



DIRECTIVE 2018-12

May 21, 2018

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

Re: Use of Remote Ballot Marking System

SUMMARY

Directive 2018-03 requires each county board of elections to acquire a remote ballot marking system for use by a voter with a qualifying disability under the Americans with Disabilities Act (ADA) who timely submits a completed application to receive an absentee ballot by mail and requests to mark his or her absentee ballot using the system.

The purpose of this Directive is to provide detailed instructions to boards of elections on the use of its remote ballot marking system and the grant funding each county is receiving.

INSTRUCTIONS

I. Application for Absentee Ballot & Request to Use the Remote Ballot Marking System

As with any Ohio voter who is requesting an absentee ballot, a voter requesting an absentee ballot and use of the remote ballot marking system must submit a written application that provides all of the following pieces of information:¹

1. The voter's name;
2. The voter's signature;²
3. The address at which the voter is registered to vote;
4. The voter's date of birth;
5. One of the following:
 - a. The voter's driver's license number;
 - b. The last four digits of the voter's Social Security number;
 - c. A copy of a current and valid photo identification, a military identification, or a current (within the last 12 months) utility bill, bank statement, government check,

¹ R.C. 3509.03(B).

² Generally, signing or affixing a signature to an election-related document requires a person's written, cursive-style legal mark written in that person's own hand. However, a voter with a disability may personally affix his or her signature through the use of a reasonable accommodation, including the use of assistive technology or an augmentative device such as a signature stamp. See R.C. 3501.011, 3501.382(F) and related OAG 2015-012.

paycheck, or other government document (other than a notice of voter registration mailed by a board of elections) that shows the voter's name and address.

6. A statement identifying the election for which the absentee ballot is requested;
7. A statement that the person requesting the ballot is a qualified elector; and
8. If the request is for a primary election ballot, the voter's party affiliation.

To utilize the remote ballot marking system, the voter also must provide the following:

1. A statement that the person has a qualifying disability under the Americans with Disabilities Act (ADA);³
2. A statement that the person needs to use the remote ballot marking system to mark independently his/her ballot; and
3. The email address to which the board can deliver the person's ballot; and
4. The address to which the voter wants the Identification Envelope – Statement of Voter ([Secretary of State Form 12-A](#)) mailed to the voter, if that address is different from the voter's registration address.

The Secretary of State's office has created a new form, Secretary of State Form 11-G, for this type of absentee voter. The form is located on the Secretary of State's website, and each board of elections must make it available upon request. If a voter submits a written absentee ballot application to a board of elections on a form other than the Secretary of State Form 11-G but indicates on the application that he/she has a disability and wants to use the remote ballot marking system, the board must make reasonable efforts to obtain any additional information necessary to process the application and make the remote ballot marking system available to the voter.

Voters with a qualifying disability who want to use the remote ballot marking system may submit Secretary of State Form 11-G or other written application for an absentee ballot beginning January 1st of the year of the election or 90 days before the election, whichever is earlier, and ending 12:00 p.m. noon on the Saturday before Election Day.⁴

II. Incomplete Applications

If the board receives an application that does not contain all the required information or necessary information, the board must contact the voter immediately, using the quickest and most effective available means of communication and ask the voter to resubmit a complete application containing all required information.

The board may not return an incomplete application to the voter, as once an application is received at the board office, it is a public record. In addition, election officials may not complete an application's missing information on behalf of the voter. The voter must personally complete

³ A board of elections must accept as true the voter's statement that he or she has a qualifying disability under the ADA. Under no circumstances may a board of elections require a voter to provide documentation of his or her disability or any information beyond what is requested on Secretary of State Form 11-G.

⁴ R.C. 3509.03(D).

any missing information on the application, unless the voter has paperwork on file with the board of elections to receive assistance from a designated attorney-in-fact.⁵

III. Transmission of Access to Ballot and Absentee Ballot Identification Envelope to the Voter

Once the board receives a timely and complete application from a voter requesting to use the remote ballot marking system, the board must transmit the following promptly to the voter via email to the email address provided by the voter:

1. A link through which the voter may access and mark his or her ballot using the remote ballot marking system;
2. [Secretary of State Form 12-A](#) (Identification Envelope – Statement of Voter)⁶;
3. Secretary of State Form 12-N (Instructions to Voters Using a Remote Ballot Marking System); and
4. Any additional instructions prepared by the board of elections or the vendor that the voter might need to utilize the remote ballot marking system.

In the event that a board of elections receives a notice of delivery failure for the email, the board must verify that it attempted to send the email to the email address provided, and, if so, the board must contact the voter immediately to obtain a valid email address. The voter must provide any alternate email address to the board in writing using a separate written application for an absent voter's ballot. If the board is unable to obtain a valid email address for a voter by 12:00 p.m. noon on the Saturday before Election Day, the board must transmit the ballot to the voter by regular, U.S. mail.

The board also must send the voter an absentee ballot identification envelope and statement of voter ([Secretary of State Form 12-A](#)) AND an absentee ballot return envelope ([Secretary of State Form 12-F](#)) via regular U.S. Mail on the same day that the board emails the link and instructions to the voter. The identification envelope and absentee ballot return envelope must be sent either to the voter's registration address or to the address requested by the voter on the voter's written application, if the voter has requested that the envelopes be sent to an alternate address.

As with all absentee ballot identification envelopes, boards of elections are required to pre-print the voter's name and address (at which the voter is registered to vote) on the voter's identification envelope prior to mailing it to the voter. In addition to pre-printing the voter's name and address (at which the voter is registered to vote) on the envelope, the board also must indicate the location that the voter needs to sign the statement of absentee voter by punching two small holes with a hole puncher – one on the "X" following "Signature" and one at the end of the signature line. This will allow the voter to detect – by touch – where he or she needs to place his or her signature.

