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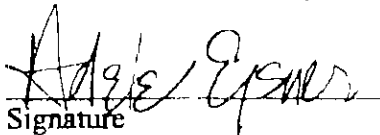
DECLARATION OF ADELE EISNER

I, Adele Eisner, do hereby declare and solemnly declare based upon personal knowledge:

1. I took part in The Greater Cleveland Voter Coalition exit polling during the May 2006 primary in Cuyahoga County, Ohio I was one of 30 volunteers.
2. I interviewed more than sixty people during the course of my exit polling day. I conducted the poll at four widely separated polling locations, each for a period of one hour to four hours per location.
3. More than fifty percent of the people I interviewed encountered the following problems during the May primary:
 - a. The polls opened late --ranging anywhere from 7:30 am to 11 am.
 - b. They had to wait since their own or a previous in line voter's electronic voting machine screen froze
 - c. Only a few machines would stay booted, leaving too few operational machines for too many people. (operational).
 - d. The paper jammed in the machine's voter verified paper trail.
 - e. Voters had not looked at and/or were not aware that there was a paper trail; or thought that hearing the printer was all they would be able know of the paper trail
 - f. Voters expressed sympathy for the poll workers - recognized that they were trying hard, but were inadequately trained, supplied and supported.

- g. Approximately 10% were unclear whether or not they had cast their ballot/had voted.
- h. Two reported that though they looked at the paper trail, in the low lighting of the polling place, they could not clearly read the small thermal print.
- i. One campaigner interviewed in a slow period, working in Cleveland Heights and living in the city of Cleveland reported that he was asked to show his ID at his polling place in the morning. He is an African American male, living primarily in an African-American district. He reported that all others he witnessed that morning at his poll were also asked for ID, though the ID law was not in effect yet.
- j. The wrong supplies or memory cards were provided to the polling places.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 4th day of November, 2006, in Cuyahoga County, Ohio.


Signature

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KING LINCOLN BRONZEVILLE	:	
NEIGHBORHOOD ASSOCIATION, <i>et al</i>	:	
	:	Case No.
Plaintiffs,	:	
	:	
v.	:	Judge
	:	
J. KENNETH BLACKWELL, <i>et al.</i>	:	
	:	
Defendants	:	

DECLARATION OF RON BAIMAN

Pursuant to 28 U.S.C. § 1746, I, Ron Baiman, declare the following

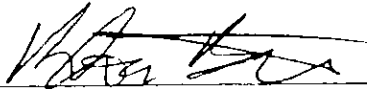
1. This declaration is made in support of Plaintiff's complaint.
2. I have personal knowledge of the facts alleged herein.
3. I reside at 205 South Humphrey Avenue, Oak Park, Illinois. I am currently employed at Loyola University of Chicago. I hold a Ph.D. in Economics, received in 1992 from the New School University, New York, New York. My professional fields are economics and statistics. I have seventeen years of experience teaching college statistical courses and applying statistical analysis for both the private and public sectors.
4. I collected and examined election data from the 2004 Presidential election in twelve rural counties in southwest Ohio on the following dates: June 26-30, July 17-21, and July 25-28, 2006.
5. In Miami County, where optical scan ballots were used, I uncovered evidence of vote corruption.
6. Poll book and absentee ballot audit records reveal that Miami County Official vote totals have little to no relation to the voters who voted in the County.

- 7 At least 8% of precincts in Miami County have an at least 5% discrepancy between the number of voters who voted and the officially certified number of votes.
- 8 These seven precincts in Miami County, out of a total of 82 precincts in the county, account for 2,377, or 5 %, of the county's vote total.
9. Two of these precincts in Miami County are off by more than 100 votes.
10. In at least 13 precincts, or 15% of precincts in Miami County, there is at least a 5 vote difference between the officially certified vote and the number of voters who are recorded (with name and address) as having voted in these precincts.
11. These 13 precincts include 6,630 certified votes or 13% of the county's vote total.
12. In Clermont County, where optical scan ballots were used, I documented highly suspect record keeping.
- 13 On July 28, 2006, in Clermont County, in a random pull of one ballot per precinct, I found numerous ballots marked "Duplicate" for which no "Originals" could be produced.
- 14 In Clermont County, Precinct 50, Miami Township B, I found thirty-six ballots marked "Duplicate" in a row. Clermont County election officials could not produce any "Original" ballots to match the "Duplicates" that I found.
- 15 I have a video of the Clermont County election officials counting the thirty-six consecutive duplicates, since I was not allowed to handle the ballots.
- 16 A string of thirty-six consecutive "Duplicates" in one precinct, without any "Originals" is highly suspect and statistically improbable.
- 17 This random find of thirty-six straight duplicate ballots strongly suggests that the Clermont County 2004 Presidential vote count was corrupted. However, further investigation and inspection of the ballots is necessary to see if this pattern of "Duplicates" without corresponding "Originals" was widespread and systemic.
18. In Mercer County, on July 21, 2006, I was prevented from taking any photographs of ballots or any other election records by the Assistant County Prosecutor, Ms. Amy Ikerd because these might harm the "integrity of the documents" in some way.

19. On July 18, 2006, in the Darke County Board of Elections storage area, I encountered a sticker indicating that the ballots will be destroyed on September 3, 2006, following the 22 month retention period. Ohio's 2004 Presidential election ballots should be preserved, examined and analyzed for further study.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of August, 2006.



Ron Baiman

**DRE Analysis for May 2006 Primary
Cuyahoga County, Ohio**

August 2006

August 15, 2006

Commissioner Jimmy Dimora, President
Commissioner Peter Lawson Jones
Commissioner Timothy F. Hagan
Cuyahoga County Administration Building
1219 Ontario Street, 4th Floor
Cleveland, Ohio 44113

**SUBJECT: ANALYSIS OF MAY 2006 PRIMARY ELECTION
CUYAHOGA COUNTY, OHIO**

Dear Commissioners:

Enclosed is the analysis of the May 2006 Primary in Cuyahoga County prepared by Election Science Institute. On behalf of the researchers and many others who worked on this report, thank you for your willingness to let us behind the scenes to conduct a thorough review of how the new election system is performing in the early stages of use.

Your openness will certainly result in elections that are ultimately more accurate for the voters of Cuyahoga County. Indeed, the lessons learned through this analysis will be useful to election boards around Ohio and throughout the country. This project is an important step to restoring confidence in the outcome of our elections.

Key findings and recommendations are outlined in the Executive Summary; a detailed account of the research is found in each of the seven sections of the report, with each section corresponding to the research commissioned by Cuyahoga County. As you know, voting machines are only a component within the larger election system. Any assessment of an election system must include an evaluation of administrative procedures, pre-election programming and testing of the voting machines, voter and booth worker interaction, and counting and auditing procedures. We would like to underscore that our findings are based on research of the entire election system. Although the new touch screen election system is vastly different from its predecessor, it is still the case that an election can only be as successful and reliable as the human administration of all the components of the election system.

Also on behalf of the ESI team, I believe it is important to say directly to you that the current election system appears to provide some of its promised benefits at potentially great cost; namely, that the election system, in its entirety, exhibits shortcomings with extremely serious consequences, especially in the event of a close election. These shortcomings merit your urgent attention. Relying on this system in its present state should be viewed as a calculated risk in which the outcome may be an acceptable election, but there is a heightened risk of unacceptable cost.

Table of Contents

Executive Summary 1

Election Day Voter Exit Poll Survey 15

Post Election Survey of Booth workers & Election Day Technicians..... 27

Polling Place Incident Report Analysis 48

Optimal Voting Machine Allocation Analysis. 71

Manual Count of Paper Ballots 90

Comparing the Count 102

Election System Functional Threat Analysis.. 125

Appendices 149

Glossary of Terms 227

- An exit poll of voters on Election Day was conducted by researchers from the Center for the Study of Elections and Democracy (CSED) and Edison Mitofsky, Inc. The survey asked voters about their experience and their confidence in the new system.
- A survey of booth workers was conducted by experts from The Pollworker Institute, Promark Research, and CSED. The survey probed booth workers about their experience and their opinions about strengths and weaknesses of the new system.
- A review and analysis of Election Day incidents reported by booth workers and command center staff fielding booth worker calls was conducted by scientists from the California Institute of Technology and the University of Utah Public Policy Center.
- A manual count of the VVPAT paper ballots carried out by elections officials from around Ohio and the country, along with statisticians and engineers, endeavored to reconcile the number of actual paper ballots with the results report printed on the VVPAT tape. The manual count project provided an indication of how difficult a formal complete recount would be, if required.
- An analysis of voter wait times and voting machine allocation by systems engineers from Ohio State University and Sagata Ltd. assessed how many voting machines would be required, and what other measures would be needed, to bring delays at polling places down to acceptable levels.
- A comparison of the paper ballot results, the results recorded on the machine memory, official results, and other reports was conducted by social and political scientists, including a principal investigator for the Election Assistance Commission Vote Count and Recount Project.
- A detailed threat analysis conducted by a systems engineer (a senior member of the American Society for Quality), an operations engineer and election officials assessed both the likelihood of particular threats and a standard for the proper functioning of the system

Summary of Key Findings

Key Finding: After three months of exhaustive research, empirical evidence supports the key definitive finding: The machines' four sources of vote totals – VVPAT individual ballots, VVPAT summary, election archive, and memory cards – did not agree with one another.

The current election system appears to provide some of its promised benefits at potentially great cost; namely, that the election system, in its entirety, exhibits shortcomings with extremely serious consequences, especially in the event of a close election. These shortcomings merit urgent attention. Relying on this system in its present state should be viewed as a calculated risk in which the outcome may be an acceptable election, but there is a heightened risk of unacceptable cost.

The ESI team arrived at this conclusion only after completing the seven projects described above. This conclusion is supported not only by the findings themselves but also by the difficulty encountered in conducting the projects.

