Ohio Revised Code

Section 3509.06 Counting absent voters' ballots.

Effective: April 7, 2023
Legislation: House Bill 458

(A) The board of elections shall determine whether absent voter's ballots cast under section 3503.16, 3509.05, 3509.08, or 3511.09 of the Revised Code shall be processed and counted in each precinct, at the office of the board, or at some other location designated by the board, and shall proceed accordingly under division (B), (C), or (E) of this section, as applicable.

(B)(1) Except as otherwise provided in division (B)(2) of this section, when the board of elections determines that those absent voter's ballots shall be processed and counted in each precinct, the board shall deliver to the voting location manager of each precinct on election day identification envelopes purporting to contain absent voter's ballots of electors whose voting residence appears from the statement of voter on the outside of each of those envelopes, to be located in that manager's precinct, and which were received by the board not later than the close of the polls on election day. The board shall deliver to the voting location manager a list containing the name and voting residence of each person whose voting residence is in such precinct to whom absent voter's ballots were mailed.

(2) The board shall not deliver to the voting location manager identification envelopes cast by electors who provided a program participant identification number instead of a residence address on the identification envelope and shall not inform the voting location manager of the names and voting residences of persons who have confidential voter registration records. Those identification envelopes shall be examined and processed as described in division (E) of this section.

(C) When the board of elections determines that those absent voter's ballots shall be processed and counted at the office of the board of elections or at another location designated by the board, special election officials shall be appointed by the board for that purpose having the same authority as is exercised by precinct election officials. The votes so cast shall be added to the vote totals by the board, and the absent voter's ballots shall be preserved separately by the board, in the same manner and for the same length of time as provided by section 3505.31 of the Revised Code.

(D) Each of the identification envelopes purporting to contain absent voter's ballots delivered to the

voting location manager of the precinct or the special election official appointed by the board of elections shall be handled as follows:

(1) The election officials shall compare the signature of the elector on the outside of the identification envelope with the signature of that elector on the elector's registration form and verify that the absent voter's ballot is eligible to be counted under section 3509.07 of the Revised Code.

(2)(a) Any of the precinct officials may challenge the right of the elector named on the identification envelope to vote the absent voter's ballots upon the ground that the signature on the envelope is not the same as the signature on the registration form, that the identification envelope statement of voter is incomplete, or upon any other of the grounds upon which the right of persons to vote may be lawfully challenged.

(b) If the elector's name does not appear in the pollbook or poll list or signature pollbook, the precinct officials shall deliver the absent voter's ballots to the director of the board of elections to be examined and processed in the manner described in division (E) of this section.

(3)(a) An identification envelope statement of voter shall be considered incomplete if it does not include all of the following:

(i) The voter's name;

(ii) The voter's residence address or, if the voter has a confidential voter registration record, as described in section 111.44 of the Revised Code, the voter's program participant identification number;

(iii) The voter's date of birth. The requirements of this division are satisfied if the voter provided a date of birth and any of the following is true:

(I) The month and day of the voter's date of birth on the identification envelope statement of voter are not different from the month and day of the voter's date of birth contained in the statewide voter registration database.

(II) The voter's date of birth contained in the statewide voter registration database is January 1, 1800.

(III) The board of elections has found, by a vote of at least three of its members, that the voter has met the requirements of divisions (D)(3)(a)(i), (ii), (iv), and (v) of this section.

(iv) The voter's signature; and

(v) One of the following forms of identification:

(I) The voter's Ohio driver's license or state identification card number;

(II) The last four digits of the voter's social security number; or

(III) A copy of the voter's photo identification.

(b) If the election officials find that the identification envelope statement of voter is incomplete or that the information contained in that statement does not conform to the information contained in the statewide voter registration database concerning the voter, the election officials shall mail a written notice to the voter, informing the voter of the nature of the defect. The notice shall inform the voter that in order for the voter's ballot to be counted, the voter must provide the necessary information to the board of elections in writing and on a form prescribed by the secretary of state not later than the fourth day after the day of the election. The voter may deliver the form to the office of the board in person or by mail. If the voter provides the necessary information to the board of elections not later than the fourth day after the day of the election and the ballot is not successfully challenged on another basis, the voter's ballot shall be processed and counted in accordance with this section.

(4) If no such challenge is made, or if such a challenge is made and not sustained, the voting location manager shall open the envelope without defacing the statement of voter and without mutilating the ballots in it, and shall remove the ballots contained in it and proceed to count them.

(5)(a) Except as otherwise provided in division (D)(5)(b) of this section, the name of each person voting who is entitled to vote only an absent voter's presidential ballot shall be entered in a pollbook or poll list or signature pollbook followed by the words "Absentee Presidential Ballot." The name of

each person voting an absent voter's ballot, other than such persons entitled to vote only a presidential ballot, shall be entered in the pollbook or poll list or signature pollbook and the person's registration card marked to indicate that the person has voted.

(b) If the person voting has a confidential voter registration record, the person's registration card shall be marked to indicate that the person has voted, but the person's name shall not be entered in the pollbook or poll list or signature pollbook.

(6) The date of such election shall also be entered on the elector's registration form. If any such challenge is made and sustained, the identification envelope of such elector shall not be opened, shall be endorsed "Not Counted" with the reasons the ballots were not counted, and shall be delivered to the board.

(E)(1) When the board of elections receives absent voter's ballots from an elector who has provided a program participant identification number instead of a residence address on the identification envelope statement of voter, the director and the deputy director personally shall examine and process the identification envelope statement of voter in the manner prescribed in division (D) of this section.

(2) If the director and the deputy director find that the identification envelope statement of voter is incomplete or that the information contained in that statement does not conform to the information contained in the statewide voter registration database concerning the voter or to the information contained in the voter's confidential voter registration record, the director and the deputy director shall mail a written notice to the voter informing the voter of the nature of the defect. The notice shall inform the voter that in order for the voter's ballot to be counted the voter must provide the necessary information to the board of elections in writing and on a form prescribed by the secretary of state not later than the fourth day after the day of the election. The voter may deliver the form to the office of the board in person or by mail. If the voter provides the necessary information to the board of elections not later than the fourth day after the day of the election and the ballot is not successfully challenged on another basis, the voter's ballot shall be counted in accordance with this section.

(3) The director or the deputy director may challenge the ballot on the ground that the signature on

the envelope is not the same as the signature on the registration form, that the identification envelope statement of voter is incomplete, or upon any other of the grounds upon which the right of persons to vote may be lawfully challenged. If such a challenge is made, the board of elections shall decide whether to sustain the challenge.

(4) If neither the director nor the deputy director challenges the ballot, or if such a challenge is made and not sustained, the director and the deputy director shall open the envelope without defacing the statement of voter and without mutilating the ballots in it, shall remove the ballots contained in it, and shall transmit the ballots to the election officials to be counted with other absent voter's ballots from that precinct.

(F) The board of elections shall process absent voter's ballots before the time for counting those ballots, but the board shall not tabulate or count the votes on those ballots before that time. As used in this section and section 3511.11 of the Revised Code, processing an absent voter's ballot means all of the following:

(1) Examining the identification envelope statement of voter in order to verify that the absent voter's ballot is eligible to be counted under section 3509.07 of the Revised Code;

(2) Opening the identification envelope, if the absent voter's ballot is eligible to be counted;

(3) Determining the validity of the absent voter's ballot under section 3509.07 of the Revised Code;

(4) Preparing and sorting the absent voter's ballot for scanning by automatic tabulating equipment;

(5) Scanning the absent voter's ballot by automatic tabulating equipment, if the equipment used by the board of elections permits an absent voter's ballot to be scanned without tabulating or counting the votes on the ballots scanned.

(G) Special election officials, employees or members of the board of elections, or observers shall not disclose the count or any portion of the count of absent voter's ballots prior to the time of the closing of the polling places. No person shall recklessly disclose the count or any portion of the count of absent voter's ballots in such a manner as to jeopardize the secrecy of any individual ballot.

(H)(1) Except as otherwise provided in division (H)(2) of this section, observers may be appointed under section 3505.21 of the Revised Code to witness the examination and opening of identification envelopes and the processing and counting of absent voters' ballots under this section.

(2) Observers shall not be permitted to witness the examination and opening of identification envelopes returned by, and the processing and counting of absent voter's ballots cast by, electors who have confidential voter registration records in a manner that would permit the observers to learn the identities or residence addresses of those electors.