⁵ R.C. 3509.03; R.C. 3501.382.

⁶ Each board must use the version of [Secretary of State Form 12-A](#) that appears on the Secretary of State's website, because that version of the form is compliant with Web Content Accessibility Guidelines (WCAG) 2.0 and is a fillable PDF.

Form No. 12-A Prescribed by Secretary of State (09-17)

Identification Envelope
Statement of Voter

print clearly

R.C. 3509.04, 3511.05

I, _____, declare under penalty of election falsification that the ballot contained
(Printed Name of Voter)
within this envelope had no voting marks of any kind when I received it, and that I caused the ballot to be marked, enclosed in the identification envelope, and sealed in the envelope. I am a qualified elector of the state.

Address at Which you are Registered to Vote

1 Street Address (No P.O. Boxes) _____ County _____
City/Village _____ ZIP _____

If I have a confidential voter registration record, I am providing my program participant identification number instead of the address at which I am registered to vote.

Date of Birth

2 Date of Birth (Do not write today's date here) _____

Identification

You must provide ONE of the following.

3 Your Ohio driver's license number (2 letters followed by 6 numbers) _____
 Last four digits of your Social Security number _____
 In lieu of providing either of the above numbers, I am enclosing a COPY of one of the following in the return (outside) envelope in which this identification envelope will be mailed: a current and valid photo identification, a military identification, or a current (within the last 12 months) utility bill, bank statement, government check, paycheck, or other government document (other than a notice of voter registration mailed by a board of elections) that shows my name and current address.

Election

4 Date of Election (Do not write today's date here) _____
 General Election **Special Election**
 Primary Election For a PARTISAN primary election only, you must choose the type of ballot.
 Political party ballot Name of political party _____ Issues only ballot

Affirmation

5 I hereby declare, under penalty of election falsification, that the statements above are complete and true to the best of my knowledge and belief.
Signature _____
Today's Date _____

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

IV. Marking and Returning the Ballot and Absentee Ballot Identification Envelope

A voter can mark his or her ballot by accessing the remote ballot marking system through the link provided to the voter. Each board of elections must work closely with its remote ballot marking system vendor to assist a voter with troubleshooting and resolving any issues. Each board of elections also must work closely with its vendor to provide detailed step-by-step instructions for a voter to follow to access and use the system.

After marking the ballot, the voter must print it, enclose it in an envelope, and return it to the board of elections by mail or in person. The voter cannot return his or her ballot electronically.

The voter can choose to return his or her ballot using one of the following methods:

1. The voter may complete electronically, print, and sign the Identification Envelope – Statement of Voter ([Secretary of State Form 12-A](#)) that the board emailed to the voter and enclose it with the voter's ballot in any envelope provided by the voter.
2. The voter may complete and sign the Identification Envelope – Statement of Voter ([Secretary of State Form 12-A](#)) that the board mailed to the voter and enclose his or her ballot in the Identification Envelope.

To be eligible to be counted, the voter must return his or her absentee ballot by the deadline for returning an absentee ballot by mail, if the ballot is returned by mail, or by the deadline for returning an absentee ballot in person, if the ballot is returned in person. The deadlines for the return of an absentee ballot by mail and in person are explained in the first step of the Mandatory Step-by-Step Process for Counting Absentee Ballots on pages 34-35 of [Chapter 5 of the Election Official Manual](#).

V. Processing the Ballot

A board of elections is required to follow the Mandatory Step-by-Step Process for Counting Absentee Ballots in [Chapter 5 of the Election Official Manual](#) in processing every absentee ballot, including any absentee ballot that is marked using a remote ballot marking system.

Each board of elections must follow the instructions outlined in [Chapter 5 of the Election Official Manual](#) regarding the issuance of [Secretary of State Form 11-S](#) and the process for handling any absentee ballot identification envelope that is missing required information or that contains information that does not conform to the voter's registration. Additionally, each county board of elections must provide reasonable accommodations as follows:

- If a voter requests assistance to supplement the voter's identification envelope, the board of elections must send board employees, not of the same political party, to the voter to provide assistance.
- Each board of elections must notify the voter that the voter needs to supplement his or her identification envelope and provide [Secretary of State Form 11-S](#) by e-mail.

If a voter returns his or her ballot and statement of voter in an envelope provided by the voter, avoid looking at the ballot, place the ballot in a blank identification envelope, and seal it. The board also must staple the completed and signed statement of voter that has been returned by the voter to the envelope.

Please note that a ballot that is marked with a remote ballot marking system cannot be read or scanned by the board's central count scanner. A board of elections must generate a machine-readable ballot using one of the following methods:

1. Scanning the barcode that appears on the ballot returned by the voter (generated by the ballot marking system) and printing the ballot using the board's ballot-on-demand printer. The generated ballot should be compared to the ballot returned by the voter for accuracy.
2. Remaking the ballot following the procedures for remaking a ballot using a bipartisan team that are outlined in Chapter 8, Canvassing the Votes, of the Election Official Manual.

GRANT FUNDING

A check in the amount of the funding allocated to your county will be mailed to your board the week of May 21, 2018. Enclosed with the check will be a memorandum outlining the purpose of the funds. Your county is not required to spend the entire amount of the grant this year or return any portion of it to the Secretary of State.

In September, each county board of elections will be required to affirm, via Elect Collect, that it has purchased a remote ballot marking system and provide the name of the system's vendor. A link to the Elect Collect survey will be sent under a separate cover.

If you have questions regarding this Directive, please contact the Secretary of State's elections counsel assigned to your county.

Sincerely,



Jon Husted