



Members Only

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An Overview of Ohio's Election Process

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This *Members Only* brief provides an overview of the Ohio Election Law as of the end of 2007, including citations to applicable provisions of federal law. It is intended to provide an overview, not a complete discussion. The citations permit the reader to explore particular issues in greater depth.

Election officials

The Secretary of State is the chief election officer of the state, a term used in both the federal Help America Vote Act and the National Voter Registration Act. Generally, the Secretary of State is charged with implementing Ohio election law. Among other duties, the Secretary of State adopts rules and issues directives on the conduct of elections, which boards of elections must follow.

Boards of elections in Ohio are comprised of four members, two each from the major political parties. If a board deadlocks on an issue, the Secretary of State generally has the authority to resolve the dispute. The boards of elections and their staff members conduct Ohio elections under the Secretary of State's supervision. Some of the boards' duties include voter registration, establishing precincts, providing for ballot preparation, counting of votes, and accepting petitions and campaign finance filings.

Pollworkers, otherwise known as precinct election officials, are assigned to precincts on a bipartisan basis. Not more than one-half of the precinct election officials may be members of the same political party. At least four precinct election officials must be assigned to each precinct, but a board of elections may appoint additional officials, equally divided between the two major political parties, when necessary to expedite voting.¹

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Voter registration

Qualifications for electors

The Ohio Constitution establishes the qualifications for being an elector in Ohio. A citizen of the United States, of the age of 18 years, who has been a resident of the state, county, township, or ward such time as provided by law, and has been registered to vote for 30 days has the qualifications of an elector and is entitled to vote at all elections. Since a person must be registered to vote for 30 days, a constitutional change would be required to authorize Election Day voter registration in Ohio.

Despite these general qualifications, certain persons may still be prohibited from voting. The Ohio Constitution specifies that “no idiot or insane person shall be entitled to the privileges of an elector.” Additionally, the General Assembly has the power to exclude from the privilege of voting, or of being eligible to office, any person convicted of a felony. Persons convicted of a felony are ineligible to be electors while imprisoned. They regain the capacity to be an elector (but must again register to vote) upon release from prison. They may vote while under community control, post-release control, or other forms of nonprison control. Persons convicted of a misdemeanor may vote by absent voter’s ballots while in jail, as can persons arrested for, and still awaiting trial on, a felony charge.²

Registration form and requirements

The Secretary of State, as the state’s chief election officer, specifies the form of the voter registration application, which must meet the requirements of federal law. Among other requirements, federal law requires the form to ask registrants whether they wish to register to vote and to include a “yes” box and a “no” box to answer that question. The person must not be registered unless the person checks the “yes” box. Failing to answer the question means that the person will not be registered. Additionally, state law requires voters to provide their driver’s license number, the last four digits of their social security number, or a copy of a current and valid photo identification or other specified document showing their name and current address, when registering to vote.

The voter registration form must be made available at various “designated agencies” specified under federal law, including motor vehicle license bureaus and agencies that provide disability or other forms of assistance. Employees of designated agencies must be available to help applicants fill out the form, if needed. State law makes the forms available at additional locations, such as public schools and libraries.

Completed forms may be returned in person, by mail, or through another person. If returned by mail, a form must be postmarked not later than the 30th day before an election for

In order to be a qualified elector, a person must have been registered to vote for 30 days.

Persons convicted of a felony are ineligible to vote while imprisoned, but they may again register to vote upon release from prison.

Federal law specifies the form of the voter registration application.



the applicant to be eligible to vote at that election. If returned in person or through another person, it must be returned not later than the 30th day before the election for the applicant to be eligible to vote in that election. A person who helps another person register outside an official voter registration place or who receives compensation for registering a voter is generally prohibited from knowingly failing to timely return a registration application entrusted to that person to the appropriate board of elections or the Secretary of State's office.³

Statewide voter registration database

The federal Help America Vote Act of 2002 (HAVA), among other provisions, requires each state to establish a single, uniform, computerized statewide voter registration database containing the voter registration information of all registered voters. Ohio's database may be accessed at <http://www.sos.state.oh.us/sosapps/elections/voterquery.aspx>. This system is intended to reduce the incidence of people who are registered in more than one county, among other purposes. When a person moves and reregisters, the old registration is easier to identify and cancel.⁴

Cancellation of registration

Voter registrations may be canceled only in certain circumstances: upon written request by the elector, filing

felony, adjudication of incompetency, change of residence outside the county, or failure to respond to a confirmation notice or update the voter's registration and vote in a period of four years (which must include two federal general elections).⁵ If a voter moves out of state and does not cancel the person's registration, for example, the person will remain on the list for at least four years. Thus, some counties may have more registered voters than residents. But, under federal law, the registration lists cannot be purged sooner.

