

EXHIBIT D

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

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|---|---|-------------------------|
| OHIO STATE CONFERENCE OF THE | : | |
| NATIONAL ASSOCIATION FOR THE | : | |
| ADVANCEMENT OF COLORED PEOPLE, et al., | : | Case No. 2:14-CV-404 |
| | : | |
| Plaintiffs, | : | Judge Peter C. Economus |
| | : | |
| v. | : | Magistrate Judge |
| | : | Norah McCann King |
| JON HUSTED, et al., | : | |
| | : | |
| Defendants. | : | |

DECLARATION OF MATTHEW M. DAMSCHRODER

I, Matthew M. Damschroder, hereby declare that:

1. From June 2003 to January 2011, I was employed by the Franklin County (Ohio) Board of Elections, where I served alternately in the position of Director and Deputy Director, performing the statutory duties of those offices, and such other duties as assigned to me by the Board, relating to the administration and conduct of elections in Franklin County.
2. On January 10, 2011, I was appointed by Secretary of State Jon Husted to the position of Deputy Assistant Secretary of State and State Elections Director in the Elections Division of the Ohio Secretary of State's Office. I am responsible for developing and implementing policies, procedures, and guidelines for the administration of federal, state, and local elections to assist county boards of elections in the fulfillment of their statutory duties.
3. I am, and since 2005 have been, a Certified Elections Registration Administrator ("CERA"), the nation's sole professional designation for local elections administrators, which is offered through the Election Center and Auburn University (Alabama).
4. Based on my years of employment at the Franklin County Board of Elections, my professional training and accreditation, and my responsibilities at the Secretary of State's office, I have first-hand knowledge of the responsibilities and tasks of the eighty-eight county boards of elections in preparing for and conducting an election.

5. In Ohio, a voter predominantly casts a ballot either through traditional, in person voting on Election Day or via absentee ballot prior to Election Day.
6. A voter may obtain an absentee ballot in multiple ways.
7. To receive an absentee ballot, any elector must first submit a written application to the elector's county board of elections. An absentee ballot application may be submitted by the voter a) in person at the board of elections or b) by mail. Another person may deliver the completed absentee ballot application to the board of elections on behalf of another elector, so long as the requesting elector executed the application as provided for by state law. An absentee ballot application may be submitted beginning January 1 or 90 days before an election, whichever is earlier.
8. In addition to all of the opportunities above, a voter covered by the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) is permitted to submit the elector's application via email or facsimile or a relative may submit an application on that covered elector's behalf.
9. A voter may receive an absentee ballot in multiple ways.
10. Once absentee ballots are available for non-UOCAVA voters, an elector applying for an absentee ballot in person may choose to a) receive and cast the elector's absentee ballot in person, or b) receive and take the unvoted ballot to mark and return at a later date (either in person or by mail).
11. Electors applying for an absentee ballot by mail (or whose absentee ballot application was delivered by another person or who personally dropped off the absentee ballot application in person) will receive their absentee ballot by mail either at the address on file with the elector's board of elections or an alternate address if provided by the elector at the time of application.
12. Non-UOCAVA electors in unique circumstances specifically provided by state law may request that two employees of the board of elections of opposite political parties deliver the ballot in order to assist the elector in marking the ballot.
13. In addition to all of the opportunities above, voters covered by UOCAVA may request to receive their absentee ballot via email or facsimile or through a relative. Absentee ballots requested by UOCAVA-covered electors are transmitted beginning the 45th day prior to an election.
14. A voter may return (cast) a voted absentee ballot in multiple ways.
15. A voter who receives the absentee ballot in person and marks the ballot at that time also returns (casts) the absentee ballot in person at that time.

