



DIRECTIVE 2023-03

February 7, 2023

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

Re: Substitute House Bill 458 (134th General Assembly)

BACKGROUND

The purpose of this Directive is to inform boards of elections of changes to elections administration policies and procedures resulting from the passage of Substitute House Bill 458 (“H.B. 458”).¹ The Secretary of State’s Office is working to develop new forms, directives, and training manuals to implement the changes in law. In order to maintain statewide uniformity in election administration and to reduce potential voter confusion, boards must implement the changes in time for the start of early voting in the May 2, 2023 Primary/Special Election, including the start of voting for uniformed and overseas voters.²

INSTRUCTIONS

I. VOTER IDENTIFICATION

H.B. 458 changes the types of identification (“ID”) Ohioans may use for voter registration and voting. In general, a voter must have photo ID to vote in person, unless the voter has a religious objection to being photographed and attests to this on the form prescribed by the Secretary of State. For absentee voting by mail, a voter may still provide an Ohio driver’s license number or state ID card number, the last four digits of their Social Security Number (“SSN”), or a photocopy of the voter’s photo identification. Beginning on April 7, 2023, any person ages 17 and over who applies for and receives a state ID card from the Bureau of Motor Vehicles (“BMV”) may receive it for free.

The graphic on the next page shows the types of ID that will be acceptable for registering to vote, voting early in person, voting by mail, and voting by provisional ballot (comparing prior law to the new law).

¹ Additional changes to Ohio’s election laws were included in H.B. 45 with the intent to supersede any conflicting provisions in H.B. 458; this Directive addresses the changes in H.B. 458, in conformity with H.B. 45.

² Litigation is pending in federal court regarding the voter ID, absentee, provisional voting changes, elimination of Monday in-person voting prior to Election Day, and ballot drop box requirements in H.B. 458. The Secretary of State’s Office will promptly notify boards of elections of any court order relevant to this directive and change in law.

Voter Identification Requirement Chart

Forms of Voter ID	Register to Vote		Election Day Voting		In-person Absentee Voting		Absentee Voting by Mail		Provisional Voting	
	Prior	H.B. 458	Prior	H.B. 458	Prior	H.B. 458	Prior	H.B. 458	Prior	H.B. 458
Ohio DL/ID with current address	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓
Ohio DL/ID with former address	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓
Military ID	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓
U.S. passport or passport card	✗	✗	✗	✓	✗	✓	✗	✓	✗	✓
Utility bill, bank statement, government check, paycheck, or other government document with current address	✓	✗	✓	✗	✓	✗	✓	✗	✓	✗
Ohio DL/ID <i>number</i>	✓	✓	✗	✗	✓	✗	✓	✓	✓	✗
Last four digits of SSN	✓	✓	✗	✗	✓	✗	✓	✓	✓	✗

A. ACCEPTABLE FORMS OF PHOTO ID

Beginning on the first day of early voting for the May 2, 2023 Primary/Special Election, the following documents will be acceptable photo ID for voting as long as the ID is not expired and includes the individual's name and photograph:³

- Ohio driver's license, state ID card, or interim ID form issued by the Bureau of Motor Vehicles ("BMV").
 - This includes a commercial driver's license, motorcycle operator's license, probationary or restricted license, or temporary instruction permit.
 - An interim identification form is a BMV document issued to a person who has just applied for a driver's license or state ID card, to use until the permanent card arrives in the mail;
- U.S. passport or passport card; or
- U.S. military ID card, Ohio National Guard ID card, or U.S. Department of Veterans Affairs ID card (collectively referenced in this Directive as "military ID").

Note: A suspended driver's license that is not expired may still be used as photo identification for voting.

B. IDENTIFICATION FOR VOTER REGISTRATION

H.B. 458 requires a person who registers or updates their voter registration to provide at least one of the following:

- An Ohio driver's license number or state ID card number; or
- The last four digits of the voter's SSN.

The following forms of identification may no longer be used to register to vote:

- A copy of a photo ID;
- A military ID;
- A copy of any of the formerly valid types of voter ID (utility bill, bank statement, government check, paycheck, or other government document).