How people and issues get on the ballot

Ballot access for candidates

A "statement of candidacy and petition" for partisan candidates must be filed 75 days before the day of the primary election, or 60 days before the election, if the election is a presidential primary. If the person is planning to retire and seek reelection to the same office, the person also must file a "notice of intent to retire" with the board of elections.

A "nominating petition" must be filed for a nonpartisan candidate by the applicable deadline for the office sought. Nonpartisan candidates may be subject to a different primary date if the nominating petition is for a nonpartisan primary election, such as for city council in some charter municipal corporations. Municipal corporations often have primary elections at times that vary

Ohio's voter registration database may be accessed through the Internet on the Secretary of State's web site.



Votes for a write-in candidate will not be counted unless the candidate files a declaration of intent to be a write-in candidate at least 62 days before the election.

The Ohio Constitution specifies the process for voters to propose changes to the Ohio Constitution or to the Ohio Revised Code.

significantly from the election dates specified in the Revised Code.

A “nominating petition” must be filed for an independent candidate by 4:00 p.m. of the day before the day of the primary election. The United States Supreme Court struck down a prior Ohio law requiring such a candidate to file at the same time as partisan candidates, on the grounds that the earlier deadline unconstitutionally restricted the freedom of speech and association of nonpartisan candidates.⁶ The General Assembly included, in the statute establishing the new deadline, a legislative intent statement specifying that the reason for establishing the deadline prior to the primary election is to preserve the primary nomination process. Otherwise, people who lose in the primary election might file as independents thereafter, thereby reducing the effectiveness of primaries to reduce the field of potential candidates.

For a person to be eligible to receive write-in votes, a “declaration of intent to be a write-in candidate” must be filed before 4:00 p.m. of the 62nd day before the day of the election. If a person has not filed the declaration, write-in votes for that person will not be counted.⁷

Ballot access for statewide issues

A voter-initiated petition may be brought to change either the law or the Ohio Constitution directly. For statewide issues, the Ohio Constitution specifies the number of signatures required for the petition,

as well as the distribution of those signatures throughout the state. If the initiative petition meets the specified requirements, proposed constitutional amendments are placed directly on the ballot. For a proposed statute, the General Assembly has four months after the beginning of the session to enact the law. If the General Assembly fails to act, additional signatures may be gathered, and the proposed law will then be placed on the ballot. If the signatures are sufficient, the Ohio Constitution specifies that the Secretary of State “shall” place the question on the ballot. The Revised Code, however, permits a majority of the members of the committee named to represent the petitioners to withdraw the petition at any time prior to the 60th day before the day of the election at which the initiative or referendum is scheduled to appear on the ballot. A petition that has been withdrawn under this provision may not be resubmitted.

The General Assembly is authorized to submit constitutional changes to the voters of the state by resolution. Resolutions must be approved by three-fifths of the members of each house. They must be submitted to the ballot at a special or general election.

A referendum petition may be filed within 90 days after the Governor signs a law to submit that law, or any item or section of that law, to the voters for their approval. The petition must be signed by 6% of the voters of the state. If the petition is filed, the question of approving or disapproving the law will be submitted to the voters



at the next succeeding “regular or general election” occurring more than 60 days after the petition is filed. A majority of the voters must disapprove the law or item or section of law for it to be prevented from going into effect.⁸

Petition requirements

A petition must be signed in ink, and a petitioner, in addition to signing the petition, also must provide the person’s voting residence and the date of signing. No one may sign a name other than the person’s own to a petition, unless the person is physically unable to sign because of a disability. In that case, state law prescribes procedures for designating an attorney in fact to sign on the person’s behalf.

The circulator of a petition must sign a circulator’s statement affirming that the circulator witnessed each signature; that the signers were, to the best of the circulator’s knowledge, eligible to sign the petition; and that the signature is of the person whose signature it purports to be. If a circulator knowingly permits an unqualified person to sign or permits a person to write a name other than the person’s own (unless that person is acting as an attorney in fact for a disabled voter), the petition is invalid.

