouped together in Chapter 9.

As it stands, BOEs are only required to notify the persons for whom votes were cast of a recount, and for question or issue elections, the petitioners that applied for the recount. We believe that the process should be more similar to that of a post-election audit, and that BOEs be required to publish a public notice and make them open to the public. If nonpartisan observer corps groups are allowed to be present, it provides an assurance to the public that there has been a fair examination of the procedures and an accurate count of all votes cast.

We are grateful for the opportunity to provide comment on behalf of our organizational members and all Ohio voters. Please note that some of our highest priorities are not listed in our comments, including the establishment of an online absentee request portal, automatic voter registration, and multiple early vote and ballot drop locations. We believe you have statutory authority to move forward with these critical policy improvements, and we are willing

to review that understanding with you. Given that our legal opinions may differ, we also are eager to discuss strategy for securing legislative victories in these areas.

Please feel free to contact us should you have any questions or need more information.

Nazek Hapasha  
Policy Affairs Manager  
League of Women Voters of Ohio  
(614) 469-1505; (917) 992-5055  
nhapasha@lwvohio.org

Kayla Griffin  
Ohio State Director  
All Voting is Local  
330-402-2427  
kayla@allvotingislocal.com

Collin Marozzi  
Deputy Policy Director  
ACLU of Ohio  
614-586-1972 ext. 2014  
cmarozzi@acluohio.org