The change in law applies to new voter registrations and updates to voter registration. It does *not* require anyone to re-register to vote. Just as before, to register online, a person must provide **both** an Ohio driver's license number or state ID card number **and** the last four digits of the person's SSN.⁴

C. IDENTIFICATION FOR ELECTION DAY VOTING

Voters will be required to show photo ID to cast a regular ballot on Election Day. A voter who does not provide photo ID may cast a provisional ballot. See the above list of acceptable forms of ID.

³ R.C. 3501.01(AA).

⁴ R.C. 3503.14 and 3503.20.

Additionally, a voter must sign their name in the pollbook as opposed to writing their name and address in the pollbook. This change is consistent with continuing law that requires the election officials to compare the voter's signature with the signature on file.⁵

D. IDENTIFICATION FOR IN-PERSON ABSENTEE VOTING

A voter who comes to vote early in person at the board of elections must provide photo ID in the same manner as a voter voting on Election Day. If the person does not provide photo ID and wants to vote early in person, they may cast a provisional ballot. If a person who comes to vote early in person at the board of elections does not wish to cast a provisional ballot, the board of elections may offer the voter an absentee ballot application to receive a ballot by mail.

E. IDENTIFICATION FOR ABSENTEE VOTING BY MAIL

A voter who is completing an absentee ballot application or an identification envelope must provide one of the following forms of ID:

1. An Ohio driver's license or state ID number;
2. The last four digits of the voter's SSN; or
3. A *copy* of the voter's photo ID.

A "copy" of a photo ID requires images of both the **front and back** of one of the forms of photo ID acceptable on Election Day (see above), except in the case of a U.S. passport. A "copy" of a passport means a copy of the ID page of the passport that includes the voter's name, photograph, and other identifying information and the passport's expiration date.

Voters may no longer provide a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and address.

Confined or disabled voters (e.g. nursing home voters) who receive assistance from visiting election officials to vote absentee may follow the by-mail voter ID requirements (providing last four digits of SSN or Driver's License/State ID number) or, if the voter chooses, may show photo ID to the bipartisan team of election officials who come to their location to facilitate voting.⁶ The deadline to submit an application for a confined or disabled voter is the close of business on the seventh day before Election Day.

F. IDENTIFICATION FOR PROVISIONAL VOTING

1. Voters Who Cannot Provide Photo ID⁷

Voters without ID may still cast a provisional ballot when they appear in person to vote. Those voters will have four days after Election Day to appear at the board of elections office to show photo ID (except in the case of a religious objector, as described below). It is not sufficient to provide a copy of a photo ID, the Ohio driver's license number or state ID card number, or the last four digits of the voter's SSN.⁸

⁵ R.C. 3505.18.

⁶ R.C. 3501.01(AA)(2), 3509.03, 3509.04 to 3509.08, 3511.02, 3511.05, and 3511.09.

⁷ The paragraph in this section was corrected and the updated version of this Directive posted on February 27, 2023.

⁸ R.C. 3505.18, 3505.181, 3505.182, and 3505.183.

2. Religious Objectors

If a voter does not have a photo ID because of a religious objection to being photographed, the precinct election official or board staff, as applicable, must provide the voter an affidavit of religious objection on a form that our Office will prescribe. This may occur either when the voter casts the provisional ballot or at the office of the board by the fourth day after Election Day. Election officials must attach the affidavit to the provisional ballot affirmation. The board must transmit the completed affidavit of religious objection to the Secretary's Office, which then must consult the BMV's database to determine whether they issued a currently unexpired photo ID to that voter.

The affidavit of religious objection is not valid if the BMV has issued a currently unexpired photo ID or if the last four digits of the voter's SSN provided on the affidavit do not match those digits in the Statewide Voter Registration Database.⁹

This Office will prescribe the form of the affidavit based on the wording in statute.

3. Cure Period for Provisional Ballots

The time period when a provisional voter may cure a ballot by going to the board of elections and providing a photo ID, signing a religious objection affidavit, or providing other information needed to count the person's ballot is shortened. Provisional voters now have until the **fourth** day after Election Day to do so.¹⁰

II. ABSENTEE VOTING BY MAIL

H.B. 458 made several changes in processes associated with voting absentee by mail, as described below.