Petition signatures must, in certain circumstances, be gathered in multiple counties. In that case, the petition is made up of part-petitions, each of which may contain the signatures of electors in only one county. Once the

petition is filed, the board of elections of the county in which the signatures were gathered is responsible for verifying the signatures on that part-petition. Petitions may be rejected if they contain insufficient valid signatures, if the candidacy or petition violates the Election Law, or if a protest is filed regarding the signatures and, as a result of that protest, the petition is determined to be invalid.⁹

Note: Recall elections

There is no such thing as a recall election in Ohio, except for certain municipal offices.¹⁰ There is no authority in the Ohio Constitution for a recall election, nor is a process established for recall. Since the Constitution provides numerous other specific procedures for removing someone from office and does not provide any recall process, there is presumably no recall for state or other offices in Ohio.

Types of elections

Primary elections

Primary elections are held for the purpose of nominating persons as candidates of political parties for election to office. A special election, such as an election for a school or library levy, may be held on the day of the primary election, but the term “primary election” refers to an election for the nomination of candidates. Minors who are 17 at the

There is no authority in the Ohio Constitution for a recall election.



Statewide primary elections are usually held in May, except in presidential election years, in which case the statewide primary is held in March.

Candidates for judicial office appear on the partisan ballot for the primary election, but are considered nonpartisan candidates at the general election.

time of the primary election and who will be 18 by the date of the general election may vote a political party's ballot in that primary election.

Statewide primary elections are normally held on the first Tuesday after the first Monday in May. In presidential election years, the statewide primary election is held on the first Tuesday after the first Monday in March. Primary elections for offices in charter municipal corporations and charter counties are held at the time specified in the applicable charter, which may differ significantly from the date of the statewide primary.

Statewide primary elections are partisan, and only persons affiliated with the applicable political party may vote to nominate candidates for that party. Charter municipal corporations may have nonpartisan primaries, in which electors of the municipal corporation are eligible to vote for any candidate on the ballot. Then, a specified number of the top vote-getters at that election proceed to the general election, without regard for party affiliation. Candidates for judicial office appear on the partisan ballot for the primary election, but are considered nonpartisan candidates at the general election. Thus, they are nominated as party candidates, but they are not identified with a party on the ballot at the general election.¹¹

General elections

Elections for state and county officers must be held on the first Tuesday after the first Monday in

November in even-numbered years. Elections for all other elective offices must be held on the first Tuesday after the first Monday in November in odd-numbered years.¹² Because the date of the general election is established in the Constitution, the date on which a general election is held cannot be changed by statute.

Special elections

A special election is any election other than a general election or a primary election. Examples of special elections include elections to fill vacancies for Congress and elections for school or library levies. Special elections may be held only on the first Tuesday after the first Monday in February, May, August, or November, or on the day authorized by a particular municipal or county charter for holding a primary election. However, in the year of a presidential primary election, no special election may be held in February or May, but a special election may be held on the first Tuesday after the first Monday in March.¹³

Ballot language

Studies of voter behavior show that the candidate whose name is positioned at the top of the ballot has an advantage over candidates listed lower on the ballot. The Ohio Constitution requires the General Assembly to provide a means by which ballots must give each candidate's name reasonably



equal position by rotation or other comparable method to the extent practicable and appropriate to the voting procedure used. Except for absentee ballots or when the number of candidates for a particular office is the same as the number of candidates to be elected to that office, the names of candidates for an office must be rotated from one precinct to another. On absentee ballots, the names of all candidates for an office must be alternated so that each name appears, insofar as reasonably possible, substantially an equal number of times at the beginning, at the end, and in each intermediate place, in the group of candidates, unless the number of candidates for the office is the same as the number of candidates who will be elected to that office.

At an election at which a candidate's party designation appears on the ballot, the name or designation of the candidate's party must be printed under the candidate's name in less prominent typeface than that in which the candidate's name is printed.

Some states permit a voter to vote for all candidates for a particular party by making a party selection at the top of the ballot. The Ohio Constitution prohibits this. An elector may vote for candidates (other than candidates for presidential electors and joint candidates for the offices of Governor and Lieutenant Governor) only and in no other way than by indicating the elector's vote for each candidate separately from the indication of the elector's vote for any other candidate.