- About one-third of booth workers said they had difficulty setting up the machines and 45% said they had difficulty “closing out” the machines at the end of the day. Specifically, 38% had some difficulty with the printers and/or paper spools.
- 41% of booth workers noticed differences between how they learned to use the machines in training and how the machines operated on election day. A large majority (74%) of that group thought the training and actual procedures were either “a lot different” or “somewhat different” from one another.
- 51% disagreed that the training provided them with enough information to do their job well; 57% disagreed that they had enough hands-on practice with the voting machines.
- 53% of election workers also expressed concern that training on election law and administrative procedures was inadequate.
- About half of the booth workers attempted to call the command center on election day; 35% of those callers were able to speak to someone on the first try.

Polling Place Incident Report Analysis

Key Finding: Incident reports were widespread but concentrated, with 9% of precincts reporting 10 or more incidents. The most commonly reported incidents were voter registration issues (30.1%), election administration issues (22.6%), problems related to voting machines (16.2%) and issues involving booth workers (9.1%).

Booth workers are required to report all polling place “incidents” that might have an impact on the results such as anomalies in the voter check-in process, problems with the voting machine, fleeing voters and other events. ESI reviewed and analyzed both the incident reports provided by booth workers and the log kept by Command Center staff fielding calls from booth workers.

- 88.7% of all precincts reported at least one incident. However, certain precincts had a very high number of incidents. 9% of precincts reported having ten or more incidents and five precincts reported 20 or more incidents.
- Almost one-third (30.1%) of all incidents involved voter registration issues, such as incorrect addresses, misspelled names, or inconsistent signatures.
- 22.6% of reported incidents related to election administration, such as not being able to reach the Board of Elections by telephone, issues with training, steps in the process being skipped (such as not having voters sign the poll book when polls were busy), and lack of supplies.
- 16.2% of incidents involved problems with all voting equipment (i.e. the voting machines, the printing devices, or the ballot access cards and encoder devices).
- 9.1% percent of incidents involved the booth workers, usually a worker not showing up. When the relationship between booth worker incidents and other reported incidents was examined more closely, there was a correlation found between the two—for example, a higher rate of machine failure, encoder or access card problems, or printer, administrative, supply, voter, and seal incidents. Such a correspondence strongly suggests that not having a full complement of booth workers at a precinct can lead to other problems at that polling place.

Manual Count of Paper Ballots

Key Finding: VVPAT's were missing, missing information and the tally of the individual ballots did not always match the VVPAT summary printed at the end of Election Day.

In order to validate the accuracy of Election Day vote tabulations by the Cuyahoga County BOE Diebold voting system, ESI conducted a manual count of the VVPAT paper ballots. Using a recount fixture that allowed for viewing the tapes without handling them, a team of election officials, booth workers and students tallied the votes for governor on each tape. The paper ballot tallies were initially compared to the results report printed on the VVPAT tapes. When the count did not match the count provided by the results report, the paper ballots were recounted.

- 85% of the VVPAT Ballots and VVPAT Summaries reconciled after the primary manual count, where approximately 15% required a secondary count
- 14% of the VVPAT cartridges exhibited missing ballots.
- 16.9% of VVPAT tapes showed a discrepancy of 1 - 5 votes between the tally of ballots and the results report; 2.1% showed a discrepancy of over 25 votes.
- During the manual recount, team members discovered 40 VVPAT tapes (9.66%) that were either destroyed, blank, illegible, missing, taped together or otherwise compromised.
- Identifying information on the VVPAT tape such as precinct information and machine identification was inconsistent, as were the summary reports printed at the end of the day. 2.8% of the VVPATs were missing machine ID numbers, 54% did not identify the precinct, increasing the difficulty of a meaningful audit and raising questions about the integrity of the vote count.
- VVPATs showed evidence of booth workers using trial and error to print reports and start up or close down the machines, workers apparently attempted to overcome printer problems by shutting down machines, removing and replacing cards, and restarting machines.
- 72% of the labels identifying canisters containing the VVPAT tapes were missing information. 46% of the canister labels were blank.
- Booth workers frequently failed to sign the tapes. Such failures in chain of custody also increase the risk of a legal challenge.

Comparing the Count

Key Finding: Discrepancies were found across vote counts stored on different mediums across the election system.

ESI conducted an exhaustive analysis of regular voted ballots from onboard machine memory compared to manual counts of paper ballots, official results, and other interim and election reports. The comparisons revealed a wide range of discrepancies. Some discrepancies may also reflect ESI's errors in processing.

- Inconsistent DRE programming can cause glitches in electronic count. Any issue that leads to unreliable consolidation of data is serious because thousands of votes could be lost or shifted by accident in the electronic count
- Inconsistent DRE closedown procedures affect the manual count. Variability in how machines are closed down at the polling place on Election Day could lead to unreliable paper records, which would prevent a reliable manual count.
- The lack of memory card security can cause incidents. Considering that the memory cards used are fairly standard and the encryption efforts are questionable, straightforward issues with card security (lost, stolen, or substituted) are conceivable
- Effective database management is crucial. Without direct observation of the data consolidation and electronic counting process and/or interviews with relevant personnel, ESI can only speculate about causes and issues in data management. Moreover, checks and balances of the data consolidation process can be designed to improve detectability.

Modify election processes to address documented problems in the chain of custody of mission critical election assets: memory cards, VVPAT Cartridges, and DRE voting devices. Develop, test and implement appropriate inventory control procedures.

- In order to be able to reconstruct the events of , the procedures for opening and closing machines and processing voters must be consistent. The data gathered by ESI in the course of the manual recount suggested a lack of consistency, which hindered auditability. This inconsistency is especially prominent in how booth workers complied or failed to comply with established policies. **ESI recommends that the BOE take strong measures to improve consistent application of policies and procedures associated with the creating and handling of memory cards and VVPATs.**

Work with voting system vendor to establish procedures that will ensure audibility of the election process, specifically to allow for a reliable comparison of the paper ballot and electronic count.

- **The BOE should work with the voting system vendor immediately to develop a machine-level auditing capability** that will make it simple and transparent to compare electronic and paper ballot data, and to thus identify the specific anomalies associated with specific machines.
- The attempt to count VVPAT ballot revealed multiple problems with the DRE printers. The VVPAT printer, whether resulting from human or machine error, will likely continue to present a significant liability in the elections process. And because the printer is necessary to create the official ballot, such a risk is deeply problematic. Some of these issues can be mitigated with improved booth worker training and greater familiarity with the machine on the part of the booth worker. **ESI strongly recommends that the Board of Elections develop contingency strategies to ensure that printer issues do not prevent a manual count of paper ballots.**

Develop accounting procedures and report formats that will allow for a thorough post-election audit.

- The myriad difficulties ESI encountered and the extensive effort required to reconcile the paper ballot count and the electronic record make it difficult to forecast a reasonable limit on the levels of time and effort required for a comprehensive, thorough post-election audit. **The BOE needs to determine what information must be collected on Election Night and in the post-Election period and work backwards to develop the procedures necessary to ensure that information will be consistent and available.**

Biographies of the Study Team Members

Project Director

Steven Hertzberg, ESI's founder, is an Aerospace Engineer who spent his early career working as a civilian within the US Department of Defense. However, Steven successfully transitioned into a serial entrepreneur, participating in successful ventures in the automotive accessories, industrial food equipment, information technology, television and direct marketing industries. Mr. Hertzberg formed ESI shortly after the 2000 Presidential election in an effort to develop his concept of the Public Service Intermediary (PSI).

Project Team

Theodore T. Allen is an associate professor of industrial and systems engineering at the Ohio State University in Columbus. He received his PhD in industrial and operations engineering at the University of Michigan in Ann Arbor. He is a senior member of the American Society for Quality and an associate editor of the Journal of Manufacturing Systems. He has over 30 refereed publications related to design of experiments and six sigma systems improvement including a Springer textbook. Also, he is a partner in Sagata Ltd., whose work on elections is supported by the Election Science Institute.

R. Michael Alvarez, professor, Caltech, is one of the principal investigators for the Caltech/MIT Voting Technology Project, and is regarded as an international expert on elections, voter behavior, election administration, voting technology and political methodology. He has published three books and scores of peer-reviewed articles on these subjects, and is currently working on a new book on the electronic voting controversy (with Thad E. Hall).

Mikhail Bernshteyn is a founding partner of Sagata Ltd., which is a software and consulting company. He is also the director of its Canadian branch in Montreal. He received his PhD in industrial and systems engineering at the Ohio State University. He has published several articles in top tier journals in applied statistics and continues multidisciplinary research applying operations research and statistics.

Howard B. Christensen, PhD (statistics), accepted appointment as Asst. Prof. at Brigham Young University in 1967 and did a sabbatical at the Statistical Research Division, Bureau of the Census, 1974-1975. He has taught sampling courses at BYU from 1967 to present and developed and modified the sampling design for the Utah Colleges Exit Poll, a statewide exit poll in Utah. This sample survey has been conducted every even year since 1982. He also developed an off-year exit poll for Salt Lake City Mayor's race, 2003 and for a Utah Primary in 2006. He has consulted on numerous other sample survey projects. His research interests have been survey sampling, nonparametrics, and statistical education, and he has written two introductory statistics books published by Houghton Mifflin, and Saunders/Harcourt Brace Jovanovich.

Thad E. Hall, assistant professor, University of Utah, is the principal investigator for the Election Assistance Commission's Vote Count and Recount Project. He has written several reports, articles, and a book on election administration and voting technology.

Quin Monson is Assistant Professor of Political Science and Assistant Director of the Center for the Study of Elections and Democracy at Brigham Young University. His PhD is from Ohio State University. His research and teaching are in public opinion; campaigns, elections, and voting behavior; survey research methods; and religion and politics. He co-directs the Utah Colleges Exit Poll with Kelly Patterson. He is the co-editor of *Dancing Without Partners: How Candidates, Parties, and Interest Groups Interact in the Presidential Campaign* (Rowman and Littlefield, 2007), *Electing Congress: New Rules for an Old Game* (Prentice Hall, 2007), and *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections* (Brookings Institution Press, 2004). His research has also appeared in *Political Research Quarterly*, *Political Analysis*, *Presidential Studies Quarterly*, and the *Journal for the Scientific Study of Religion*.