A. APPLICATION DEADLINE

The deadline to submit a valid absentee application for absentee ballots by mail will now be the **close of business on the seventh day before Election Day**. However, a voter may still apply for an absentee ballot after the regular application deadline and not later than 3:00 p.m. on Election Day if they or their minor child has been unexpectedly hospitalized.¹¹

"Close of business" is the time that in-person voting ends on the Tuesday before Election Day. For the May 2, 2023 Primary/Special Election, the absentee application deadline is 8:30 p.m. on April 25, 2023.

B. FORM OF APPLICATION

Beginning with the May 2, 2023 Primary/Special Election, non-UOCAVA absentee voters may use only an application form prescribed by the Secretary of State.¹² UOCAVA voters may still apply on the Federal Post Card Application or submit a Federal Write-in Absentee Ballot. A board of elections that receives an application that is not submitted on an appropriate form must

⁹ R.C. 3505.181, 3505.182, and 3505.183, and 3505.19.

¹⁰ Same as footnote 8.

¹¹ R.C. 3503.16(E), 3509.03(D), 3509.031(A)(2), 3509.08, 3511.02, and 3511.04.

¹² R.C. 3509.03(B).

promptly direct the applicant to use an appropriate form.¹³ The board must use all available contact information (phone and/or email) to contact the voter and provide the correct application form prior to the application deadline.

If a voter submits an absentee ballot application on the Secretary of State's previously prescribed form, the application may be accepted so long as the voter includes a valid form of ID required by H.B. 458. As explained above, the application must include one of the following:

1. An Ohio driver's license number or state ID card number;
2. The last four digits of the voter's SSN; or
3. A *copy* of the voter's photo ID.

If a county board of elections desires to make formatting changes to the prescribed absentee application form, the board must submit the proposed form to the Secretary of State's Office for review and approval. The Secretary of State may then prescribe a modified form for the board of elections.

C. ABSENTEE BALLOT RETURN PROCEDURES

1. Ballot Return and Cure Period Deadlines

The deadline for absentee ballots to arrive at a board of elections office will be the **fourth day after Election Day**. Under continuing law, absentee ballots for non-UOCAVA voters that arrive after the polls close must be postmarked by the day before Election Day. The new law changes the deadline for UOCAVA voters to complete their ballots. Going forward, a UOCAVA voter must sign their ballot by the close of the polls, regardless of whether they are postmarked or where the voter is located.¹⁴ Absentee voters who need to provide additional or corrected information have until the **fourth day** after Election Day to do so, which is similar to the changes to the cure period for provisional ballots described above.¹⁵

2. Accelerated Final Ballot Examination

Boards of elections must begin counting late arriving and cured absentee ballots on the **fifth day** after Election Day, instead of the eleventh day as required under prior law.¹⁶ Additionally, boards must begin counting cured provisional ballots by the **eighth day** after Election Day, instead of the eleventh day.¹⁷ However, the calendar provisions for the final canvass remain: a board must begin an official canvass not earlier than the 11th or later than the 15th day after an election and must complete it by the 21st day after.¹⁸

More information concerning the canvass timeline will be provided in a future directive.

¹³ R.C. 3503.16(E), 3509.03, 3509.04, 3511.02, and 3511.04. *See also* 52 United States Code (U.S.C.) 20302(a); Ohio Secretary of State, Forms 11-A through 11-I-2, available at www.ohiosos.gov/elections/elections-officials/forms-petitions and Federal Voting Assistance Program, available at www.fvap.gov.

¹⁴ R.C. 3511.09(A).

¹⁵ R.C. 3509.06 and 3509.07.

¹⁶ R.C. 3509.05, 3509.06, 3511.05, 3511.09, and 3511.11.

¹⁷ R.C. 3505.183(G)(2).

¹⁸ R.C. 3505.32(A).

3. Secure Receptacles (Drop Boxes)¹⁹

A board of elections may provide only **one** secure receptacle outside of the office of the board, on the property on which the office is located, for the purpose of receiving absentee ballots. A board that maintains multiple offices in the county may designate any of its offices for the return of absentee ballots, but it may designate only **one** of those offices for its drop box.