Ballot language for statewide issues is determined by the Ohio Ballot Board, which consists of the Secretary of State and four other members, no more than two of whom may be members of the same political party. The ballot language must properly identify the substance of the proposal to be voted upon, but does not need to contain either the full or a condensed text of the proposal. In addition to ballot language, statewide initiatives and referenda are also required to have prepared an argument or explanation, or both, in favor of the issue, and an argument or explanation, or both, against the issue. The petitioners may specify, in the petition, the person or persons who will prepare the argument, explanation, or both, against the law submitted to referendum or in favor of an initiated statute. The General Assembly, if in session, and the Governor, if the General Assembly is not in session, is required to name the person or persons who will prepare the argument, explanation, or both, in favor of a law submitted by referendum or against a proposed initiated statute. If a constitutional amendment is proposed by the General Assembly, the Ballot Board is required to provide an explanation of the proposed amendment. If any of the arguments or explanations are not prepared as required, the Ohio Ballot Board is required to prepare them. If the Ballot Board fails to prepare the missing arguments or explanations, the positions of the four appointed members of the Board

The Ohio Constitution requires candidate names to be rotated on ballots in order to give each candidate's name reasonably equal position.

Ballot language for statewide issues must properly identify the substance of the proposal to be voted upon, but does not need to contain the full or a condensed text of the proposal.



must be considered vacant, and new members must be appointed.

The Secretary of State is required to certify the form of the ballot and the names of candidates for state offices to the boards of elections, as well as the wording of state issues, as they are required to appear on the ballot. The Secretary of State also must give final approval to the ballot language for any local question or issue approved by a board of elections.

Public notice of elections

Public notices of various types of elections must be published in newspapers of general circulation in the area in which the elections will be held. The number of times an issue must be advertised generally is specified in the law creating the election. Generally, notice of local elections must be published once a week for two weeks and, if the applicable board of elections operates and maintains a web site, notice of the election also must be included on that site. For statewide issues, the arguments and issues must be published once a week for three consecutive weeks preceding the election in at least one newspaper of general circulation in each county in which a newspaper is published. Each board of elections must also send a notice to every registered voter in the precinct by nonforwardable mail 60 days before the primary and general elections in 2008. This notice must include the date of the election,

the location of the polling place, and a reminder that each voter must bring proper identification.¹⁴

Absent voter's ballots

Any qualified elector may vote by absent voter's ballot at an election. To receive an absent voter's ballot, voters are required to provide specified information, including one of the acceptable forms of voter identification. Under the federal Uniformed and Overseas Citizens Absentee Voting Act, voters who are overseas may apply for absent voter's ballots using a single federal postcard application. A uniformed services absent voter is not required to reapply for absent voter's ballots for each election, and the information on the uniformed services absent voter application may vary from that required of absentee voters generally.

Ordinarily, absent voter's ballots must be returned by the close of the polls on the day of an election. If the envelope is marked to indicate that the voter is overseas, the ballot must be accepted for up to ten days after the election, as long as it is mailed by the close of the polls.¹⁵

Voting at the polls

Precincts and polling places

Boards of elections must divide the state into precincts, which may contain no more than 1,400 voters.

Public notices of elections must be published in newspapers of general circulation in the area in which the elections will be held.

Any qualified elector may vote by absent voter's ballot.



Precinct boundaries must match U.S. Census Bureau geography. For each precinct, the board must establish a polling place. The board may change the location of the polling place when necessary to maintain the requirements as to the number of voters in a precinct, to provide for the convenience of voters, and to provide for the proper conduct of elections. Except in an emergency, changes in precinct boundaries and polling places must not be made during the 25 days before a primary or general election.

As far as practicable, rooms in public schools and other public buildings must be used as polling places. Polling places generally must be free of barriers that would impede access for disabled persons, be provided with a ramp, and have the federally required minimum number of "handicapped parking spaces." State law permits polling places to be exempted from this requirement upon certification by a board of elections that a good faith, but unsuccessful, effort has been made to modify, or change the location of, an inaccessible polling place. However, other law, such as the federal Americans with Disabilities Act, may make this exemption irrelevant. If a polling place is a place of public accommodation, it must be accessible, notwithstanding the Secretary of State's statutory authority to waive that requirement.¹⁶

Voting process

Polls are opened by the presiding judge at 6:30 a.m. and closed at 7:30

p.m. However, the polls must be kept open until any voters who are waiting in line to cast their ballots at the close of the polls have voted.

When appearing to vote, a voter must announce the voter's full name and address and provide proof of the voter's identity to the precinct election officials. This proof may be in the form of a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, "or other government document." A notice of election or of voter registration mailed by a board of elections will not suffice. After showing proper identification, the voter must sign the voter's name and address in the signature pollbook. If the voter is unable to write, the precinct official or an attorney in fact acting on behalf of the voter must write the person's name and address after the person's mark. The precinct election officials then compare the person's signature in the signature pollbook with the person's registration signature.

If a voter is able to provide a current driver's license or state identification card but that identification does not contain the voter's current address, the voter must provide the last four digits of the voter's driver's license number or state identification card number. The precinct election official will then mark the signature pollbook to indicate that the voter did provide identification and record the four digits. The voter must then

To the extent practicable, rooms in public schools and other public buildings must be used as polling places.

Polls are open from 6:30 a.m. until 7:30 p.m., but must be kept open until any voters who are waiting in line to cast their ballots at the close of the polls have voted.



A person's right to vote may be challenged by a judge of elections.

A voter who casts a provisional ballot has ten days to appear at the office of the board of elections and provide information proving the voter's eligibility to vote.

sign the pollbook, and the precinct election officials will compare the signature with the signature on the identification.

A voter who does not have or cannot provide any of the required forms of identification may still vote by provisional ballot if the person signs an affirmation, under penalty of election falsification, that the person cannot provide any of the required identifying information.

A person who has provided the proper identification as described above may proceed to vote a regular ballot, unless the person's right to vote is challenged. Any person may be challenged by a judge of elections on the grounds that: (1) the person is not a citizen, (2) the person has not resided in the state for 30 days preceding the election, (3) the person is not a resident of the precinct in which the person appears to vote, or (4) the person is not of legal voting age. In a primary election, a person may be challenged on the grounds that: (1) the person is not a legally qualified elector, (2) the person has received or been promised some reward or consideration for the person's vote, or (3) the person is not affiliated with or is not a member of the political party whose ballot the person desires to vote.

Precinct election officials must ask specified questions of a challenged voter in order to determine the person's eligibility to cast a ballot. If the person is unable to answer the questions satisfactorily, the Revised Code permits the voter to cast a provisional ballot. Pursuant to a

court order, the statutory requirement that naturalized citizens provide their naturalization certificates upon challenge cannot be enforced.¹⁷

There are a variety of reasons why a person may have to cast a provisional ballot. If a person is unable or unwilling to provide proper identification, not listed in the signature pollbook, or challenged and an election official determines the person is ineligible to vote, that person must cast a provisional ballot. When casting a provisional ballot, a voter must execute an affirmation declaring that the voter is properly registered and eligible to vote. The voter must also be provided with a toll free number where the voter can find out whether the voter's ballot was counted and, if it was not counted, the reason it was not counted.

Within ten days following the election, a voter who cast a provisional ballot as a result of a failure to provide proper identification or as a result of being challenged must appear at the local board of elections and provide the appropriate information to prove the voter's eligibility. The board of elections must make a determination whether a person who casts a provisional ballot is registered and eligible to vote in that election. If the board makes an affirmative determination, the vote will be counted. The provisional ballot will not be counted if the person fails to appear and provide appropriate information and elections officials cannot find any information to substantiate the person's claim of eligibility.



The Revised Code specifies the procedure for voting by paper ballot and the procedure for certifying voting machines for use in Ohio. The Secretary of State is required to issue rules, instructions, directives, and advisories to the boards of elections regarding the process for conducting elections using voting machines. Unless inconsistent, all provisions of the Election Law generally apply to elections conducted using voting machines.

Ohio received federal funds to upgrade its voting system. The new voting systems, which are direct recording electronic (DRE), precinct count optical scan, or a combination of both, have been implemented. DRE voting machines must include a voter verified paper audit trail. If a recount is conducted in a county using DRE machines, the voter verified paper audit trail must serve as the official ballot to be recounted.

Federal law establishes standards that voting systems are required to meet. Under those standards, a voting system must (1) permit the voter to verify, in a private and independent manner, the votes selected by the voter on the ballot before the ballot is cast and counted, (2) provide the voter with an opportunity to change the ballot or correct any error before the ballot is cast and counted, and (3) notify the voter if the voter has selected more than one candidate for a single office, notify the voter of the effect of such a selection, and provide the voter with the opportunity to correct the ballot before it is cast and counted. Under Ohio law, the system

must also preclude voters from voting for candidates or upon questions that voters are not entitled to vote on, from voting for more persons for an office than entitled to vote on, and from voting more than once for a candidate for the same office or upon any question.