Kelly Patterson is associate professor of political Science at Brigham Young University. He is director of the Center for the Study of Elections and Democracy. He teaches and does research on campaigns and elections.

Douglas A Samuelson D.Sc has over 30 years of experience in statistics, operations research, regulation and enforcement, litigation support, and decision and policy analysis. He has been a Federal policy analyst, a successful high-tech inventor, entrepreneur and executive, and a university faculty member. Currently he is President of InfoLogix, Inc., a research and consulting firm in Annandale, Virginia. He has a D.Sc. in operations research from The George Washington University.

Gary Smith has been the Chairman Board of Elections/Director in Forsyth County, Georgia since 2002. Gary has been instrumental in implementing the Diebold DRE voting system across Georgia, and now has 3 years of experience with the system. Gary is also a member of the Georgia Elections Task Force and the HAVA State Planning Committee, and resides on the Georgia Election Officials Association Legislative Committee and is an Executive Board member of the Voter Registrars Association of Georgia. Mr. Smith led the manual count operations.

Tracy Warren, of The Pollworker Institute, has more than 15 years of experience in public policy, with a focus on good government, campaigns and elections and constitutional issues. She was Director for the Constitution Project's Election Reform Initiative, housed at Georgetown University, and currently serves as Executive Director for The Pollworker Institute, a nonpartisan, non-profit organization dedicated to improving booth worker recruitment, training and retention. Since 2002, Warren has worked as a consultant on election reform and implementation of the Help America Vote Act for the U.S. Election Assistance Commission, the International Foundation for Election Systems, the Pew Charitable Trusts and the District of Columbia, among others. Her articles on election issues have appeared in *Campaigns and Elections*, *Elections Today* and *The National Voter*.

Dan Williams is an instructor of Statistics at Brigham Young University and operates DEW-It Research, a statistical consulting and questionnaire design firm, where he consult with various survey research companies, data collection companies, educational entities, and other organizations to design research projects, write survey instruments, design samples, and organize and analyze collected data.

OFFICIAL OFFICE TYPE BALLOT

OFFICIAL GENERAL ELECTION BALLOT

NOVEMBER 7, 2006
GREENE COUNTY, OHIO

For Governor and
Lieutenant Governor

(Vote Not More Than ONE)

For Governor
LAWRENCE BIRCHAKWELL

For Lieutenant Governor
THOMAS A. RAGA

For Governor

ROBERT FITZAKIS

For Lieutenant Governor

ANTHONY

For Governor

BILL PEIRCE

For Lieutenant Governor

MARK M. NOBLE

For Governor

JED STEPKA AND

For Lieutenant Governor

JEE USHER



For Governor

For Lieutenant Governor

Back

Instructions

Summary

Next



J. KENNETH BLACKWELL
Ohio Secretary of State

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DIRECTIVE NO. 2006-50

May 17, 2006

TO: ALL COUNTY BOARDS OF ELECTIONS
Members, Directors & Deputy Directors

ELECTION RECOUNT REQUIREMENTS & PROCEDURES

Attached to this Directive is *Recount Procedures 2006*, discussing the provisions of Revised Code sections 3515.01 through 3515.07. These provisions apply to all recounts of elections, whether mandatory (also referred to as "automatic") or requested, of statewide, county and district candidate races, and on questions and issues. *Recount Procedures 2006* incorporates amendments enacted by Am. Sub. H.B. 3 that became effective on May 2, 2006.

Please remember that a recount is based on official results. Therefore, no board shall conduct a recount prior to the certification of the official canvass results.

Before the board can certify the results of an election, each candidate race must have a declared winner. Any question and issue that fails to receive a majority of the votes cast is declared defeated.

- **Candidates:** If the official canvass of votes for a candidate race results in a tie (i.e., two or more candidates receive the same, equally high number of votes), **the tie must be resolved** by lot at the board's certification meeting **before the board certifies the results** of that race.

First, a majority of the board members agree upon the method to be used, such as tossing a coin, cutting cards, drawing straws, pulling a name out of a hat, and the like. Second, the board chairman, in the presence of a majority of the other board members, breaks the tie by lot and declares the winner. Third, that declaration must be put in writing, dated, and signed by at least a majority of the members of the board. Fourth, the board must post a copy of the executed declaration in a conspicuous place in its office.

Only then may the board certify the abstracts of the results of that race and proceed to schedule the recount mandated by R.C. 3515.011 for 6-10 days thereafter (weekends and holidays included). In accordance R.C. 3515.02, the board must give at least 5 days notice of the recount, unless all candidates in that race provide written waiver of the notice requirement.

The candidate whom the board declared the winner as a result of the tie breaker remains the winner of the race unless the recount results in a different candidate receiving a greater number of votes than the declared winner.

- **Question or Issue:** By contrast, a tie vote on a question or issue is **not** broken by lot, because the question or issue automatically is defeated if it fails to receive a majority of the votes cast. However, R.C. 3515.011 requires the board to conduct a recount of votes cast for the question/issue 6-10 days after the official certification (weekends and holidays included). In accordance with R.C. 3515.03, the board must give written notice of the recount to the appropriate political subdivision or the issue committee at least five days before the recount, unless all entities entitled to receive notice provide written waiver of the notice requirement

BALLOT SECURITY

Ballot security is important at all times. As soon as any ballot tabulation is completed, all ballots, VVPATs, memory cards, cartridges, PCMCIA cards and other removable memory devices must be stored in a safe, dry place secured with two locks: one lock that can be opened by the director, and the other lock by the deputy director or other designated employee of the opposite political party of the director. All used ballots and VVPATs must be retained for at least 22 months after election day, unless ordered held by the Secretary of State or a court of competent jurisdiction.

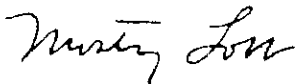
Reminder. Each board must take steps to ensure that no one person, acting alone, is able to gain access to ballots -- whether marked or soiled -- or the inventory of unused ballots.

*Please remember to consult with your county prosecutor regarding public records requests for copies of your poll books and ballots.
See also Attorney General Opinion 2004-050*

QUESTIONS

If you have any questions regarding these instructions, please contact the Elections Division at (614) 466-2585.

Sincerely,



Monty Lobb
Assistant Secretary of State

Encl.

RECOUNT PROCEDURES 2006

(Sections 3515.01 through 3515.07 of the Revised Code)

A. CLASSIFICATION OF RECOUNTS

It is well established in Ohio election law that the certified results of any election are subject to recount as provided in Revised Code Chapter 3515. Some recounts are mandatory (R.C. 3515.011), while other recounts are conducted only if requested by eligible persons (R.C. 3515.01).

1. Automatic Recount (R.C. 3515.011)

- a. *District, county, municipal or township:* A recount is required if the margin of votes is equal to or less than one-half of one percent of the total vote cast on the candidacy or issue.

With respect to a mandatory recount of any election involving voters of only one county or a municipality, the board of elections of that county orders the recount.

With respect to a mandatory recount of an election involving voters of two or more counties, the most populous county of the district must notify the Secretary of State, who then will order the recount of that election.

- b. *Statewide:* A recount is required if the margin of votes is equal to or less than one-fourth of one percent of the total vote cast on the candidacy or issue. The Secretary of State orders the recount for any statewide candidacy or issue.

2. Requested Recount (R.C. 3515.01)

- a. *Candidate Race:* Any candidate who was not declared nominated or elected may request, by written application accompanied by the appropriate security, a recount of the votes cast in any precinct in which he or she was a candidate. (See “C. Application,” below.) A requested recount is appropriate only if a recount of the race is not mandated by R.C. 3515.011.
- b. *Question/Issue:* Any group of five or more qualified electors who declare that they voted “for” a question or issue that was defeated, or “against” a question or issue that passed, may request, by written application accompanied by the appropriate security, a recount of the votes cast in any precinct that question or issue. (See “C. Application,” below.) The group filing for the recount must designate, in its application, one of its members as the group’s chairperson. A requested recount is appropriate only if a recount of that question or issue is not mandated by R.C. 3515.011.

3. Scheduling a Recount – Providing Written Notice (R.C. 3515.03)

Upon the filing of an application, or upon declaration by the board or secretary of state that the results of any election for a candidate race, question or issue mandates a recount, the board shall promptly fix the time, method, and the place at which the recount will be made, which time shall be not later than 10 days after the day such application is filed or such declaration is made.

At least five days before the recount, the board must give written notice of the time and place of the recount to all persons entitled to receive notice. The recount cannot be held sooner than the fifth day after the board certifies the election results unless everyone entitled to receive notice waives, in writing, the five-day notice provision.

See also the Section D, “Before the Recount,” below.

B. DETERMINING ONE-HALF OF ONE PERCENT FOR A MANDATORY RECOUNT

1. One To Be Elected

Where there are two or more candidates for a single office, such as county commissioner, the votes for all candidates in that race are added to obtain the total vote. For example

Candidate A	2,845 votes	(declared elected)
Candidate B	2,815 votes	(defeated)
Candidate C	2,795 votes	(defeated)

The total vote for the office is 8,455. Of that total, $\frac{1}{2}$ of 1% is 42 votes. Candidate A defeated Candidate B by 30 votes, which is less than $\frac{1}{2}$ of 1%. Candidate A defeated Candidate C by 51 votes, which exceeds $\frac{1}{2}$ of 1% of the total vote cast for the office of county commissioner. However, because one of the defeated candidates was within the $\frac{1}{2}$ percent margin, the entire race is automatically recounted.