Only a bipartisan team of election officials may open a drop box or handle its contents. The team must collect the contents of each drop box and deliver them to the board at least once each day and promptly at 7:30 p.m. on Election Day. If there are persons waiting in line to deposit ballots in a drop box at the close of polls, those persons must be permitted to do so.

Any drop box the board provides must be open to receive ballots only from on the first day after the close of voter registration before the election through 7:30 p.m. on Election Day. The drop box must be open to receive ballots at all times during that period.²⁰ Before early voting begins and after Election Day, signage should indicate that ballots *cannot* be deposited in the drop box. Drop boxes may be utilized for other purposes year-round. Each drop box must be monitored by video surveillance at all times, and the video recordings are a public record.

The new law gives boards two options for complying with public records requests related to their video surveillance. Each board must either (1) make the recordings available for inspection immediately upon request or (2) make each day's recording available online for free streaming or download within 24 hours after the recording ends. For the first option, access to the recordings must be provided as soon as practicable. Boards must also make the recordings available to the public upon request in accordance with normal procedures under the Public Records Act.

4. New Statutory Reporting

During the absent voting period, the board must send a daily report to the Secretary of State each day the board is open for business that contains:

- The number of return envelopes purported to contain absentee ballots, both UOCAVA and non-UOCAVA, the board received by personal delivery (not through the drop box); and
- The number of return envelopes received in the drop box.

The Secretary's Office must make that daily report publicly available on the official website as soon as practicable after receiving the reports.²¹ We will provide instructions to the boards on the submission of these reports.

5. Processing Ballots Before the Close of Polls

Boards are now *required* to process absentee ballots before the close of the polls on Election Day. Boards may begin processing absentee ballots as early as the day following the close

¹⁹ R.C. 3509.05(C)(3).

²⁰ Although H.B. 458 states that a drop box is to be open to receive ballots only during the board's hours of operation during that period, the General Assembly separately amended that in H.B. 45 to require a drop box to be open at all times during that period.

²¹ R.C. 3509.05(C).

of voter registration. Boards are still prohibited from tabulating the ballots before the close of the polls. Under continuing law, processing an absent voter's ballot means all of the following:²²

- Examining the ID envelope in order to verify that the ballot is eligible to be counted;
- Opening the ID envelope, if the ballot is eligible to be counted;
- Determining whether the ballot is valid;
- Preparing and sorting the ballot for scanning by automatic tabulating equipment; and
- Scanning the ballot by automatic tabulating equipment, if the equipment permits the ballot to be scanned without tabulating or counting the votes on the ballots scanned.

6. Change from “Director” to “Board”

Numerous references in the law governing absentee voting are changed from the director receiving ballots to the board of elections receiving, sending, and processing applications and ballots. This clarifies that the director is not required to personally carry out those duties. Under continuing law and practice, the board delegates many of its duties to the director and deputy director and to other employees.

D. EARLY VOTING SCHEDULE

In-person absentee voting must be permitted for all voters starting the day after the close of voter registration before an election and ending on the Sunday before the election. The Monday immediately before Election Day is eliminated as an in-person absentee voting day. To make up for that loss of six hours of voting time, the Secretary of State is required to reallocate those hours by adding six hours on Monday through Friday of the preceding week. H.B. 458 states that the General Assembly intends to enact legislation that specifies the days and hours for in-person absentee voting.²³ Our office will work closely with the legislature to assure that the concerns of our election officials are considered when establishing early voting hours in law. For the May 2, 2023 Primary/Special Election, the in-person absentee hours are as follows:

Weeks One, Two, and Three of Voting

Voting begins the day after the close of registration for the election. Boards must not be open for early in-person absentee voting on any holiday established by state or federal law.

- ☐ 8:00 a.m. to 5:00 p.m. on each weekday (Monday through Friday)

Week Four of Voting

Boards must be open for early in-person absentee voting during the hours listed below. Boards must not be open for early in-person absentee voting on any holiday established by state or federal law.