No voter is allowed to occupy a voting compartment or use a voting machine for more than five minutes when all of the machines are in use and voters are waiting to occupy them. In practice, this provision is not generally enforced. If the voter is disabled, enforcement of this provision could violate the Americans with Disabilities Act.¹⁸

Accessibility for disabled voters

Both the federal Help America Vote Act of 2002 and state law require the voting system to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters. This requirement may be met by the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

Any elector who declares to the presiding judge of elections that the elector is unable to mark the ballot due to blindness or other disability, or to illiteracy, may be accompanied into the voting booth and aided by any person of the elector's choice, other

Federal law establishes standards that voting systems are required to meet.

Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the visually impaired.



Electors who are blind, disabled, or illiterate may receive assistance in marking their ballots.

than the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union. The elector also may request and receive assistance in marking the ballot from two election officials of different political parties. No candidate whose name appears on the ballot may assist any person in marking that person's ballot.

If a polling place is not handicapped accessible as generally required, the board of elections must permit any handicapped elector who travels to that elector's polling place to vote, with the assistance of two polling place officials of major political parties, in the vehicle that conveyed the elector to that polling place or at the door of that polling place. The HAVA requirement of privacy and independence for handicapped electors, however, supersedes this requirement for elections for federal office.¹⁹

Prohibitions

Precinct election officials, persons waiting to vote, and others are prohibited from engaging in numerous activities while at the polling place. Some of the prohibited activities include:

- Loitering or congregating within the area between the polling place and the small United States flags that are placed on the walkways leading to the polling place, and if the line of electors waiting to vote extends beyond those small flags, within ten feet of any elector in that line;

- Hindering or delaying an elector from reaching or leaving the place for casting a ballot;

- Giving, tendering, or exhibiting a ballot or ticket, other than giving the elector's own ballot to the election official, within the boundaries described above for loitering or congregating;

- In any manner attempting to influence any elector in casting the elector's vote;

- Voting or attempting to vote more than once at the same election by any means;

- Attempting to intimidate an election officer or prevent an election official from performing the official's duties;

- Removing from the voting place the pencils, cards of instruction, supplies, or other conveniences furnished to enable the voter to mark the voter's ballot.

The penalties for violating the various election day prohibitions described above range from a first degree misdemeanor to a fifth degree felony on a first offense (repeat violations of the election laws are fourth degree felonies, and the repeat offender is disfranchised).²⁰

After the election

After the polls are closed, the election officials, in the presence of witnesses that political parties, candidates, and others may assign, are required to account for unused, soiled, and defaced ballots and count the voted ballots. Ballots that are marked contrary to law may not be counted,



but no ballot may be rejected for technical error unless it is impossible to determine the voter's choice. The preliminary election night results must be recorded in a summary statement, which must be transmitted to the board of elections without delay. The board, immediately upon receipt, must compile the summary statements and prepare an unofficial count, which must be transmitted immediately to the Secretary of State or to the board of the most populous county in a district that is authorized to canvass the returns.

Not earlier than the 11th day, and not later than the 15th day after the day of an election (or the 21st or 25th day for a presidential primary election), the board of elections must begin to canvass the election returns. It must continue the canvass daily until completed. The board is required to complete the canvass not later than the 21st day after the day of the election, or in the case of a special election held on the day of a presidential primary election, not later than the 31st day after the day of the special election. The canvass is the official count of the ballots for that election. The election night tally is incomplete, since it does not include all absent voter's ballots and provisional ballots. The delay allows for the receipt of absent voter's ballots that have been mailed, but not received, by the day of the election and the resolution of questions on provisional ballots.

Depending upon the level of an office or issue voted on at an election,

the official results of the election are announced by different entities. If an office or issue is located within a particular county, the county board of elections canvasses the abstracts of elections and declares the results. If a district is composed of more than one county, the results are declared by the board of elections of the most populous county in the district. The Secretary of State canvasses the abstracts for all elections in which electors throughout the entire state voted, but the General Assembly officially determines and declares the results of all elections for statewide office.²¹

Recounts and election contests

Any person for whom votes were cast at an election and who was not declared nominated or elected may file an application for a recount. Also, any group of five or more electors may file an application for a recount on an issue, if the members of the group state that they voted on the losing side of that issue. If the margin of victory in an election is less than 0.5% of the vote, or less than 0.25% of the vote in a statewide election, a recount automatically must be conducted. Applicants for a recount must deposit funds as security for the payment of charges for the recount. At the time and date specified for the recount, which must be not later than ten days after the application is made, the board of elections must recount the ballots cast at that election. If the recount does not change the outcome

Unofficial ballot counts are prepared on election night. The official canvass is conducted later, following the receipt of absent voter's ballots and the resolution of provisional ballots.

A recount must be conducted in certain close elections.



of the election, the applicants must pay a specified portion of the recount cost.

Qualified electors of the state or a political subdivision may contest the nomination or election of any person to any nonfederal public office or the approval or rejection of any issue or question submitted to the voters. A contest is started by filing a petition with the clerk of the appropriate court signed by at least 25 electors who voted at the last election on the office or issue being contested or by the losing candidate. A bond sufficient to pay all costs of the contest must accompany the petition. The contest is then determined by the court without a jury. At the conclusion of the trial, the court must pronounce judgment as to which candidate was nominated or elected or whether the issue was approved or rejected by the voters. A contest of the nomination or election of any person to a federal office is governed by federal law.

If an election, or the contest of an election, results in a determination that the vote was a tie, the election then must be decided by lot.²²

Campaign finance

The Campaign Finance Law generally establishes contribution limits applicable to statewide candidates and candidates for the office of member of the General Assembly. It requires all candidates, and certain political entities, such as political parties and political

action committees, to file statements identifying contributions and expenditures, as well as independent expenditures. Depending on the level of office that a candidate is seeking, the statements are filed with either a county board of elections or the Secretary of State. Certain statements must be filed electronically.

Penalties for violating the Campaign Finance Law generally are in the form of administrative fines. Complaints alleging a violation of the Campaign Finance Law must be filed with the Ohio Elections Commission. After investigation and hearing, the Commission may dismiss a complaint, levy a fine, or, if appropriate, refer the matter to the appropriate prosecutor for additional proceedings. Two versions of the penalty statute exist. R.C. 3517.99 and 3517.991 cover violations that occurred through 1995, and R.C. 3517.992 and 3517.993 cover violations that occur after that date. Since violations may be punished within one year after a violation is discovered, penalties for violations occurring prior to 1995 could still be imposed.²³

Miscellaneous

By initiative, the voters of the state adopted term limits for members of the General Assembly, elected executive officeholders, and members of the Ohio Congressional delegation.²⁴ Those term limits remain in effect except with respect

If an election results in a tie, the election must be decided by lot.



to the Ohio Congressional delegation. The United States Supreme Court has ruled that, since Congressional representatives are elected under the United States Constitution, states may not adopt qualifications for those federal offices.²⁵ Thus, although the Congressional term limits remain in the text of the Ohio Constitution, they are unenforceable.

If a person has already become a candidate through the filing of a petition, filing of a declaration of intent to be a write-in candidate, filling of a vacancy, etc., for a specified office, the Secretary of State and boards of elections are prohibited from accepting a petition for that person to be a candidate at the same election for certain other offices.²⁶ The Ohio Supreme Court has interpreted this provision to prohibit the Secretary of State or a board of elections from accepting a subsequent petition if the person has already filed an invalid petition for an office at that election.²⁷

The costs of elections are generally apportioned among the political subdivisions holding elections on that day. If a statewide election is held to submit to the voters constitutional amendments proposed by the General Assembly, the state is required to pay the entire cost of printing ballots and advertising that election, as well as the cost for operating precinct polling places that would not otherwise be open on the day of the election. If a board of county commissioners fails to appropriate sufficient funding for the operation of an election, the board of elections may apply to the court of

common pleas of the county, which court must fix the amount necessary to be appropriated, and the amount then must be appropriated.²⁸

Congressional districts are currently established by the General Assembly. They are divided into whole counties, census blocks, tracts, and block groups.²⁹

Federal laws that affect state elections

Note: Federal election statutes officially apply only to elections for federal office, but, in practice they are used for all elections, since Ohio does not establish different registration and voting procedures for state and federal elections. The federal laws that impact Ohio elections are briefly described below:

Help America Vote Act of 2002 (HAVA)

42 U.S.C. 15301 *et seq.*

- Establishes voting system standards, including the opportunity for a voter to verify the voter's completed ballot and requirements for handicapped accessible machines.
- Establishes identification requirements for first-time voters who register to vote by mail.
- Provides for disbursements to states for voting system upgrades.
- Requires any person who appears to vote and asserts that the person is eligible to vote in that jurisdiction to be provided with a

Although they remain in the text of the Ohio Constitution, term limits for the Ohio Congressional delegation are not enforceable.

The costs of elections are apportioned between the political subdivisions holding elections on that day.



provisional ballot, and requires the voter to be able to determine if that ballot was counted.

National Voter Registration Act (NVRA) "Motor Voter"

42 U.S.C. 1973gg *et seq.*

- Establishes a mandatory mail-in voter registration form.
- Develops mandatory standards and timeline for purging inactive voters from state registration lists.
- Requires states to allow voter registration at "designated agencies," including motor vehicle agencies.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

42 U.S.C. 1973ff *et seq.*

- Establishes a single federal postcard form that armed services voters and overseas voters may use to apply for absent voter's ballots.
- Specifies processes for armed services and overseas voters to register to vote and to vote by absent voter's ballots.

Voting Rights Act

42 U.S.C. 1971, 1973 *et seq.*

- Prohibits discrimination in voting.

Voting Accessibility for the Elderly and Handicapped Act

42 U.S.C. 1973ee *et seq.*

- Requires polling places to be accessible for handicapped and elderly voters.
- Requires each state or political subdivision to provide a reasonable number of accessible permanent registration facilities.
- Generally prohibits requiring notarization or certification for a handicapped voter to vote by absentee ballot.

Federal Election Campaign Act/ Bipartisan Campaign Reform Act

2 U.S.C. 431 *et seq.*

- Provides campaign finance definitions and limits applicable to candidates for federal office.
- Includes provisions that may be mirrored or used by states in state campaign finance law (e.g., Levin accounts).

Americans with Disabilities Act

42 U.S.C. 12101 *et seq.*

- Prohibits discrimination in places of public accommodation. Although not directly related to elections, the Act may affect polling places, registration locations, and disability access provisions. 



Endnotes

- ¹ Chapter 3501. of the Revised Code
- ² Ohio Constitution, Article V, Sections 1, 4, and 6; Chapter 3503. of the Revised Code; and R.C. 2961.01
- ³ 42 U.S.C. 1973gg-1 *et seq.* and R.C. 3503.10, 3503.14, 3503.19, and 3599.11
- ⁴ 42 U.S.C. 15483 and R.C. 3503.15
- ⁵ 42 U.S.C. 1973gg-6 and R.C. 3503.21
- ⁶ *Anderson v. Celebrezze* (1983), 460 U.S. 780
- ⁷ Chapter 3513. of the Revised Code
- ⁸ Ohio Constitution, Article II and Article XVI, Section 1; Chapter 3519. of the Revised Code; and R.C. 3501.38(I)(2)(b) and 3519.08
- ⁹ Ohio Constitution, Article II, Section 1g and R.C. 3501.38, 3501.382, 3501.39, and 3519.02 to 3519.16
- ¹⁰ R.C. 705.92
- ¹¹ Chapter 3513. of the Revised Code and R.C. 1901.07, 1907.13, 3501.01, 3503.011, 3505.03, 3505.04, 3513.08, and 3513.10
- ¹² Ohio Constitution, Article XVII, Section 1
- ¹³ R.C. 3501.01(D)
- ¹⁴ Ohio Constitution, Article II, Section 1g; Article V, Section 2a; Article XVI, Section 1; and R.C. 3501.05, 3501.19, 3505.03, 3513.15, and 3519.03
- ¹⁵ Chapters 3509. and 3511. of the Revised Code
- ¹⁶ R.C. 3501.18 and 3501.29
- ¹⁷ *Boustani v. Blackwell* (2006), 460 F. Supp.2d 822
- ¹⁸ Chapters 3505. and 3506. of the Revised Code and R.C. 3501.32, 3513.19, and 3513.20
- ¹⁹ 42 U.S.C. 15481(a)(3) and R.C. 3501.29, 3505.24, and 3506.19
- ²⁰ Chapter 3599. of the Revised Code and R.C. 3501.35
- ²¹ R.C. 3505.26 through 3505.38
- ²² Chapter 3515. of the Revised Code
- ²³ Chapter 3517. of the Revised Code
- ²⁴ Ohio Constitution, Article II, Section 2; Article III, Section 2; and Article V, Section 8
- ²⁵ *U.S. Term Limits v. Thornton* (1995), 514 U.S. 779
- ²⁶ R.C. 3513.041, 3513.05, 3513.052, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, and 3513.259
- ²⁷ *State ex rel. Canales-Flores v. Lucas Cty. Bd. of Elections* (2005), 108 Ohio St.3d 129, 2005-Ohio-5642
- ²⁸ R.C. 3501.17
- ²⁹ R.C. 3521.01

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