2. Several To be Elected

The "declared winning candidate" refers to the candidate whose election is disputed, rather than to all of the candidates declared elected. Thus, if five candidates seek election as council members-at-large, with three to be elected, only the votes cast for Candidates F, G and H are regarded as the "total votes" cast for the third council seat in computing the margin for an automatic recount. For example:

Candidate D	4,200 votes	(elected)
Candidate E	4,100 votes	(elected)
Candidate F	2,300 votes	(declared elected)
Candidate G	2,275 votes	(declared defeated)
Candidate H	2,250 votes	(defeated)

Do not include the votes cast for Candidates D and E in computing the total vote for the third council seat.

The votes cast for Candidates F, G and H total 6,825. Of that total, $\frac{1}{2}$ of 1% is 34 votes. Thus,

- Candidate F defeated Candidate G by 25 votes, which is less than $\frac{1}{2}$ of 1%.
- Candidate F defeated Candidate H by 50 votes, which exceeds $\frac{1}{2}$ of 1% of the total vote cast for the third council seat.

An automatic recount must be ordered on the basis of the margin of votes cast for Candidates F and G. Only the votes for Candidates F, G and H are recounted, not all five candidates.

C. APPLYING FOR A RECOUNT

1. Written Application for a Requested Recount (R.C. 3515.01, 3515.02, 3515.03)

As discussed under "A.2 Requested Recount," above, R.C. 3515.01 provides that a recount of the election results certified by a board of elections may be requested as follows:

- a **Candidate race:** A candidate who was not declared nominated or elected (i.e., was defeated) in a race may make written application to the appropriate election officials for a recount of votes cast in that race in some or all of the precincts where that race was submitted to the voters.
- b **Question or issue:** A group of five voters who voted opposite to the certified result (i.e., if the question or issue passed, they vote against it, or vice versa) may file a written application with the appropriate election officials for a recount of votes cast on that question/issue in all or some of the precincts where that question/issue was submitted to the voters.

Pursuant to R.C. 3515.02, the defeated candidate or group of voters must file a written application requesting the recount with the appropriate election officials within five (5) days after the board of elections certifies the official canvass of the election results, as follows:

- For elections within the county: the county board of elections
- For multi-county district elections: the board of elections of the most populous county.
- For a statewide race or issue: the Secretary of State

R.C. 3515.03 requires that an application for recount must list each precinct to be recounted

2. Deposit (R.C. 3515.03)

- a. The applicant(s) must file with the application a deposit of \$50 in currency, bank money order, bank cashier's check, or certified check for each precinct to be recounted
- b. The board shall deposit all moneys received from an applicant in a special depository fund with the county treasurer. The expenses of the recount and refunds shall be paid from that fund upon order of the board of elections. Any balance remaining in that fund shall be paid into the general fund of the county
- c. The deposit serves as security to cover the cost of the recount. If all precincts are not counted, any unused balance is refundable to the applicant(s).

3. Assessing recount charges (R.C. 3515.07)

a. Calculating the charges

The board of elections calculates the charges for making the recount, including all expenses incurred by the board because of the application, but *excluding* the regular operating expenses that the board would have incurred if the application had not been filed

The total amount of charges so fixed divided by the number of precincts listed in the application, the votes of which were recounted, shall be the charge per precinct for the recount of the votes of the precincts listed in the application, the votes of which were recounted. The charges per precinct shall not be more than \$50, nor less than \$5, for each precinct in which the votes were recounted

The board shall deduct the charge per precinct from the money deposited by the applicant, and the board shall refund to the applicant the balance of the money so deposited

b. When charges shall not be assessed

No such charge per precinct shall be deducted from the recount deposit in the following circumstances:

- (1) Upon the completion of the recount of a nomination or an election to an office or position in any precinct, either of the following occurs:
 - (a) The total number of votes cast in such precinct for the applicant, as recorded by the recount, is more than four (4) per cent larger than the number of votes for the applicant in that precinct recorded in the original certified abstract, or
 - (b) The applicant is declared nominated or elected
- (2) Upon the completion of the recount of a question or issue,
 - (a) The total number of votes in that precinct on the same side of that question or issue as the side represented by the applicant, as recorded by the recount, is more than four (4) per cent larger than the number of votes in that precinct on the same side of that question or issue recorded in the original certified abstract, or
 - (b) The result of that election is declared to be opposite to the original declaration of the result of that election

D. BEFORE THE RECOUNT**1. Establish Time of the Recount (R.C. 3515.03)**

No recount shall be held prior to the official canvass and certification of the election. The board members must fix the time, method and place of the recount. Accounting for the five-day notice requirement (*see* No. 2, *immediately below*), a recount must be held within 6 to 10 days after the declaration of official results or after an application is filed.

2. Notice To Candidates/Issue Committees (R.C. 3515.03)

The director must notify all candidates in the race or chairperson of a question or issue being recounted of the time and place by certified mail not later than five (5) days before the recount is held.

3. Witnesses* (R.C. 3515.03)

- a. Each candidate in the race or chairperson of a question or issue being recounted is entitled to one witness for each counting team or tabulating unit.
- b. A witness may observe the recount, but shall not interfere with it nor touch the ballots.
- c. Appointments of witnesses must be in writing, signed by the candidate or issue chairperson.

*Am. Sub. H.B. 3 amends various sections of the Revised Code of Ohio to delete references to "witnesses" appointed pursuant to R.C. 3505.21. Effective June 1, 2006, the term "witness" is replaced by the term "observer" in those sections of law.

E. STOPPING A RECOUNT (R.C. 3515.03, 3515.04)**1. Before a Mandatory Recount Starts (R.C. 3515.03)**

At anytime after a recount is ordered pursuant to R.C. 3515.011, but before the recount is held, the declared losing candidate or issue chairperson may file a written request to stop the recount. If more than one losing candidate is entitled to the recount, each of the candidates must file such written request. The board must grant the request.

2. After the Recount Starts (R.C. 3515.04)

At any time during a recount, the declared losing candidate or candidates or the chairperson may file a written request to stop the recount. If the board finds that results of the recount at that point will not change the official results, the recount is stopped. If the board finds otherwise, the request to stop recounting must be denied and the recount continued until all ballots from the precincts involved have been counted.

F. RECOUNT PROCEDURES (R.C. 3515.04, 3506.18, 3501.05)**1. All Voting Systems**

- a. The recount must be conducted by teams having equal numbers of Democrats and Republicans.
- b. The total vote cast in a candidate race, or on a question/issue, being recounted must be compared to the number of voters listed in the pollbook, poll list, or signature pollbook records. In the presence of at least two election officials of different political parties, the records must be available for visual inspection by witnesses. The witnesses shall not be permitted to handle the records.

- c. Absentee ballot envelopes returned after the statutory deadline may be viewed by the witnesses. A witness may *not* see the actual ballots, only the ballot envelopes, which must still be sealed. Disputed ballots may be settled as they arise by the board or by a majority of the employees designated as teams, if so delegated by the board
- d. Ballots must be handled only by members of the board, the director, the deputy director or other designated employees of the board.
- e. Votes cast for write-in candidates must be checked to determine (1) if the candidate is a qualified write-in candidate, and (2) if the ballot is overvoted.
- f. Witnesses may observe the inspection of the ballots.

2. Paper Ballots

Either:

- a. Count all eligible ballots as on election night, or
- b. Sort the ballots using the “stack method,” then count each stack. The “stack method” means sorting by candidate, yes or no vote, for or against vote, and overvote or no vote.

3. Optical Scan

a. Test the Program

- (1) Prepare a test stack of ballots that are pre-marked and then manually count them
- (2) Run the test stack through the tabulator to verify that the tabulator total matches the hand count

b. The Recount

- (1) Ballots must be inspected for mutilations and other invalidities.
- (2) Ballots must be checked for proper candidate position and to verify each candidate, question, or issue has been properly identified.
- (3) The board must select one or more whole precincts whose total equals at least 3% of the total vote and must manually count those precincts’ ballots. Selection method need not be mathematically random. If the recount involves only one precinct, a manual count shall be conducted.
 - (a) Run the manually counted precincts through the tabulator.
 - (b) If the tabulator count does not match the hand count, and after rechecking the manual count the results are still *not* equal, *all ballots must be hand counted*. If the results of the tabulator count and the hand counted ballots are equal, the remainder of the ballots may be processed through the tabulator.
 - (c) At the conclusion of the recount, the program must be retested using the pre-audited test stack of ballots.

4. Direct Record Electronics (DRE)

In accordance with R.C. 3506.18, the voter verified paper audit trail (VVPAT) shall serve as the official ballot to be recounted

The following process must be followed to protect and preserve the secrecy of an absentee or provisional ballot cast on the DRE in conducting the hand count of the VVPAT.

a. Secrecy of ballot

- (1) Prepare a list indicating valid and invalid provisional ballots with the electronic stub numbers included, but with no name linked to the numbers
- (2) When a provisional ballot is listed on the VVPAT, the VVPAT team must immediately cover the portion of the ballot indicating the voter's choice(s) by a method determined by the board
- (3) Two election officials comprising the VVPAT team shall ascertain from the list provided whether the ballot is valid or invalid.
- (4) Once a ballot's validity or invalidity has been ascertained, the VVPAT team shall mark out or label over that ballot's electronic stub number so the stub number is unreadable.
- (5) The ballot is then counted or not counted, depending upon its validity as indicated on the certification list. If the ballot is not counted, in addition to having the electronic "stub number" marked out, the ballot shall be marked "Not Valid."

b. Verify VVPAT

- (1) The board must select one or more precincts whose vote equals at least 3% of the total vote. Selection method need not be mathematically random.
- (2) For each ballot position to be recounted, a manual record of the vote for each voting unit must be made by physical examination of the VVPAT roll. The manual record must then be compared to the recorded summary that appears at the end of the VVPAT for that ballot position. If there is no difference between the manual record and the VVPAT summary, the VVPAT summary for every voting device shall be presumed accurate.
- (3) If the manual record and the VVPAT summary are different, it must be determined if a manual counting mistake has occurred. If so, a new manual record may be made for comparison.

c. The Recount

- (1) Check the public counters to verify that the numbers on those counters correspond to numbers on the VVPAT and the pollbook, poll list, or signature pollbook records.
- (2) If the VVPAT summary report for each DRE is determined to be accurate, the votes recorded on each VVPAT summary report is the official record of ballots cast for that voting device. However, if the recount involves only one precinct, a manual recount must be conducted.
- (3) The results of every VVPAT summary report of the ballot positions to be recounted shall be added together to determine the total number of votes cast for each candidate or issue to be recounted.
- (4) If it is determined the VVPAT summary reports do not accurately reflect voter selections recorded on the VVPAT, a manual count must be conducted on every VVPAT roll.
- (5) The board shall take measures to assure an accurate manual count is conducted of the VVPAT summary reports.
- (6) A manual count of individual voter selections shall be made once, and only once for each VVPAT roll. Following the tabulation of all votes from each VVPAT roll to be recounted, the board shall certify the results of the recount.