- ☐ 7:30 a.m. to 7:30 p.m. (Monday)
- ☐ 7:30 a.m. to 8:30 p.m. (Tuesday)
- ☐ 7:30 a.m. to 7:30 p.m. (Wednesday through Friday)
- ☐ 8:00 a.m. to 4:00 p.m. (Saturday)
- ☐ 1:00 p.m. to 5:00 p.m. (Sunday)

²² R.C. 3509.06(F) and [Chapter 7](#), Section 7.06 of the Election Official Manual.

²³ Section 4(A) of H.B. 458.

Absentee ballot applications are due by close of business on the seventh day before Election Day (*i.e.*, Tuesday, April 25, 2023 at 8:30 p.m.)

III. AUGUST SPECIAL ELECTIONS

Special elections held in August are eliminated except when a political subdivision or school district is in a state of fiscal emergency as determined by the Auditor of State “at the time the board of elections certifies the office, question, or issue for placement on the ballot.” If an August election is held, the entire cost of the special election will be charged to the political subdivision or taxing authority.²⁴

IV. ADDITIONAL ADMINISTRATIVE CHANGES

A. CURBSIDE VOTING

According to H.B. 458, a voter with a disability (rather than “handicap”) who is physically unable to enter a polling place must be permitted to vote in their vehicle or at the door of the polling place with the assistance of a bipartisan team of election officials. This is the only circumstance where curbside voting is permitted. Election officials must not challenge a voter’s attestation that he or she has a disability and is physically unable to enter a polling place.²⁵

B. 17-YEAR-OLD POLL WORKERS

17-year-old poll workers are no longer required to be seniors in high school to participate in a Youth at the Booth program. The student must be at least 17, a U.S. citizen, and a resident of the county, and must apply through a program at the student’s school.²⁶

C. LOGIC AND ACCURACY TESTING FOR VOTING EQUIPMENT

H.B. 458 updates the law requiring pre-election testing of voting equipment consistent with existing Secretary of State directives. Pre-election logic and accuracy testing is required for all voting equipment that will be used in that election. No voting machine, marking device, or piece of automatic tabulating equipment may be used in an election without undergoing successful testing by a bipartisan team. Boards must give public notice of the time and place of all testing, including the testing and auditing of software codes.²⁷

D. ELECTION ADMINISTRATION PLANS

H.B. 458 codifies the Election Official Manual’s requirement that each board prepare an Election Administration Plan (“EAP”) before each presidential primary election and each general election held in an even-numbered year. The new law requires boards to submit the EAP no later than 75 days before the election. The topics are the same as those found on the current EAP template and may include additional topics prescribed by the Secretary in the future.²⁸

²⁴ R.C. 3501.022.

²⁵ R.C. 3501.29(C).

²⁶ R.C. 3501.22(C).

²⁷ R.C. 3506.14

²⁸ R.C. 3501.10(BB).

E. GOVERNOR’S COMMISSION FEE

H.B. 458 eliminates the fee that a newly elected state or county officer or judge must pay in order to receive a commission from the Governor. Those officers still must receive formal commissions to take office, but fees are no longer required.²⁹

V. NEWLY PRESCRIBED FORMS AND OLD STOCK

For the May 2, 2023 Primary/Special Election, boards must use the newly prescribed forms or modify existing stock to match the new language on the forms. For example, if a board is not able to produce a sufficient number of ID envelopes with the updated Form 12-A, the board may cover over any outdated information to be consistent with the changes in law. Boards must be cautious to ensure all changes are accurate and that any updated information is applied in a manner not easily removed (i.e., some labels may otherwise be removed inadvertently).

VI. PUBLIC AWARENESS CAMPAIGN

Each board must review its website, social media, and other communication resources to ensure that accurate information is provided to the public. The Secretary of State’s Office is preparing to launch a robust public information campaign so that Ohio voters know about the changes in law. Boards should be proactive in educating their local communities about the changes in law. Our Office will inform boards once both printed and digital resources are developed or updated.

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

Yours in service,

Frank LaRose
Ohio Secretary of State

²⁹ R.C. 107.06 (repeal effective April 7, 2023) and R.C. 107.07.