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DIRECTIVE 2007-09

May 21, 2007

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Access of Political Parties to the Ballot in Ohio

This directive concerns the ability of political parties to gain access to the ballot in Ohio. Under R.C. 3517.01(A)(1), only political parties whose candidates for governor in the 2006 general election received at least five percent of the total votes cast for that office automatically have access to the ballot. Moreover, under R.C. 3517.01(A)(1), a political party whose candidate for governor did not receive at least five percent of the vote cast for governor in the 2006 general election ceases to be a political party. The only political parties in Ohio that exceeded this threshold in the 2006 general election were the Ohio Democratic Party and the Ohio Republican Party.

Previously, the alternative means for political parties to be recognized by the state of Ohio and to gain access to the ballot under R.C. 3517.01(A) and 3517.012 was to file with the office of the secretary of state a petition containing the signatures of qualified electors equal to one percent of the total votes cast for governor or presidential electors in the previous general election, declaring the intention to organize a political party, stating the name of the political party, and declaring the intention to participate in the next primary election. Such a petition was to be filed more than one hundred and twenty (120) days before the next primary election for the political party to have access to the ballot that year.

However, on September 6, 2006, the United States Court of Appeals for the Sixth Circuit held in *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579 (2006), that the number of signatures required and the deadline for filing the petition under R.C. 3517.01(A)(1) placed an unconstitutional burden on the First Amendment rights of political parties seeking to gain access to the ballot in Ohio.

Because the court invalidated the provisions of R.C. 3517.01(A)(1) that provide an alternative mechanism for recognition and ballot access for political parties that did not meet the five percent threshold in the previous general election, there is now no mechanism under Ohio law for recognition and ballot access for these political parties.

In order to address this void in Ohio law, I have approached the Ohio General Assembly to urge them to act on the Sixth Circuit's ruling by amending R.C. 3517.01(A)(1) and 3517.012. However, until the General Assembly acts, there must be a means for Ohio citizens to exercise their First Amendment rights to free speech and association by organizing political parties and participating in the electoral process.

Consequently, in accordance with my role as chief election officer under R.C. 3501.04 and my duties under R.C. 3501.05, I will grant legal recognition to and allow ballot access for any political party that submits a petition to this office that meets the following requirements:

1. It contains the valid signatures of qualified electors equal in number to at least 0.5 percent of the total number of votes cast for governor in the 2006 general election, which amount is 20,114 ($4,022,754 \times 0.005 = 20,113.77$);
2. It declares the intention to organize a political party;
3. It states the name of the political party in the declaration;
4. It declares the intent to participate in the next primary election; and
5. It is filed with the office of the secretary of state no later than one hundred (100) days before the primary election. However, because the 100th day before the March 4, 2008 primary election – i.e., November 25, 2007 – falls on a Sunday, the deadline is extended by operation of law (R.C. 1.14) to Monday, November 26, 2007.

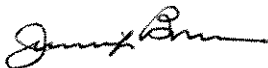
Individuals or groups of individuals who desire to organize a political party in Ohio, but who do not intend to participate in the primary election, may certify candidates for the general election ballot for president and vice-president only, in accordance with R.C. 3505.10(B)(3). To be granted party status for the purpose of certifying only presidential and vice-presidential candidates for the general election ballot, the organizers of the political party must file with the secretary of state's office a petition that meets requirements 1 through 3 listed above. Additionally, the petition must include language that the organizers intend to certify only candidates for president and vice-president under R.C. 3505.10(B)(3). The petition must be filed no later than eighty (80) days before the 2008 general election. However, because the 80th day before the November 4, 2008 general election – i.e., August 16, 2008 – falls on a Saturday, the filing deadline is extended by operation of law (R.C. 1.14) to Monday, August 18, 2008.

Political parties that certify candidates for president and vice-president in this manner in accordance with R.C. 3505.10(B)(3) must certify the names of their candidates for president and vice-president no later than sixty (60) days before the day of the general election (Friday, September 5, 2008).

Anyone who desires to organize a political party in Ohio may follow these guidelines. However, please be aware that the Ohio General Assembly may impose different requirements for political party recognition and access to the ballot than the requirements in this directive, and any statutory changes will supersede the requirements of this directive.

If you have any questions or need additional information, please contact the Elections Division legal staff assigned to your board at 614-466-2585.

Sincerely,



Jennifer Brunner
Ohio Secretary of State