G. Post-Recount Actions

1. Board of Elections' Duties (R.C. 3515.05)

Upon completion of the recount or upon stopping the recount prior to such time, or in the case of a recount as provided in R.C. 3515.011, the board of elections shall promptly prepare and certify an amended abstract showing the votes cast in each precinct in its county in which the nomination, election, or question or issue was submitted to electors, and the amended abstract shall embody the votes of the precincts, the ballots of which were recounted, as shown by such recount. The board shall mail copies of the certified amended abstracts to such other boards or election officials as required in the case of the original abstract which such amended abstract amends.

The board shall make an amended declaration of the result of such election in the same manner required in the making of its original declaration of the result of such election.

2. Remedies by Candidates/Issue Groups Affected by Partial Recounts (R.C. 3515.06)

a. Candidates

If, pursuant to R.C. 3515.04, a person who was originally declared nominated or elected subsequently appears by the amended declaration of the results made following a recount that such person was not so nominated or elected, that person may, within five days after the date of such amended declaration of the results of such election, file an application with the board of elections for a recount of the votes cast at such election for such nomination or election in any precinct, the ballots of which have not been recounted.

b. Questions/Issues

If, following a recount of votes cast in an election upon any question or issue, the amended declaration of the results of the election shows the result to be contrary to the originally declared result as to that question or issue, any group of five or more qualified electors which has filed a statement with the board as provided in the third paragraph of R.C. 3515.03 may, within five days after the date of the amended declaration, file an application with the board for a recount of the votes cast at such election upon such question or issue in any precinct of the county, the votes of which have not been recounted.

* * * * *

The procedures described in this outline are the basic requirements for conducting a recount. If the board of elections feels the results warrant further investigation at any period during the conduct of the recount, it may institute more rigorous recounting procedures.

-End-



J. KENNETH BLACKWELL
Ohio Secretary of State

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DIRECTIVE 2006-80

October 27, 2006

TO: BELMONT COUNTY BOARD OF ELECTIONS
Members, Director & Deputy Director

RE: Prevention of Voter Fraud in Belmont County Precincts # # 1, 3, 36, 36-1, 39, and 39-1

Judge Sargus, in the case of *Phil Wallace, et al v. Belmont County Board of Elections*, has placed certain mandates upon your board which have unnecessarily created a significant risk for voter fraud during the general election. Furthermore, your county prosecutor has inexplicably decided not to appeal the court's decision despite the clear potential for violation of election law that results from the court's mandates. I am therefore directing you to take every possible precaution to avoid the problems the court's decision has created.

Specifically, due to the court's Order, which required the creation of "duplicate voting sites", it is now significantly possible that unscrupulous persons could vote more than once on election day. Therefore, to the extent that you have not already done so, I am directing you to do the following:

1. Closely monitor all voter activity in the affected precincts listed in the Order which are now placed at risk.
2. Monitor and compare the poll books in those precincts every half hour, commencing at 6:30 a.m. and continuing throughout the day until the polls close, to make sure no person has voted more than once.
3. Train or re-train every election official such that each one knows what to look for and knows what action(s) to take to prevent multiple voting situations.
4. Hire and train enough election officials to enable the board to properly execute these preventative measures
5. Use the records/list compiled by the elections officials of each voter that votes at the affected precincts on election day. That records/list should be used to do comparisons to determine if anyone voted more than once.

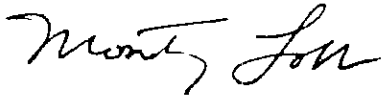
Based on information your board has shared with our office, I am aware that you have complied with the Order by working with the plaintiffs in the *Wallace* case in an attempt to adequately staff each polling location. However, I understand that the board, despite its combined efforts with plaintiffs, still has some concerns over the adequacy of its staffing. Therefore, while I understand that finding suitable staff has

been difficult already, you may need to contact community colleges and area high schools¹ to determine if there are additional workers that can be available.

I will also monitor the activities of these precincts and the board of elections on election day.

If you have any question concerning this directive, please contact the Elections Division at (614) 466-2585

Sincerely,

A handwritten signature in cursive script that reads "Monty Lobb".

Monty Lobb
Assistant Secretary of State

¹ R.C. §3501.22 is the state law provision that allows high school students to apply for and be appointed by the board to be a precinct officer



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Ohio Secretary of State

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DIRECTIVE 2006-85

November 4, 2006

To: All County Boards of Elections
Members, Directors and Deputy Directors

Procedures for Absent Voter's Ballots

R.C. 3505.27 imposes minimum requirements for the counting of votes, and permits the Secretary or the Boards of Elections to prescribe additional procedures "that assure an accurate count of all votes cast." In order to ensure the integrity of the absentee balloting process, the Secretary of State is issuing this Directive.

For purposes of this Directive and implementation thereof, "processing" shall include the handling, examination and opening of absentee ballot identification envelopes, as well as the preparation of absent voter's ballots for scanning.

For those boards utilizing "automatic tabulating equipment" (as defined in R.C. 3506.01(C)) to scan absent voter's ballots, "scanning" shall mean the examination and counting of such ballots under R.C. 3505.27.

I. Court Order Regarding Absent Voter's Ballots

On November 3, 2006, the Cuyahoga County Court of Common Pleas issued a writ of mandamus directing the Secretary to authorize the Cuyahoga County Board of Elections and all other boards of elections in the State of Ohio to begin optical scanning of absent voter's ballots at 7:00 a.m. on November 6, 2006, without disclosing the count or any portion of the count at any time before the polling places close on November 7, 2006. A copy of the Court's Order is attached.

Due to security concerns regarding the integrity and counting of absent voter's ballots, the Office of the Secretary of State would advise the boards not to begin the scanning of absent voter's ballots prior to November 7, 2006.

II. Procedures for Counties Scanning Absent Voter's Ballots Prior to November 7 With Automatic Tabulating Equipment

Before commencing the processing or scanning of absent voter's ballots, those boards electing to scan absent voter's ballots prior to November 7 with automatic tabulating equipment must have formally adopted and have implemented a security plan relating to absent voter's ballots that ensures at a minimum: (i) controlled access to the location where ballots are counted; (ii) secured, password-

controlled access to the automatic tabulating equipment, (iii) bipartisan (2-person) control over all absent voter's ballots at all times; and (iv) that, at no time, any person has access to the count or any portion of the count before the polling places close on November 7, 2006.

III. Procedures for All Counties In Handling Absent Voter's Ballots

Regardless of when each board elects to commence the processing or scanning of absent voter's ballots, the following procedures must be followed before the board may commence the processing or scanning of absent voter's ballots to ensure sufficient security and control over the entire process regarding absent voter's ballots, as well as protecting ballot secrecy

A. Appointment of Special Election Judges by the Board

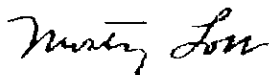
For those counties that count absent voter's ballots at the office of the board of elections or at another location designated by the board, special election judges shall be appointed by the board for the processing and scanning of absent voter's ballots. R C 3509.06(C) No person, other than a duly appointed special election judge, may be involved, in any manner, with the examination and opening of any absentee ballot identification envelope.

B. Scanning Must Be In Full View of Board

All scanning of any absent voter's ballot by any automatic tabulating equipment shall be done in the full view of members of the board and observers. R C 3505.27(A)

If you have any questions, please contact the Elections Division at 614-466-2585.

Sincerely,



Monty Lobb
Assistant Secretary of State



J. KENNETH BLACKWELL
Ohio Secretary of State

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Advisory 2006-08
November 1, 2006

To: All County Board of Elections

Re: Appointment of Observer Documents Filed Pursuant to R.C. 3505.21

Several inquiries have been made regarding the proper procedure for the appointment of observers under R.C. 3505.21. This Advisory clarifies the proper procedure for accepting notifications of appointment and amendments under R.C. 3505.21.

I. Acceptance of Filings

No notice of appointment that is filed timely by a proper party on the proper form prescribed by the secretary of state shall be rejected. A notice of appointment is filed timely if it is received by the close of business on October 27, 2006, at the Board of Elections unless otherwise specified herein. Technical defects regarding the specific location of appointment, such as to the Board of Elections, or to any of the county's precincts, shall not render the notice of appointment ineffective. Boards of Elections shall accept notices of appointments and amendments to such notices via facsimile or other electronic transmission. However, no facsimile or other electronic transmission shall be proper if it is not transmitted to the Board of Elections by the board's close of business.

Notice of appointments that name qualified electors shall be considered sufficient as to the identity of the persons to serve as observers in the county where the notice is filed. No other persons than the persons named in notice of appointments as described above shall be observers in the county where the notice has been filed. If a person named in a notice of appointment is found by the Board of Elections to not be a qualified elector as described in R.C. 3503.01, the person may not serve as an observer.

In general, a notice of appointment filed timely before an election need only contain the list of persons to be appointed as observers by the filer. This allows the Board of Elections sufficient time to verify the qualifications of the appointed observer. The filer/appointing party then has until 4:00 PM the day before the election to amend their notice of appointment with the specific designation of which appointee shall be designated for which specific precinct, or which one appointee shall be designated as an observer to the Board of Elections and all precincts in the county.