16. A voter who a) receives the absentee ballot by mail, or b) whose absentee ballot application was delivered by another person or who applies for the absentee ballot in person then receives and takes the un-voted ballot to mark and return at a later date, may return the voted ballot a) by mail, or b) in person. Many boards of elections have ballot boxes located outside of their offices to allow electors returning their voted ballot in person to do so outside of normal business hours and/or without having to enter the building. State law also permits an elector's family member to possess that elector's voted ballot and return it to the board of elections on behalf of that elector.
17. For all voters, a valid absentee ballot will be counted so long as it is delivered in person to the board of elections by 7:30 pm on Election Day. For non-UOCAVA voters, a valid absentee ballot returned by mail will be counted if it is postmarked the day before Election Day and is received by the board of elections by the tenth day after the election. A UOCAVA voter's valid absentee ballot that is returned by mail and received by the tenth day after the election will be counted regardless of whether it is postmarked, provided that the voter signed the identification envelope by the appropriate time.
18. The 88 county boards of elections each use one of five different county-level election management software systems that have different ways of tracking relevant election data and the 88 county boards of elections adopt differing local policies and procedures for using their system to track this data. As a result, election data relative to the date on which a ballot may have been requested, issued, cast, and/or returned to a board of elections may result in bad matches (both false positives and false negatives).
19. Examples of the foregoing potential data errors include the following:
 - a) A ballot requested by mail in June (for example) may be listed as a ballot requested in September either because the board of elections did not begin entering the information into its election management system until that month or because the system uses 'date mailed' rather than 'date requested'.
 - b) An absentee ballot requested in person but taken home and later returned by mail may be recorded by a board of elections as an 'in person' absentee voter in one county, a 'by mail' absentee voter in another county, or coded as something else (e.g., 'over the counter') in another county.
 - c) An absentee ballot requested by mail but returned in person may be coded as an 'in person' absentee voter in one county and a 'by mail' absentee voter in another county.
 - d) An absentee ballot requested and cast in person may be recorded by the date the ballot is requested and cast in one county and by the date the ballot was processed (i.e., the identification envelope reviewed and the determination made that it is eligible to be counted) in another county.

- e) Some boards of elections may record the date of the absentee as the last transaction date, which could result in recording a date other than the date the ballot was requested and cast in person (e.g., a voter requests and casts a ballot in person, is notified by the board pursuant to law that the identification envelope is missing a required element, and the voter cures the deficiency at a later date, but is coded as having requested and cast his or her absentee ballot on the date the defect is cured rather than the date the ballot was requested and cast).
 - f) Some boards of elections may record the method of last transaction as the method of transmission (e.g., a voter requests, receives, and returns an absentee ballot by mail, is notified by the board of elections pursuant to law that the identification envelope is missing a required element and the voter appears in person to cure the deficiency, but is coded as having requested and cast his or her absentee ballot in person – the method by which the voter cured the defect – rather than by mail – the method by which the voter requested and cast the ballot).
20. A voter who moves from one county to another may be improperly considered a “golden week” or “same day registrant” when that voter is simply a change of address voter. In the case of both a county-to-county move and a move within a county, the voter is a qualified elector of the State of Ohio and eligible to cast a provisional ballot in person at the board of elections prior to Election Day or at the voter’s new polling place on Election Day. Recording in-county and county-to-county changes of address as “same day” registrants inflates the impact of “golden week” to the extent that it overstates the number of people who would otherwise be ineligible to vote in Ohio by any means.
21. Despite the many convenient ways for voters to cast ballots, in person voting on Election Day is still the most widely utilized means of voting in Ohio. Of the 5,773,777 ballots cast during the 2008 general election, only 1,744,743—less than a third—were cast by absent-voter ballot and the overwhelming majority of these were by mail. In person absentee voting is the least-utilized means of casting a ballot in Ohio.
22. For the 2014 general election, and as he did for the 2012 presidential general election, Ohio Secretary of State Jon Husted is mailing an absentee ballot application to Ohio voters. (See attached Directive 2014-15.) As explained above, a voter could vote entirely through the mail by mailing this application and a voted ballot to the appropriate board of elections.
23. H.B. 234 (2005) permitted any Ohio elector to apply for an absentee ballot. Prior to H.B. 234, a voter had to qualify for an absentee ballot by satisfying one of thirteen requirements (e.g., physical disability, illness, or infirmity; 62 years of age or older; individual would be unable to vote on Election Day due to elector’s religious beliefs). Both before and after H.B. 234, a voter could vote an absentee ballot in person at the board of elections.

24. Given the high volume of voters voting in person on Election Day and key tasks that need to be completed to prepare for Election Day, boards of elections are extremely busy in the weeks immediately preceding any Election Day.
25. Boards of elections must process and mail any absentee ballots where the request for an absentee ballot was received by mail by noon on the Saturday before the election.
26. Boards of elections must review for validation all returned voted absentee ballots by checking the voter's name, address, date of birth, identification (usually in the form of the voter's Ohio driver license number or last four digits of the voter's Social Security number) and signature against information contained in the county voter registration database. Validated absentee ballots are then opened and the ballots separated from their respective identification envelopes and scanned through automatic tabulating equipment. Most counties do not have "high speed" scanning equipment for absentee ballots, in which case the ballots must be hand-fed into the scanners one at a time. The volume of voted absentee ballots needing review, separation, and scanning grows during the last week before the election.
27. All valid absentee ballots received by 7:30 p.m. on Election Day, including absentee ballots cast in person, must be validated and scanned so that they can be included in the unofficial canvass, which must be completed on election night.
28. Ohio law requires that each polling location has sufficient ballots, instruction cards, registration forms, pollbooks, tally sheets, writing implements, and other supplies necessary for the casting and counting of ballots. The boards of elections must prepare these materials.
29. Boards of elections must ensure that each polling location has sufficient provisional ballots and provisional ballot envelopes.
30. Boards of elections must set up polling locations with voting equipment, tables, chairs, and proper signage.
31. Boards of elections must ensure that each polling location is accessible, including ensuring that any temporary improvements necessary to make a polling location accessible are implemented. For instance, if a polling location does not have an otherwise accessible entrance, a board may need to install a temporary ramp. If a polling location does not have sufficient handicapped accessible parking, sufficient temporary spaces must be set up.
32. The official lists of registered voters must be accurately prepared for each precinct, including notations of those voters who have already requested an absentee ballot by mail or in person in order to prevent an absentee voter from also casting a regular ballot at the polls on Election Day.

33. In addition to all of those scheduled tasks, boards of elections must handle any last-minute issues that arise, including, but not limited to, moving a polling place in the event of an emergency, replacing poll workers who are unable to serve at the last minute, and reacting to court decisions that affect the administration of the election.
34. In order to facilitate additional evening and weekend in person absentee voting, boards of elections must ensure adequate staffing during those hours. This can be burdensome and costly for boards that are already operating under tight budgetary restrictions. In addition, these staff cannot complete other necessary tasks while tending to in person absentee voters.
35. Although State law in 2008 allowed a voter to vote absentee in person during any of the 35 days preceding the Election Day, State law did not require a board of elections, or the board's alternative locations to be open during any particular days or hours.
36. In 2008, only 7 of the 88 county boards of elections were open for in person absentee voting on the Sunday before the election. The vast majority of Ohio's counties offered in person absentee voting only on Mondays through Fridays during their regular business hours (meaning the boards of elections closed at 5 p.m. or earlier) for the entire absentee voting period, plus one Saturday- the Saturday immediately preceding Election Day (November 1, 2008). The majority of these counties open on the Saturday immediately preceding Election Day were open for a total of four hours or less.
37. Similarly, in 2010, only 5 of the 88 county boards of elections were open for in person absentee voting on the Sunday before the election. The vast majority of Ohio's counties offered in person absentee voting only on Mondays through Fridays during their regular business hours for the entire absentee voting period, plus one Saturday—the Saturday immediately preceding Election Day (October 30, 2010). The majority of these counties open on the Saturday immediately preceding Election Day were open for a total of four hours or less.
38. Under Directives 2014-17, there are more early voting hours available in most counties than were available in 2010.
39. A voter's selection of one method of voting (e.g., in person) during a particular time during the absentee voting period (e.g., the last weekend of voting) is not indicative of the method by which, or time when, that same elector will participate as a voter in future elections. Based on data analyzed from the Franklin County Board of Elections, it is clear that of the 8,534 in person absentee voters during "golden week" in 2008, only 259 (or 3.35%) voted in person during "golden week" in 2012. There were only 61 electors in Franklin County who voted in person absentee during "golden week" in each of the last three federal general elections (2008, 2010, and 2012). Similarly, of the 15,432 in person absentee voters during the 5 days before the 2008 general election, 2,326 (or 15.07%) voted in person during the 5 days before the 2012 general election. There were only 115 electors in Franklin County who voted in person absentee during the 5 days before each of the last three federal general elections (2008, 2010, and 2012). The

Franklin County board of elections was open for in person absentee voting on all of the 5 days before the 2008, 2010, and 2012 general elections.

40. As stated above, for the 2008 presidential election 1.74 million Ohioans cast an absentee ballot. In the 2012 presidential election, this number increased to 1.86 million. According to data reported by the United States Election Assistance Commission (EAC), there were 386,390 in person absentee voters in 2008. According to data reported by the Ohio Secretary of State, there were 600,561 in person absentee voters in 2012.
41. Based on data analyzed from Charles Stewart III (Professor Stewart), the Kenan Sahin Distinguished Professor of Political Science at the Massachusetts Institute of Technology, the mean wait time for early in person voting in Ohio decreased from 21.0 minutes (+/- 13.6 minutes) to 7.7 minutes (+/- 3.9 minutes) for the 2008 and 2012 presidential elections, respectively. Thus, while the number of absentee ballots cast increased from 2008 to 2012, the two most recent presidential elections, wait times for early in person voting decreased.
42. Based on data analyzed from Professor Stewart, Election Day voting wait times dropped from 12.3 minutes (+/- 2.5 minutes) to 11.2 minutes (+/- 1.9 minutes) from 2008 to 2012.
43. Following the implementation of no-excuse early voting in 2006, a few Ohio counties began mailing unsolicited absentee ballot applications to all voters in the county. This created a scenario in which some Ohioans were sent unsolicited absentee ballot applications, while others were not.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct based on my personal knowledge.

Executed this 21st day of July, 2014, in Franklin County, Ohio (Columbus).



Matthew M. Damschroder
Deputy Assistant Secretary of State and State
Elections Director



Jon Husted
Ohio Secretary of State

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DIRECTIVE 2014-15

May 21, 2014

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

Re: Preparation for the Statewide Mailing of Absentee Ballot Applications for the
November 4, 2014 General Election

SUMMARY

This Directive requires each board of elections to update its voter registration database and resolve duplicate records in preparation for the Secretary of State's statewide mailing of absentee ballot applications for the November 4, 2014 General Election.

BACKGROUND

In 2012, for the first time since Ohio adopted no-fault absentee voting, the Secretary of State's Office distributed absentee ballot request forms to registered voters with a current address in all 88 counties. Prior to that, only certain counties were able to offer this service to voters. The statewide absentee ballot application mailing ensured not only that all voters in Ohio were treated the same, but that voters who chose this option could cast their ballots over the course of more than a month without ever having to leave home. With one in three voters choosing to cast their ballots prior to Election Day in 2012, the statewide mailing was a major factor in ensuring Ohio voters did not experience the lines that other states did.

In light of this success, Secretary Husted will conduct another statewide mailing for the 2014 General Election, following the same procedure. Once again, your diligence in ensuring the voter rolls are accurate and up-to-date will make for a smooth mailing process and benefit all voters in your counties.

INSTRUCTIONS

I. THE STATEWIDE MAILING OF ABSENTEE BALLOT APPLICATIONS

To ensure fairness and uniformity across counties and to reduce lines at polling places in the November 4, 2014 General Election, the Secretary of State's Office will mail absentee ballot

applications, pursuant to state law,¹ by non-forwardable mail, to 1) every registered voter in Ohio in “active” status² as of August 1, 2014 and 2) every registered voter in Ohio who voted in the 2010 General Election or the 2012 Presidential Election as reflected in the Statewide Voter Registration Database (SWVRD), regardless of voter status as described herein.

The absentee ballot application will be pre-populated with the voter’s name and current address, and the local voter ID number, represented numerically and as a barcode. The applications will be mailed to the voter’s residential address unless the board of elections has provided an alternate mailing address to the SWVRD associated with the voter’s record. The voter must complete the application by providing the voter’s date of birth, identification, and signature before sealing the application in the reply envelope provided and submitting it to the voter’s county board of elections in person or by mail, with the voter affixing a first class stamp.³

The mailing will also notify voters that:

- The deadline for returning a complete absentee ballot application to the board of elections by mail is noon on Saturday, November 1, 2014;⁴
- The earliest day on which a board of elections may mail absentee ballots to voters who have submitted a complete absentee ballot application is October 7, 2014;⁵ and
- If a voter completes and returns an absentee ballot application, but instead chooses to vote in person at the voter’s assigned precinct polling location on Election Day, Ohio law requires the voter to cast a provisional ballot.⁶

Delivery of the applications by USPS is expected during the first two weeks of September, 2014.

II. DATA PREPARATION BY COUNTY BOARDS OF ELECTIONS

To facilitate this mailing, each county board of elections must:

- Enter into its county voter registration database all new voter registrations and changes of address/name received through August 1, 2014.

¹ Section 3, Sub. S.B. 205 (130th General Assembly), effective June 1, 2014.

² A registered voter has an “inactive” status (also known as “active-confirmation”) if the voter was sent, but did not respond to a confirmation card mailed to the voter by a county board of elections. A confirmation card is sent under any of four circumstances: a) general voter records list maintenance program, NCOA process (see Directive 2014-14 and 2013-10), b) general voter records list maintenance program, supplemental process (see Directive 2014-14 and 2013-10), c) the voter’s acknowledgement notice was returned as undeliverable (see RC 3503.19(C)(3)), or d) the voter’s record does not match BMV/SSA records (see Directive 2012-16).

³ R.C. 3509.03, Sub. S.B. 205 (130th General Assembly), effective June 1, 2014.

⁴ R.C. 3509.03.

⁵ R.C. 3509.01, Sub. S.B. 238 (130th General Assembly), effective June 1, 2014.

⁶ R.C. 3509.09.

- Resolve all in-county and cross-county duplicate records that exist as of July 30, 2014 no later than August 1, 2014. Remember, it is *never* an acceptable practice for any county board of elections to simply “keep” a voter registration record to avoid resolving duplicate records.
- Update the Statewide Voter Registration Database weekly by the following dates:
 - July 11, 2014
 - July 18, 2014
 - July 25, 2014
 - August 1, 2014

The Secretary of State’s Office will be monitoring this activity and following up with those counties that fail to send the information.

- No later than July 31, 2014 each board of elections must review all alternate mailing addresses in the SWVRD (e.g., P.O. Boxes) for that county to ensure that all alternate mailing addresses associated with the voter’s record in the SWVRD are current and relevant to the elector’s voter registration rather than some other election administration purpose (i.e., if the Board has populated the elector’s alternate mailing address with the address for a previous election’s absent voter ballot and that alternate mailing address was sent to the SWVRD as the elector’s alternate mailing address, that address should be removed since it is associated with absentee balloting rather than voter registration).
- On August 1, 2014, transmit to the SWVRD all new registrations and changes of address/name received by that date. The Secretary of State’s Office will contact any county that fails to send information on August 1, 2014.

III. SUPPLEMENTAL MAILING

In early October, the Secretary of State’s Office will supplement the first mailing by sending absentee applications to individuals who have registered or changed their address/name between August 1, 2014 and September 30, 2014.

To facilitate this mailing, each board of elections must:

- Enter into its county voter registration database all new voter registrations and changes of address/name it receives through September 26, 2014.
- Resolve all in county and cross-county duplicate records that exist as of September 24, 2014 no later than September 26, 2014.

- Update the Statewide Voter Registration Database weekly by the following dates:
 - September 5, 2014
 - September 12, 2014
 - September 19, 2014
 - September 26, 2014

The Secretary of State's Office will be monitoring this activity and following up with those counties that fail to send the information.

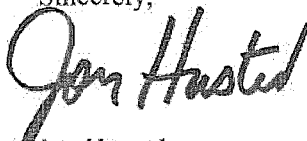
- On September 26, 2014 counties must transmit to the SWVRD all new registrations and changes of address/name received by that date. The Secretary of State's Office will contact any county that fails to send information on September 26, 2014.

IV. MANDATORY POSTING AT VOTING LOCATIONS ON ELECTION DAY

All county boards of elections must post a copy of the statewide absentee application mailing at each voting location on Election Day as a reference for voters who are marked in the signature poll book as having to cast a provisional ballot on the account of having requested an absentee ballot. A prescribed posting will be provided to you under separate cover at a later date.

If you have any questions about this Directive, please contact the Secretary of State's election counsel assigned to your county at (614) 466-2585.

Sincerely,



Jon Husted