



DIRECTIVE 2020-21

September 28, 2020

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

Re: Replacement Absentee Ballots and Provisional Voting

SUMMARY

It is common in every election for an absentee voter to request their board to send a new ballot or decide to vote in-person after submitting an absentee ballot application. This Directive provides instructions on how to assist these voters, ensuring uniformity in approach throughout the State of Ohio.

INSTRUCTIONS

I. ISSUING ABSENTEE BALLOTS

A board of elections may not cancel a valid absentee ballot application once a voter submits it to their board of elections. Once a board of elections processes a complete absentee ballot application, it must issue the ballot. However, a voter may decide not to cast their absentee ballot and vote in person. Boards may also receive requests for replacement absentee ballots to be sent by mail. The remainder of this Directive outlines the procedures to follow in those scenarios.

II. STEPS FOR SENDING A REPLACEMENT BALLOT BY MAIL

As in past elections, boards of elections should expect calls from absentee voters who did not receive their ballot in the mail, made a mistake, defaced their ballot, or have another reason for wanting a replacement ballot. A board may provide a voter with up to two replacement absentee ballots.¹ A replacement absentee ballot may be sent only to the address included on the original application. A voter who requests that the ballot be mailed to a different address must complete a new absentee ballot application that includes that new address.² Additionally, no voter may receive a replacement ballot after the voter's absentee ballot is scanned or entered into the automatic tabulating equipment.³

If a voter indicates that they want the board to mail a replacement absentee ballot, the board must go through the following steps:

1. If a voter made a mistake or the mailed ballot was defaced, ask the voter to return the ballot to the board for tracking purposes, if the voter still has the ballot. The

¹ This is consistent with the law governing replacement ballots on Election Day. See [R.C. 3505.23](#)—"In no case shall more than three ballots be issued to a voter."

² [R.C. 3509.03](#).

³ [R.C. 3509.051\(E\)](#).

voter should fold the ballot for privacy and *not* seal it within the identification envelope. Assure the voter that only one ballot will be counted.

2. If a voter did not receive a ballot or lost their ballot, identify when the last ballot was issued. Inform the voter of the date when the ballot was issued and that the USPS estimates first-class election mail requires two to five days to arrive in the mail.⁴ Depending on when the voter makes the replacement ballot request, caution them if there may not be enough time to deliver the replacement absentee ballot by mail to the voter. The board should inform them of other options for voting, such as voting early in-person or at their polling location on Election Day.
3. If the voter still requests the board to mail a replacement absentee ballot, the board must promptly issue the replacement ballot and clearly document electronically when the ballot was issued.

The board of elections may count only one ballot per voter. If the voter marks and returns more than one ballot, the board must count only the first ballot received. It is a felony to vote more than once in the same election.⁵

III. STEPS FOR VOTING IN-PERSON AFTER THE VOTER APPLIED FOR AN ABSENTEE BALLOT

A. VOTING IN-PERSON ABSENTEE DURING THE EARLY VOTING PERIOD

Early in-person voting is a form of absentee voting under Ohio law.⁶ If a voter previously submitted an absentee ballot application to receive a ballot by mail and appears to vote early in-person at the board of elections or early vote center, the voter does not need to vote provisionally (presuming no other reason for provisional voting applies).⁷

If the voter has not returned their mailed absentee ballot, the board of elections must record in its voter registration system that the original ballot is spoiled. In addition, the board must ask the voter to return the spoiled ballot for tracking purposes. If the voter returns their original ballot, the board must place it in a container designated for spoiled ballots. However, a voter does not need to return their original absentee ballot in order to cast a regular in-person absentee ballot.

If a voter tears, soils, defaces, or erroneously marks a paper ballot before casting it, the voter may return the ballot and receive a replacement.⁸

⁴ [State and Local Election Mail — User's Guide](#).

⁵ [R.C. 3599.12\(A\)\(2\)](#).

⁶ See generally [R.C. 3509.051](#).

⁷ See [R.C. 3505.181](#) for the reasons that a voter may be required to vote provisionally.

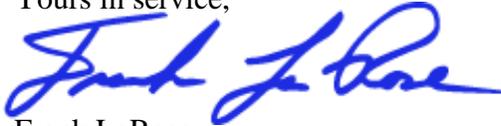
⁸ A voter who received one ballot in the mail and another as an in-person absentee voter may receive only one more replacement paper ballot. The voter cannot receive a replacement ballot after that voter's ballot has been cast. See [R.C. 3505.23](#) and [R.C. 3509.051\(E\)](#). Replacement ballots are not necessary for an electronically-displayed ballot on a voting machine, because the voter has the ability to change their selections before casting the ballot.

B. VOTING ON ELECTION DAY AT THE POLLING LOCATION

As a reminder, if a voter submitted a valid application for an absentee ballot (either by mail or in person), that voter must be flagged in the voter registration system and the poll book.⁹ If such a voter appears to vote on Election Day at their polling location, they must cast a provisional ballot, even if they did not receive or return their ballot.¹⁰

If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State

⁹ This does not apply to Safe at Home address confidentiality program participants per [R.C. 111.44](#).

¹⁰ [R.C. 3509.09\(B\)](#).