II. Amendments to Filings

R.C. 3505.21 permits a notice of appointment to be amended by filing an amendment with the Board of Elections where the notice was filed at any time until 4:00 PM of the day before the election. The amendment need not be in any specific format, but should clearly identify the notice of appointment being filed. The amendment may not add to the list of appointees provided in the original notice of appointment and must be signed by the same persons that signed the original notice of appointment. However, the amendment may be used to correct, clarify, or add any information necessary to otherwise make the notice of appointment proper under R.C. 3505.21.

Thus, while no additional person may be added to a notice of appointment through an amendment, an observer may be removed, their address corrected, the precinct to which they are designated changed, or the precinct to which an observer is appointed added for the first time. This permits the maximum opportunity for anyone who made an appointment to correct minor mistakes, while granting the maximum flexibility for their appointment of observers.

III. Certificates of Appointment

Certificates of appointment are issued to observers by their appointing political party, group of candidates, or issue committee. The certificate of appointment must identify the observer, the location for which the observer is designated (such as for the Board of Elections and all precincts, or for the specific precinct the observer is appointed for) and the person, entity, or group of candidates making the appointment. The information on the certificate of appointment must match the information submitted to the Board of Elections on the notice of appointment plus any proper amendments thereto.

- Certificates of appointment to a specific precinct must be presented to and filed with the presiding judge of the precinct to which the observer is appointed on the day of the election, or at a meeting held by the Board the evening prior to the election.
- A certificate of appointment for the one designee to the Board of Elections and all precincts must be filed with the Board of Elections on the day of the election, but the Board must return a date-stamped copy of the certificate to the person appointed. This date-stamped copy shall serve as the appointee's authorization to enter all precinct-polling locations within that county.

No person shall be permitted to serve as an observer that does not provide a valid certificate of appointment. A certificate of appointment is only invalid if it is not provided by the person, group, or committee making the appointment, if it does not bear the name of the observer, if it does not identify the location to which the observer has been designated, or if the information provided on the certificate is found to be different than the information provided in the notice of appointment of that person, as amended. A

certificate of appointment to observe the County Board of Elections is valid as to all precincts in the county, regardless of the presence or absence of additional wording to this regard.

IV. Oath

Upon filing a certificate of appointment with the Board of Elections or the presiding judge, every observer shall take the following oath, to be administered by one of the judges of elections:

“You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause delay to persons offering to vote; and that you will not disclose or communicate to any person how any elector has voted at such election.”

V. Designation of Locations

Only one person per notice of appointment may be designated to the Board of Elections and all precincts, except that separate observers may be designated to observe the casting and the counting of ballots. Only one observer may be appointed to any single precinct by the same person, group, or committee. The Board of Elections must receive final notice of the designation of location of observers by 4:00 PM the day before the election. In total, the Board of Elections must have the following information for each observer appointed:

- The name and address of the observer.
- The name, address, and precinct at which the observer will serve, unless referring to the appointment of an observer to the Board of Elections.
- If appointing to observe the Board of Elections and all precincts, the name and address of the Board of Elections shall suffice, provided that an appointment of one person to observe casting of votes and one person to observe counting of votes at the Board of Elections requires this further designation to the Board.
- The identity of the political party, group of candidates, or issue committee appointing the observer

VI. Limitations on Appointments by Issue Committees

R.C. 3505.21 provides:

"At any ... election, any political party supporting candidates to be voted upon at such election and any group of five or more candidates may appoint to the Board of Elections or to any of the precincts in the county or city **one person**, a qualified elector, who shall serve as observer for such party or such candidates during the casting and counting of the ballots; provided that separate observers may be appointed to serve during the casting and during the counting of the

ballots. *** Observers appointed to the Board of Elections under this section may observe at the Board of Elections and may observe at any precinct in the county.

*** Any such recognized *[ballot issue]* committee may appoint **an** observer to the count in each precinct. *** **In no case shall more than six observers be appointed for any one election in any one precinct.** If more than three questions are to be voted on, the committees which have appointed observers may agree upon not to exceed six observers, and the judges of elections shall appoint such observers. If such committees fail to agree, the judges of elections shall appoint six observers from the appointees so certified, in such manner that each side of the several questions shall be represented."

Emphasis added.

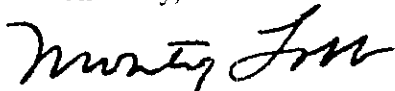
If the total number of observers appointed by issue committees at any one location exceeds six, the Board is directed to use this process to pare the number to no more than six.

VII. Notice to Appointing Parties, Groups of Candidates, or Committees

Each Board of Elections is instructed to promptly provide a copy of this Directive to each party, group of candidates, or issue committee that has filed a notice of appointment under R.C. 3505.21. Every Board that has provided a copy of this Directive as instructed is further directed to obtain confirmation of receipt of this Directive. A registered mail receipt will suffice to meet this requirement if a copy of the Directive is sent through registered mail to the known business address of the party, group of candidates, or issue committee that has filed a notice of appointment.

NOTE: Our office is aware that some boards have been contacted in writing by a group of candidates for statewide office. These candidates are seeking permission from boards of elections to permit observers to "document their observances via written notes, photography, video, or audio recording..." Please consult with your respective prosecutors on this issue.

Sincerely,



Monty Lobb
Assistant Secretary of State



Ohio
Republican
Party

www.ohiogop.org

Robert T. Bennett
Chairman

Kay Ayres
Vice Chairman

Martha C. Moore
Vice Chairman Emeritus

To Whom It May Concern,

Enclosed is a list of observers filed by the Ohio Republican Party according to Ohio Revised Code §3505.21, which states:

“Any political party or group of candidates appointing observers shall notify the board of elections of the names and addresses of its appointees and the precincts at which they shall serve. Notification shall take place not less than eleven days before the election on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. of the day before the election.”

The Ohio Republican Party reserves the right to amend the filing by 4 p.m. of the day before the election.

Please understand that these observers are being filed purely as a precaution. More than likely, these individuals will not be present on Election Day. However, if the need arises they will be able to enter a polling location with the proper credentials.

If you have any questions, please don't hesitate to let me know. Thank you.

Sincerely,

Kate Elliott Douthett
211 S. Fifth Street
Columbus, Ohio 43215
Work: (614) 228-2481
Mobile: (614) 257-7943
Elliott@ohiogop.org

Form No. 214 Prescribed by Secretary of State (06-06)

NOTICE OF APPOINTMENT OF OBSERVERS OR AMENDMENT OF APPOINTMENT

By the Executive/Central Committee of a Political Party
R.C. 3595.21, 3506.13

(To be filed with the Boards of Elections not less than 11 days before the election. Amendments may be filed until 4 p.m. of the day before the election.)

The Chairperson and Secretary of the OHIO Controlling Committee
(State, county, city)

of the Republican Party appoint the following persons as observers at the
(Name of political party)

General election to be held on the 7th day of
(General, primary, special)

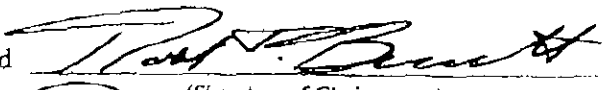
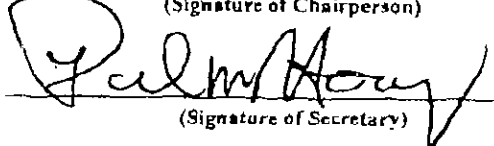
November, 2006

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee
1.	Athens Co. BOE office	Katherine Douthett
	all precincts, all	151 W 7th St, Apt. 203 Cincinnati 45202
2.	places of tabulation	Jonathan Corneby
	"	2822 Pheasant Field Dr Hilliard 43020
3.	"	Chris McNulty
	"	3100 E. Stewart Ave., Columbus 43206
4.	"	Chris Slagle
	"	255 E. Binkers St., Columbus 43206
5.	"	Bill Cizmadia
	"	551-B City Park Ave., Columbus 43215
6.	"	Larry Wines
	"	35 N. College St., Athens 45701
7.		
8.		
9.		

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		

Dated this 26th day of October, 2006.

Signed 
 (Signature of Chairperson)

 (Signature of Secretary)

Note: Appointees must file certificates of appointment with the presiding judge of the precinct during the evening before the election or on the day of the election.

This form may be used to file an amendment list of witnesses or challengers. Amendments may be filed with the board of elections until 4:00 p.m. of the day before the election. Additions or deletions should be indicated before the names of the appointees when filing an amended notice.

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

OBSERVERS FOR 11/7/06 GENERAL ELECTION

The following parties and/or groups of 5 or more candidates have appointed observers for all precincts and the Board of Elections' office for the November 7, 2006 General Election. The observer is to file with the Presiding Judge a Certificate of Appointment and one of the election officials must issue the following oath to that observer:

"You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and that you will not disclose or communicate to any person how any election has voted at such election."

The observer may be in your precinct location during the voting hours and remain in the polling place after the polls close and may observe the closing of the machines

Republican Party:

Katherine Douthett
Jonathan Gormley
Chris McNulty
Chris Slagle
Patrick Faltyn
Frank Merrill

Democratic Party

Richard L. Gerhardt

Committee of 5 or more candidates:

Patricia J. Shaffer
Philip F. Frey, Jr.
Jean Godby

MEMORANDUM

To: All County Board of Elections

From: Judy Grady, Director of Elections

Date: October 26, 2006

Re: **Observers at Voting Locations on Election Day (R.C. 3505.21, R.C. 3506.13)**

Generally

R.C. 3505.21 and 3506.13 as amended by Am. Sub H.B. 3 provide for the appointment of qualified electors -- subject to certain restrictions described below -- to serve as "observers" at the board of elections office or individual precincts during the casting and counting of ballots.

Observers may be appointed by any of the following entities:

- A political party that is supporting candidates to be voted upon.
- A group of five or more candidates to be voted upon.
- A recognized committee of a ballot issue to be voted upon.

Observers perform the same functions previously performed by challengers and witnesses, *except* that they cannot challenge voters. (Polling place challenges now are the exclusive domain of the precinct election officers.) Observers are allowed to remain in the polling place after the polls close and may observe the processing of the ballots and the sealing and signing of the envelopes or containers or both containing the voted ballots.

Additionally, any observer appointed by a political party or group of candidates to serve at the board of elections office may observe at both the board office and any precinct in the county.

Restrictions

No person wearing a uniform or carrying a firearm or other deadly weapon is allowed to serve as an observer. Also, no candidate shall serve as an observer or be represented by more than one observer at any one precinct, *except* that a candidate who is a member of a party controlling committee may serve as an observer.

Procedures – Forms – Deadlines - Oath

• **Appointments - Amendments by a Political Party or Group of Candidates**

An observer serving on behalf of a political party must be appointed in writing by the chairperson and secretary of the respective controlling party committee. An observer serving on behalf of a group of five or more candidates must be appointed in writing by those candidates.

Any political party or group of candidates appointing observers must notify the board of elections of the names and addresses of its appointees, and the precincts at which they shall serve, by the close of business on **Friday, October 27, 2006**. The appointing party or group of candidates may amend its

original notice of appointment by filing a notice of amendment with the board of elections until 4 p.m. on **Monday, November 6, 2006**

Notice of appointment and notice of amendment of appointments must be given using one of the following forms prescribed by the Secretary of State:

Form 214 - Notice of appointment or amendment of appointment of observer by a political party

Form 216 - Notice of appointment or amendment of appointment of observer - five or more candidates

An appointing party or group of candidates must issue the appropriate certificate to its appointees

Form 215 - Certificate of appointment of observer - executive/central committee of a political party

Form 217 - Certificate of appointment of observer - five or more candidates

You may download these forms in PDF format from the Secretary of State's County Board of Elections Extranet site.

Observers appointed to a precinct file their certificates of appointment with the presiding judge of the precinct on election day. The observers then may be in and about the polling place for the precinct during the casting of the ballots and may watch every proceeding of the election judges from the time the polls open until they close. They may inspect the counting of all ballots in the polling place or board of elections from the time the polls close until the counting is completed and the final returns are certified and signed.

As mentioned above, observers appointed to the board of elections may observe at any precinct in the county. Therefore, they will present (but not file) their certificates of appointment at the board of elections office and to the presiding judge of any precinct in which they serve as an observer.

Each observer must take the following oath, to be administered by one of the judges of elections:

"You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law, that you will not cause any delay to persons offering to vote; and that you will not disclose or communicate to any person how any elector has voted at such election."

- **Appointments - Amendments by a Recognized Ballot Issue Group**

Recognition of Ballot Issue Groups

A committee advocating or opposing a ballot issue or question that desired to appoint observers was required to file **Form 218** ("Petition to be recognized as committee to appoint observers - measure/question submitted") with the board of elections not later than 4 p.m. on **October 18, 2006**

If more than one committee advocating or opposing the same ballot measure filed Form 218, the board of elections must decide which committee will be entitled to appoint observers and send notice of that decision by registered mail to each committee not later than **Thursday, October 26, 2006**.

Any committee recognized by the board of elections may appoint an observer to each precinct in that county and shall, not later than the close of business on **Friday, October 27, 2006**, notify the board of the names and addresses of its appointees and the precincts at which they shall serve, using **Form 219** ("Notice of appointment of observer - duly recognized committee advocating/opposing a measure"). The committee may amend its original notice by filing an amendment (also form 219) with the board of elections until 4 p.m. on **Monday, November 6, 2006**

The committee must issue to each observer a properly completed certificate (**Form 220**, "Certificate - appointment of observer - duly recognized committee advocating or opposing a measure").

The observer must file his/her certificate of appointment with the presiding judge in the precinct in which the observer has been appointed to serve. As previously discussed, observers appointed to the board of elections may observe at any precinct in the county. Therefore, they will present (but not file) their certificates of appointment at the board of elections office and to the presiding judge of any precinct in which they serve as an observer.

Note: In no case shall more than six observers be appointed for any one election in any one precinct. If more than three questions are to be voted on, the committees which have appointed observers may agree upon not to exceed six observers, and the judges of elections shall appoint such observers. If such committees fail to agree, the judges of elections shall appoint six observers from the appointees so certified, in such manner that each side of the several questions shall be represented.

Each observer must take the following oath, to be administered by one of the judges of elections:

"You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and that you will not disclose or communicate to any person how any elector has voted at such election."

Facsimiles

Boards of elections may accept facsimiles or electronic transmissions of the notice of appointment and amendment forms in addition to forms filed in person or via U.S. Mail.

If you have questions about the observer statutes, please contact the Elections Division at (614) 466-2585

→ FAX - 594-8587



J. KENNETH BLACKWELL
Ohio Secretary of State

180 E. Broad Street, 16th Floor, Columbus OH 43215
614.466.2655 / Toll Free: 877.767.6446 / Fax: 614.644.0649
e-mail: blackwell@sos.state.oh.us
www.sos.state.oh.us

ADVISORY NO. 2006-09
November 3, 2006

To: All County Boards of Elections
Re: Clarification of Advisory 2006-08

This shall serve as a clarification of certain points associated with Advisory 2006-08 regarding appointments of observers pursuant to R.C. 3505.21 that was issued on November 1, 2006. Unfortunately, some boards have interpreted the Advisory to mean that no amendment to the original notice of appointment can be made if that amendment results in a substitution of one observer for another one who was previously properly appointed in the original filing. The Advisory was never intended to be interpreted to accomplish such a result. Please be advised that substitution is a permissible and proper use of the amendment filing process. If the appointing entity determines that one of its appointees shall not serve as an observer after having been appointed as such, and that entity wants to amend its filings to substitute another name for the original one, that is allowed. It is only the *addition of new observers* (meaning additions to the total numbers of observers) that is prohibited.

This leads to the second point of clarification. The use of the word "Additions" on Forms 214, 216 and 219 has caused some confusion for the boards. Again, this term is intended to reflect the situation where an amendment is being timely filed to replace one previously appointed observer with another. In that situation, one name will be subtracted and another one will be "added" to replace it. This was never intended to be a contradiction. We trust that this clears up any further confusion on this subject.

Please direct further questions to the Elections Division at (614) 466-2585.

Sincerely,

A handwritten signature in cursive script that reads "Monty Lobb".

Monty Lobb
Assistant Secretary of State



Ohio Secretary of State J. Kenneth Blackwell
Elections Division - 180 E. Broad St., 15th Floor, Columbus, OH 43215
Tel. (614) 466-2585 Fax (614) 752-4360 e-mail: election@sos.state.oh.us

MEMORANDUM

TO: All County Boards of Elections

FROM: Pat Wolfe, Director of Elections
Michael Sciortino, President of Ohio Association of Elections Officials (OAEO)

DATE: October 20, 2004

RE: Challenger and Witnesses

CHALLENGER & WITNESS GUIDELINES

As election day approaches, many boards will be asked for the forms to appoint and certify challengers and witnesses. R.C. 3505.21 and R.C. 3506.13 authorize the appointment of eligible electors to serve as challengers and/or witnesses of elections. The elector need not live in the precinct where appointed. The statutes set forth:

- The function of challengers and witnesses.
- Who may appoint challengers and witnesses
- Who may serve as a challenger and/or witness.
- The appointment process and deadlines.

The Ohio Association of Elections Officials (OAEO) has recommended policy and procedures for handling challengers at the polling place which are included in this memorandum.

Function

Challengers may be appointed for each polling place (including the board of elections' office), and witnesses for each tabulating location, as provided in R.C. 3505.21 and R.C. 3506.13. The same person may serve as both a challenger and a witness.

• Challengers

- **While Polls are Open:** Challengers are allowed to be in the polling place while the polls are open. A challenger may challenge (prior to the issuance of a ballot), for good cause, the right to vote of anyone who appears to vote. A challenge may be based on the person's citizenship, age, registration, residency in the precinct and, if the election is a partisan primary, political party affiliation. (R.C. 3505.21)
- **After the Polls Close:** Challengers are allowed to remain in a polling place *after* the polls close if ballots are not counted in that polling place. Challengers may observe the processing of the ballots including the sealing and signing of the envelopes and/or containers holding the voted ballots. Challengers are not allowed to touch or handle ballots or any other election materials, nor question the actions of the election officials. (R.C. 3506.13)

o **Witnesses**

Witnesses are allowed to observe the counting of ballots. (Thus, if ballots are not counted at a precinct polling place, then witnesses shall not be appointed to that polling place.) Witnesses are not allowed to touch or handle ballots or any other election materials, nor question the actions of the election officials.

Appointment

All challengers and witnesses must be appointed in writing on a "Notice of Appointment or Amendment of Appointment of Witnesses and Challengers" (Form No. 214) prescribed by the Secretary of State.

1. By a Political Party

Notice of appointment signed by the central committee chairperson and secretary, and filed with the board of elections.

2. By a Group of Five or More Candidates

Notice of appointment signed by at least five candidates and filed with the board of elections.

3. By a Committee Supporting or Opposing a Ballot Issue

Petitions to be recognized as committee to appoint challengers (Form No. 219) and witnesses (Form No. 220), and Notice of appointment by duly recognized ballot issue committee.

Eligibility/Restrictions

No uniformed peace officer as defined by R.C. 2935.01, no uniformed state highway patrol trooper, no uniformed member of any fire department, no uniformed member of the armed services, no uniformed member of the organized militia, no person wearing any other uniform and no person carrying a firearm or other deadly weapon shall serve as a witness or challenger.

A candidate may not serve as a challenger or witness *unless* the candidate (a) also is a member of the party controlling committee and (b) has been appointed by the party.

• **Number of Challengers/Witnesses**

No candidate shall be represented by more than one challenger and one witness at any one polling place except that a candidate who is a member of a party controlling committee, as defined in R.C. 3517.03, may serve as a witness or challenger.

In no case shall more than six challengers and six witnesses be appointed for any one election in any one precinct. If more than three questions are to be voted on, the committees which have appointed challengers and witnesses may agree upon not to exceed six challengers and six witnesses, and the judges of elections shall appoint such challengers and witnesses. If such committees fail to agree, the judges of elections shall appoint six challengers and six witnesses from the appointees so certified, in such manner that each side of the several questions shall be represented.

Filing Deadline

By 4 p.m. of the 11th day (October 22) before the election, any political party, group of candidates or issue committee appointing challengers or witnesses shall file with the board of elections a properly completed "Notice of Appointment" (Form No. 214) containing the names and addresses of its appointees and the polling places at which they shall serve.

Deadline to Amend Appointments

The deadline for amending challenger and witness appointments is 4 p.m. the day before the election; i.e., Monday, November 1, 2004.

Certificate of Appointment

Each challenger and witness shall receive from his or her appointing authority the appropriate Secretary of State-prescribed "Certificate of Appointment" (see Form Nos. 215, 216, 217, 218, 221 and 222.)

That certificate must be filed with the presiding judge of the polling place on election day.

Appointments and certifications must be made in writing by 4 p.m. on **October 22, 2004**, using the appropriate forms prescribed by the Secretary of State.

Form #	Description
214	Notice of appointment or amendment of appointment of witnesses and challengers
215	Certificate of appointment of challenger - executive or central committee of a political party
216	Certificate of appointment of witness - executive or central committee of a political party
217	Certificate of appointment of challenger - five or more candidates
218	Certificate of appointment of witness - five or more candidates
219	Petition to be recognized as committee to appoint challengers - measure submitted
220	Petition to be recognized as committee to appoint witnesses and challengers - measure submitted
221	Certificate of appointment of challenger - duly recognized committee advocating/opposing a measure
222	Certificate of appointment of witness - duly recognized committee advocating/opposing a measure

Challenges to a Person's Right to Vote at the Polling Place - R.C. 3505.20

Who May Challenge

R.C. 3505.20 provides that the right of a person to vote on election day may be challenged, for good cause, by any of the following persons:

- o Any challenger (appointed pursuant to R.C. 3505.21)
- o Any elector then lawfully in the polling place
- o Any judge or clerk of elections

Procedure

- o **If the Board of Elections Already Has Ruled on the Person's Eligibility**

If the board of elections has ruled on the question presented by a challenge prior to election day pursuant to R.C. 3501.11(Q), R.C. 3503.24, R.C. 3505.19 or any other section of law, its finding and decision shall be final and the presiding judge shall be notified in writing of that decision.

- o **If No Prior Ruling by the Board of Elections on the Person's Eligibility**

If the board has not ruled, the question shall be determined as set forth in R.C. 3505.20.

Form

SoS No. 10-U *Affidavit/oath/examination of person challenged at polls on election day (RC 3505.20)*

Oath

If any person is so challenged as unqualified to vote, the presiding judge shall administer the following oath to the challenged person: "You do swear or affirm that you will fully and truly answer all of the following questions put to you, touching your place of residence and your qualifications as an elector at this election?"

Grounds for Challenge

1. Not a U.S. Citizen - R.C. 3505.20(A)

If the person is challenged as unqualified on the ground that the person is not a citizen, the judges shall put the following questions.

- (1) Are you a citizen of the United States?
- (2) Are you a native or naturalized citizen?
- (3) Where were you born?

If the person offering to vote claims to be a naturalized citizen of the United States, the person shall, before the vote is received, either:

- o Produce for inspection of the judges a certificate of naturalization and declare under oath that the person is the identical person named therein, or
- o State under oath when and where the person was naturalized, that the person has had a certificate of the person's naturalization, and that it is lost, destroyed, or beyond the person's power to produce to the judges.

If the person states under oath that, by reason of the naturalization of the person's parents or one of them, the person has become a U.S. citizen, and when or where the person's parents were naturalized, the certificate of naturalization need not be produced.

2. Not a Resident of Ohio for 30 days Immediately Before the Election – R.C. 3505.20(B)

If the person is challenged as unqualified on the ground that the person has not resided in this state for 30 days immediately preceding the election, the judges shall put the following questions:

- (1) Have you resided in this state for thirty days immediately preceding this election?
If so, where have you resided? Name two persons who know of your place of residence.
- (2) Have you been absent from this state within the 30 days immediately preceding this election? If yes, then the following questions.
 - (a) Have you continuously resided outside this state for a period of four years or more?
 - (b) Did you, while absent, look upon and regard this state as your home?
 - (c) Did you, while absent, vote in any other state?

3. Not a Resident of the County or the Precinct - R.C. 3505.21(C)

If the person is challenged as unqualified on the ground that the person is not a resident of the county or precinct where he offers to vote, the judges shall put the following questions:

- (1) Do you now reside in this county?
- (2) Do you now reside in this precinct?
- (3) When you came into this precinct, did you come for a temporary purpose merely or for the purpose of making it your home?

4. Not 18 years old by Election Day – R.C. 3505.20(D)

If the person is challenged as unqualified on the ground that the person is not of legal voting age, the judges shall put the following question: "Are you 18 years of age or more to the best of your knowledge and belief?"

Decision on Challenge

The presiding judge shall put such other questions to the person challenged under respective heads designated by this section, as are necessary to test the person's qualifications as an elector at the election,

o Failure or Refusal to Answer

If a person challenged refuses to answer fully any question put to the person, is unable to answer the questions as they were answered on the registration form by the person under whose name the person offers to vote, refuses to sign the person's name or make the person's mark, or if for any other reason a majority of the judges believes the person is not entitled to vote, the judges shall refuse the person a ballot.

o Failure to Qualify

If a person is disqualified under R.C. 3505.20(C) because the person does not now reside in the county or precinct, the presiding judge shall inform the person of the person's right to vote in the person's proper county or precinct of residence and instruct the person to contact the appropriate board of elections for information concerning the location of the person's voting precinct.

Decision is Final

The decision of said judges shall be final as to the right of the person challenged to vote at such election.

Policy and Procedures by the Ohio Association of Election Officials (OAE0)

Because statutes do not specify the procedures and limitations for challenging voters, and because it is widely anticipated that challenger confusion could cause undue delays in voting, it is necessary to develop a policy for dealing with challenges posed at the precinct. The goal of this policy is to provide for the statutory rights of the challengers, while maintaining order in the polling location.

Challenger Interference

Challengers may not interfere with the voting process or unnecessarily delay it. For example, if a challenger challenges so many voters that his or her activities slow down the voting process or intimidate voters, then the presiding judge should take immediate action including expelling him or her from the polling place. If necessary, the presiding precinct judge shall follow the steps set forth below:

- o The presiding precinct judge shall orally warn the challenger that his/her actions are jeopardizing the voters' constitutional right to cast a ballot.
- o If a challenger again persists in delaying voting, the presiding precinct judge shall notify the Board of Elections director and deputy director of his or her decision to remove the challenger from the voting location

Initiating the Challenge

- o Challengers shall remain stationed behind the table where poll workers are seated
- o When a challenger wishes to challenge a voter, they shall do so by notifying the presiding judge and shall state the reason for the challenge.

- Whenever possible, the presiding judge shall move the challenged voter to an area no less than 10 feet from the poll worker table that will not obstruct other voters.

Presiding Judge Duties and Decision

- The presiding judge shall ask the appropriate questions by administering Form 10-U.
- The presiding judge shall put such other questions to the person challenged under respective heads designated by this section, as are necessary to test the person's qualifications as an elector at the election.
- If a person challenged refuses to answer fully any question put to the person, is unable to answer the questions as they were answered on the registration form by the person under whose name the person offers to vote, refuses to sign the person's name or make the person's mark, or if for any other reason a majority of the judges believes the person is not entitled to vote, the judges shall refuse the person a ballot.
- The decision of said judges shall be final as to the right of the person challenged to vote at such election.

NOTICE OF APPOINTMENT OF OBSERVERS OR AMENDMENT OF APPOINTMENT

By the Executive/Central Committee of a Political Party
R.C. 3595 21, 3506 13

(To be filed with the Boards of Elections not less than 11 days before the election. Amendments may be filed until 4 p.m. of the day before the election.)

The Chairperson and Secretary of the Ohio, Athens, Athens Controlling Committee
(State, county, city)

of the Democratic Party appoint the following persons as observers at the
(Name of political party)

General election to be held on the 7 day of
(General, primary special)

November, 2006

RECEIVED
ATHENS COUNTY
BOARD OF ELECTIONS

OCT 27 2006

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee
1	Glouster 2	<i>Amy E. Flowers</i> <i>114 Columbia Ave, Athens, OH 45701</i>
2	Glouster 3	
3	Glouster 4	
4	Jacksonville	
5	Trimble Village	
6	Trimble Township	
7	Coolville Village	
8	Troy East	
9	Troy West	

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee		
10.	New Marshfield	Amy E. Flowers 114 Columbia Ave., Athens, OH 45701		
11.	Waterloo East			
12.	Waterloo West			
13.	Buchtel Village			
14.	York East			
15.	York West			
16.	Baker Center			
17.	Board of Elections			
18.				

Dated this _____ day of _____, 2006.

Signed _____
 (Signature of Chairperson)

_____ *Pearl Bisset*
 (Signature of Secretary)

Note: Appointees must file certificates of appointment with the presiding judge of the precinct during the evening before the election or on the day of the election.

This form may be used to file an amendment list of witnesses or challengers. Amendments may be filed with the board of elections until 4:00 p.m. of the day before the election. Additions or deletions should be indicated before the names of the appointees when filing an amended notice.

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE