

Case No. \_\_\_\_\_

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**Supreme Court  
of the State of Ohio**

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STATE OF OHIO *ex rel.* MARCELL STRBICH,

Relator,

v.

MONTGOMERY COUNTY BOARD OF ELECTIONS,

and

RHINE L. McLIN, BARBARA P. GORMAN, ERIK R. BLAINE,  
and THOMAS A. ROUTSONG, Members, Montgomery County Board of Elections

Respondents.

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*Original Action in Mandamus*

*Expedited Election Matter Pursuant to S.Ct.Prac.R. 12.08*

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VERIFIED COMPLAINT FOR WRIT OF MANDAMUS

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*Counsel for Relator Marcell Strbich*

Curt C. Hartman (0064242)  
THE LAW FIRM OF CURT C. HARTMAN  
7394 Ridgepoint Drive, Suite 8  
Cincinnati, Ohio 45230  
(513) 379-2923  
*hartmanlawfirm@fuse.net*

*Counsel for Respondents Montgomery  
County Board of Elections and its Members*

Mathias H. Heck, Jr. (0014171)  
Ward C. Barrentine (0074366)  
Nathaniel S. Peterson (0095312)  
MONTGOMERY COUNTY  
PROSECUTOR'S OFFICE  
301 West Third Street  
P.O. Box 972  
Dayton, Ohio 45422  
(937) 496-7797  
*barrentinw@mcoho.org*  
*petersonn@mcoho.org*

**SUPREME COURT  
OF THE STATE OF OHIO**

**STATE OF OHIO** *ex rel.* **MARCELL STRBICH**  
**10967 Ruston Glen Court**  
**Centerville, Ohio 45458,**

**Relator,**

**v.**

**MONTGOMERY COUNTY BOARD OF ELECTIONS**  
**% Mathias H. Heck, Jr., County Prosecutor**  
**Montgomery County Prosecutor's Office**  
**301 West Third Street**  
**P.O. Box 972**  
**Dayton, Ohio 45422,**

**and**

**RHINE L. McLIN**  
**Member, Montgomery County Board of Elections**  
**23 N. Paul Lawrence Dunbar**  
**Dayton, Ohio 45402,**

**and**

**BARBARA P. GORMAN**  
**Member, Montgomery County Board of Elections**  
**182 Copperfield Drive**  
**Dayton, Ohio 45415,**

**and**

**ERIK R. BLAINE**  
**Member, Montgomery County Board of Elections**  
**150 Timberwind Lane**  
**Vandalia, Ohio 45377,**

**and**

**THOMAS A. ROUTSONG**  
**Member, Montgomery County Board of Elections**  
**494 Lookout Ridge**  
**Dayton, Ohio 45419,**

**Respondents.**

**Case No.** \_\_\_\_\_

**VERIFIED COMPLAINT  
FOR WRIT OF  
MANDAMUS**

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Comes now the STATE OF OHIO, by and through Relator MARCELL STRBICH, and, in support of its claim for the issuance of a writ of mandamus, alleges as follows:

1. This is an original action seeking the immediate issuance of a peremptory writ of mandamus or, alternatively, an alternative writ of mandamus compelling the MONTGOMEY COUNTY BOARD OF ELECTIONS and its members to perform the legal duty, as specifically set forth in *Directive 2024-09* with respect to the required training for precinct election officials and, in particular, to include in such training on “unacceptable forms of photo ID, including photo IDs issued to non-citizens.”

2. In advance of the forthcoming election to be held on November 5, 2024, as well as the nearly month-long early voting period, the MONTGOMERY COUNTY BOARD OF ELECTIONS provided training for its precinct election officials but failed to provide any training specifically with respect to unacceptable forms of photo ID, including photo IDs issued to non-citizens, in direct violation of *Directive 2024-09*.

3. In order to ensure such mandatory training is provided in advance of the forthcoming general election, the immediate issuance of a peremptory writ of mandamus is warranted to compel the MONTGOMERY COUNTY BOARD OF ELECTIONS and its members comply fully and completely with their legal duties as set forth in *Directive 2024-09*. Alternatively, an alternative writ of mandamus should issue and the merits receive expedited consideration as the integrity of the forthcoming general election is threatened by the failure of the MONTGOMERY COUNTY BOARD OF ELECTIONS and its members to comply with their legal duties.

\* \* \* \* \*

4. Relator MARCELL STRBICH is a citizen of the State of Ohio and a resident and registered elector in Montgomery County, Ohio.

5. Respondent MONTGOMERY COUNTY BOARD OF ELECTIONS is the four-member public body responsible in Montgomery County, Ohio, for the enforcement of the election laws of the State of Ohio, including complying with the directives issued by the Ohio Secretary of State.

6. Respondents RHINE L. McLIN, BARBARA P. GORMAN, ERIK R. BLAINE, and THOMAS A. ROUTSONG are the four members of the MONTGOMERY COUNTY BOARD OF ELECTIONS.

\* \* \* \* \*

7. At the general election held in November 2022, over 76% of the voters of the State of Ohio approved a constitutional amendment which expressly limited the right and entitlement to vote only to citizens of the United States. *See Statewide Issue History*, published by Ohio Sec’y of State at <https://www.ohiosos.gov/elections/election-results-and-data/historical-election-comparisons/statewide-issue-history/>.

8. Due to the passage of the foregoing constitutional amendment at the election held in November 2022, Article V, Section 1 of the Ohio Constitution was amended so as to now provide in pertinent part: “Only a citizen of the United States...has the qualifications of an elector, and is entitled to vote at all elections. No person who lacks those qualifications shall be permitted to vote at any state or local election held in this state.”

9. In advance of the general election to be held on November 5, 2024, the Ohio Secretary of State issued on June 21, 2024, *Directive 2024-09* which was entitled “Election Administration of Readiness and Preparedness for the November 5, 2024, General Election.”

10. A true and accurate copy of *Directive 2024-09* as obtained from the website of the Ohio Secretary of State is attached hereto as *Exhibit A*.

11. Within *Directive 2024-09*, the Ohio Secretary of State addressed, *inter alia*, the training requirements for the individuals serving as precinct election officials (also referred to as *PEOs*).

12. Provided for under R.C. 3501.22, all boards of elections are required to “appoint for each election precinct [in their respective county] four residents of the county in which the precinct is located, as precinct election officials.... The precinct election officials shall constitute the election officers of the precinct.”

13. Pursuant to R.C. 3501.27(A), “[a]ll precinct election officials shall complete a program of instruction” pursuant to the mandate of R.C. 3501.27(B).

14. Pursuant to R.C. 3501.27(B), “[e]ach board [of elections] shall establish a program as prescribed by the secretary of state for the instruction of election officers in the rules, procedures, and law relating to elections. In each program, the board shall use training materials prepared by the secretary of state and may use additional materials prepared by or on behalf of the board.”

15. Pursuant to *Directive 2024-09*:

[a]ll PEOs must receive training for the upcoming November general election regardless of if the PEO has previously received training. The board must use training materials prepared by the Secretary of State’s office as well as additional materials prepared by the board or on behalf of the board for the board's specific needs including best practices.

16. Also within *Directive 2024-09*, the Ohio Secretary of State also specifically mandated that the boards of election include in their respective training of PEOs addressing the use of photo identification cards, including the unacceptable use of photo identification cards

issued by the Ohio Bureau of Motor Vehicles to non-citizens. As specifically stated in *Directive 2024-09*:

PEO training must include:

- How to verify a voter's identity with the photo ID card provided by the voter.
- How to ensure that only legally permissible forms of photo ID are accepted and that PEOs are trained on unacceptable forms of photo ID, including photo IDs issued to non-citizens. Ohio BMV issued photo IDs now contain a non-citizen notation on the back of the photo ID and license.

17. As explained in the *Precinct Election Official Training Manual* issued by the Ohio Secretary of State, an excerpt of which is attached hereto as *Exhibit B*, the "State of Ohio noncitizen identification also known as a Non Renewable/Non Transferable credential, is not acceptable" as a form of identification for voting.

18. As indicated in the excerpt of the *Precinct Election Official Training Manual*, the unacceptable form of identification issued by the Ohio Bureau of Motor Vehicles specifically notes the "Non Renewable / Non Transferable" located on identification cards issued to non-citizens, though such notation is printed in small type and amongst sundry information contained on the identification card.<sup>1</sup>

19. Additionally, since April 7, 2023, the Ohio Bureau of Motor Vehicles has also issued identification cards that, instead of indicating "Non Renewable / Non Transferable", indicates "Non Citizen" when such identification cards are issued to non-citizens, though such

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<sup>1</sup> On its website, the Ohio Bureau of Motor Vehicles declares that its issuance of a "Non Renewable / Non Transferable" identification card, *i.e.*, what it characterizes as a "Standard Card" as opposed to a "Compliant Card", "properly allows [individuals] to prove [their] identity for tasks such as ...registering to vote." See <https://www.bmv.ohio.gov/dl-real-id.aspx>. And recent news reports indicate the Ohio Bureau of Motor Vehicles has been registering non-citizens as voters in the State of Ohio. See "Ohio BMV's mistakes led to noncitizens getting registered to vote, officials say," *Dayton Daily News* (Sept. 20, 2024), published at <https://www.daytondailynews.com/local/ohio-bmvs-mistakes-led-to-noncitizens-getting-registered-to-vote-officials-say/VUSBPTJMEVAYDHRTB4UQTHGXUA/>. The registration of non-citizens by a governmental office makes compliance with the required training concerning non-citizen identification cards all the more critical.

notation is printed in small type and amongst sundry information contained on the identification card.

20. Notwithstanding the mandate in *Directive 2024-09*, the MONTGOMERY COUNTY BOARD OF ELECTIONS has failed to provide training on unacceptable use of photo identification cards as they relate to non-citizens, including, in particular, the unacceptable use of photo identification cards issued by the Ohio Bureau of Motor Vehicles to non-citizens, notwithstanding the mandate in *Directive 2024-09* that the training of precinct election officials specifically address “unacceptable forms of photo ID, including photo IDs issued to non-citizens.”

21. On September 25, 2024, MARCELL STRBICH attended the precinct election officials training conducted by the MONTGOMERY COUNTY BOARD OF ELECTIONS.

22. During the course of the precinct election officials training conducted by the MONTGOMERY COUNTY BOARD OF ELECTIONS on September 25, 2024, the MONTGOMERY COUNTY BOARD OF ELECTIONS failed to provide training specifically addressing the unacceptable use of photo identification cards as they relate to non-citizens, including the unacceptable use of photo identification cards issued by the Ohio Bureau of Motor Vehicles to non-citizens, notwithstanding the mandate in *Directive 2024-09* that the training of precinct election officials specifically address “unacceptable forms of photo ID, including photo IDs issued to non-citizens.”

23. In fact, during the course of the precinct election officials training conducted by the MONTGOMERY COUNTY BOARD OF ELECTIONS on September 25, 2024, and attended by MARCELL STRBICH, the training did not even mention, let alone specifically address, non-citizen photo identification considerations or familiarization, including not mentioning or

addressing that unacceptable forms of photo identification includes photo IDs issued to non-citizens by the Ohio Bureau of Motor Vehicles.

24. During the course of the precinct election officials training conducted by the MONTGOMERY COUNTY BOARD OF ELECTIONS on September 25, 2024, and attended by MARCEL STRBICH, upon MARCELL STRBICH questioning the lack of training concerning non-citizen photo identification considerations notwithstanding the mandate in *Directive 2024-09* that the training of precinct election officials specifically address “unacceptable forms of photo ID, including photo IDs issued to non-citizens,” the presenter for the training provided by the BOARD OF ELECTIONS indicated the materials in question were not on hand and that appropriate verification of non-citizens is conducted earlier in the registration process, negating any instruction for precinct election officials to identify or consider appropriate actions to take upon a prospective elector presenting a non-citizen identification for the purpose of voting.

25. Similarly, at the voting location manager training conducted by the MONTGOMERY COUNTY BOARD OF ELECTIONS, on September 20, 2024, the presentation similarly failed to mention, let alone specifically address, non-citizen photo identification considerations or familiarization, including not mentioning or addressing that on unacceptable forms of photo identification includes photo IDs issued to non-citizens by the Ohio Bureau of Motor Vehicles. *See Affidavit of Mary McGirr, attached hereto.*

26. Pursuant to R.C. 3501.22(A), a voting location manager is a precinct election officials designated by a board of elections with certain additional duties and responsibilities relating to his or her assigned precinct.



\* \* \* \* \*

27. R.C. 3501.11(P) mandates that all boards of elections, including the MONTGOMERY COUNTY BOARD OF ELECTIONS, has the clear legal duty to “[p]erform other duties as prescribed by law or the rules, directives, or advisories of the secretary of state.”

28. Thus, “the board of elections and its members have a duty to follow the secretary of state’s directives.” *State ex rel. Waters v. Spaeth*, 131 Ohio St. 3d 55, 960 N.E.2d 452, 2012-Ohio-69 ¶16; accord *State ex rel. Skaggs v. Brunner*, 120 Ohio St. 3d 506, 900 N.E.2d 982, 2008-Ohio-6333 ¶30.

29. Relator MARCELL STRBICH, as a qualified elector in the State of Ohio, has a clear legal right to have elections conducted in the State of Ohio in conformity with all legal requirements designed to protect the integrity of the electoral process, including those designed to ensure only qualified electors cast ballots so that his vote and the votes of all other qualified electors is not diminished through votes being cast by those not qualified as electors which includes votes cast by non-citizens. *See State ex rel. Holwadel v. Hamilton Cty. Bd. of Elec.*, 144 Ohio St. 3d 579, 45 N.E.3d 994, 2015-Ohio-5306 ¶41 (“[r]esident electors have standing to bring mandamus actions to enforce public duties in election matters”); *State ex rel. Barth v. Hamilton Cty. Bd. of Elec.*, 65 Ohio St.3d 219, 221-222, 602 N.E.2d 1130, 1132-33 (1992)(*State v. Brown*, 38 Ohio St. 344 (1882), and *State ex rel. Gregg v. Tanzey*, 49 Ohio St. 656, 32 N.E. 750 (1892), “are part of a long line of cases establishing that mandamus is available to enforce public duties, that any duty related to an election is public, and that a citizen has the capacity to sue even if the duty only generally affects him”); *State ex rel. Blackwell v. Bachrach*, 166 Ohio St. 301, 143 N.E.2d 127 (1957)(syllabus ¶1)(“[a]n action in mandamus, where the relief sought is the enforcement of a public duty by a public officer or board, may be maintained by the relator,

where he shows that he is a citizen and as such is interested in the execution of the laws”); *State ex rel. Skilton v. Miller*, 164 Ohio St. 163, 164-65, 128 N.E.2d 47 (1955)(“[t]here is a line of cases involving election questions where it was held that a citizen has sufficient interest as an elector to maintain an action in mandamus to compel compliance with the election laws”).

30. Due to the proximity of the forthcoming general election, as well as the timing of when the MONTGOMERY COUNTY BOARD OF ELECTIONS conducted its deficient training of precinct election officials, Relator MARCELL STRBICH lacks an adequate and complete remedy in the ordinary course of law.

31. As a result of the foregoing, MARCELL STRBICH is entitled to the issuance of a writ of mandamus to compel the MONTGOMERY COUNTY BOARD OF ELECTIONS and its members to comply fully with their legal duties under R.C. 3501.11(P) and *Directive 2024-09* and, in particular, to conduct training for all of its precinct election officials for the forthcoming general election to be held on November 5, 2024, that specifically addresses non-citizen photo identification considerations or familiarization, including training that unacceptable forms of photo identification includes photo identification cards issued to non-citizens by the Ohio Bureau of Motor Vehicles, *i.e.*, photo identification cards indicating “Non Renewable / Non Transferable” or “Non Citizen”.

WHEREFORE, the STATE OF OHIO, by and through Relator MARCELL STRBICH, and, in support of its claim, hereby applies and requests this Court to order the issuance of a peremptory writ of mandamus or, alternatively, an alternative writ of mandamus, compelling the Respondents to comply with their legal duties under R.C. 3501.11(P) and *Directive 2024-09* and, in particular, to conduct training for all of its precinct election officials for the forthcoming general election to be held on November 5, 2024, that specifically addresses non-citizen photo

identification considerations or familiarization, including training that unacceptable forms of photo identification includes photo identification cards issued to non-citizens by the Ohio Bureau of Motor Vehicles, *i.e.*, photo identification cards indicating “Non Renewable / Non Transferable” or “Non Citizen”, together with any other relief to which Relator may be entitled, in law or in equity, and for assessment of costs.

Respectfully submitted,

*/s/ Curt C. Hartman*

Curt C. Hartman

THE LAW FIRM OF CURT C. HARTMAN

7394 Ridgepoint Drive, Suite 8

Cincinnati, Ohio 45230

(513) 379-2923

*hartmanlawfirm@fuse.net*

*Attorney for Relator Marcell Strbich*

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**VERIFICATION**

State of Ohio, County of Montgomery ) ss:

Comes now, Marcell Strbich, as the Relator herein, having been duly cautioned and sworn, and declares that he has personal knowledge of the factual allegations above and such allegations are true and accurate, save paragraph 25 which is supported by the *Affidavit of Mary McGirr* attached hereto.



Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, on this the 30th day of September 2024.



AMANDA G DABELL  
Notary Public  
State of Ohio  
My Comm. Expires  
June 27, 2028

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**DIRECTIVE 2024-09**

June 21, 2024

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

Re: Election Administration Readiness and Preparedness for the November 5, 2024, General Election

**SUMMARY**

Ohio is the national gold standard in election administration thanks to the dedicated work of the 88 county boards of elections. To support your efforts and ensure Ohio continues to be ready for November, the Secretary of State's office is providing over \$2.2 million to support readiness efforts outlined in this directive. \$1 million is allocated to support election administration readiness, \$1 million to support poll worker training and \$200,000 to support MARCS back up emergency communications. Each county board of elections will receive a block grant in an amount based on its number of registered voters, which must be used in connection with the November 5, 2024, general election.

**GRANT FUNDING AND BUDGET**

In support of election administration readiness, the Secretary of State's office will provide funding to each county board of elections, determined by the number of registered voters in each county, with no county receiving less than \$5,000. This funding will be referred to in this directive and future communications as the 2024 Readiness grant. This grant will be disbursed to each county in a single upfront, lump sum amount. Each county board of elections is required to use this funding to implement the requirements of this directive as well as directive 2024-10, Security Directive 5.0.

Boards of elections must enter into a Readiness Grant Agreement (Grant Agreement) with the Secretary of State's office to receive the funding. The Grant Agreement must be submitted via SharePoint by July 15, 2024, before funds are disbursed. In addition, a completed November readiness grant plan generally outlining how the grant money will be spent, must be submitted via SharePoint no later than July 31, 2024. This plan must include the total amount the board plans to spend and estimated amounts per priority as established in this directive and Security Directive 2024-10. Boards may begin purchasing high-priority items before submission of this plan. If a board's total estimated spending is less than the amount allocated under this grant, the Secretary of State's office may reallocate the remaining funds to assist counties with estimated costs in excess of their allocation.

These grant funds are not federal grant dollars and do not need to be deposited into an interest-bearing account. Each board shall submit the expense report, including the balance of all unencumbered and unexpended funds by December 1, 2024, via SharePoint. Boards may continue

to make outstanding payments on purchases that were obligated through a purchase order or encumbrance until December 15, 2024.

Boards of elections must follow all current federal, state, and county laws and purchasing rules when making purchases to implement this directive. Boards must obtain three quotes from vendors for any item, service, or total purchase that is estimated to cost \$1,000 or more. If fewer than three vendors offer the required item or service, a board must certify that fact to the Secretary of State's office. Boards are encouraged to use the state term schedules to identify a vendor offering a competitive price for items and services. However, if the board selects a vendor on state term schedules, the board must still provide three quotes. The schedule is available here: [https://ohiobuys.ohio.gov/page.aspx/en/ctr/contract\\_browse\\_public](https://ohiobuys.ohio.gov/page.aspx/en/ctr/contract_browse_public)

## **ELECTION READINESS**

### **A. Precinct Election Official Recruitment and Training**

Boards of elections are required to recruit and train over 40,000 precinct election officials (PEOs) for the November election. PEOs serve on bipartisan teams and are responsible for ensuring that the election is conducted lawfully, is well organized, and is professionally managed. They must assist voters in a courteous and respectful manner and resolve potential conflict so that voters can vote with ease. Boards of elections must review and comply with [Chapter 6, Section 6.02 of the Election Official Manual \(EOM\)](#) to ensure they recruit and train a robust team of PEOs. Ohio law provides that each board select, at a minimum, four residents of the county in which the precinct is located to serve as PEOs. To ensure an adequate number of PEOs are available and prepared for Election Day, boards are required to recruit and train at least 15% above the minimum number of PEOs required. Counties are recommended to recruit and train 30% above the minimum number as turnout is expected to be high during the presidential election. These additional trained recruits ensure that boards have a pool of PEOs at the ready to call upon on election day, if needed.

All PEOs must receive training for the upcoming November general election regardless of if the PEO has previously received training. The board must use training materials prepared by the Secretary of State's office as well as additional materials prepared by the board or on behalf of the board for the board's specific needs including best practices.

Additionally, PEO training must include:

- How to verify a voter's identity with the photo ID card provided by the voter.
- How to ensure that only legally permissible forms of photo ID are accepted and that PEOs are trained on unacceptable forms of photo ID, including photo IDs issued to non-citizens. Ohio BMV issued photo IDs now contain a non-citizen notation on the back of the photo ID and license.
- Best practices on de-escalation.
- Information on how to engage and inform the public on election integrity, security, and reporting.

The Ohio Secretary of State's office will provide a total of \$1,000,000 to boards of elections ensuring that PEOs are properly trained and prepared for the November general election.

The Secretary of State's office will provide award allocation amounts and next steps on funding directly to each board of elections following this directive.

## **B. Leadership and Staffing**

Boards of elections must review and comply with [Chapter 2 of the EOM](#), as it relates to board operations and procedures regarding filling vacancies. Each county board of elections is responsible for the fair, orderly, and efficient administration of public elections conducted in the county. Board members must be prepared to step in and assist with board operations should a need arise.

If there is a known shortage in staffing at the board member, director, or deputy director level for a period longer than six weeks from the date of this directive through the completion of the November general election, or a vacancy in any of these key positions within 90 days of the election, the board must submit a plan to the Secretary of State's office describing in detail the continuity of operation to fulfill the duties of a member, director, or deputy director. Failure of a board to file the required vacancy plan with the Secretary of State's office may result in board oversight.

## **C. Ballot Preparation and Proofing**

Boards of elections must review and comply with [Chapter 5 of the EOM](#). Each board of elections must thoroughly and promptly check every detail of its ballots from creation of the ballot to submitting the ballot files to the printer to be produced. The board must also conduct the following:

- Proof the ballot upon receiving any ballot layouts or proofs from the vendor, including the accessible ballot each board must provide upon receipt of a properly completed application.
- At a minimum, the director and deputy director, or a bipartisan team of board employees they designate, must proofread every candidate contest and ballot question or issue for every ballot style.
- They must also verify that candidate names are properly rotated starting with the first precinct in the county.

The board should implement the following best practices for ballot preparation and proofing:

- Develop and include in the board's Election Administration Plan (EAP) a set of standard operating procedures (SOP) for proofing the ballot. Such procedures must include:
  - The requirement to compare the initial ballot proof to the original petition.
  - A checklist of what to look for when proofing, including the method of proofing the ballot. For example, a best practice when proofing is to read each office and name backwards to ensure proper spelling and placement.
  - The assignment of specific staff for proofing. This must include a bipartisan team in addition to the board members' review.

- The process for sending the ballot to candidates, parties, and/or issue committees to review and proof the ballot, as well as a list of what ballot styles on which the candidate and/or issue will appear.
- Establish a protocol to ensure that outdated versions of ballot programming are removed, deleted, or otherwise inaccessible.
- Establish a protocol to ensure that the final ballot proofs from the vendor are proofed by multiple people following the same proofing procedures used for the initial ballots.
- Establish a protocol to ensure that at least one ballot from each ballot style is included in logic and accuracy (L&A) testing, including procedures that will be followed if new ballots are provided.
- Establish a protocol to ensure that one ballot from each precinct or split is examined, when Election Day ballots are delivered, to ensure they contain the correct information. This does not mean that pre-sealed ballot packs should be opened.

Additionally, boards must review [Chapter 5 of the EOM](#) and [Chapter 1 of the Ohio Ballot Questions and Issues Handbook](#) to ensure candidate names and questions and issues are rotating properly.

Ultimately, the responsibility for ensuring the ballot is correct rests with the board members, as indicated by their signatures. A board member's signature has legal significance and indicates the board member is accepting full responsibility and ownership of ensuring the accuracy of the ballot. The board must develop, maintain, and practice policies and procedures to ensure this responsibility is met at all levels. This is a basic and essential function of the board. Failure by the board to adequately proof the ballot will have consequences and will be taken into consideration upon reappointment.

#### **D. Ballot Quantities**

Boards of elections must review and comply with [Chapter 5, Section 5.07 of the EOM](#) regarding ballot quantities:

*Providing ballots is one of the most essential duties of a board of elections. It is not acceptable for a board to run out of ballots for an election. Likewise, it is unacceptable for a board, its director, or deputy director to delegate to any other person or entity the authority and responsibility for determining ballot quantities and machine allocation.*

While voter participation in elections can vary, turnout in presidential election years predictably trends higher. Boards must consider all factors, including other statewide and local contests, that might influence turnout within your county. Proper preparation ensures that boards are ready to meet the anticipated demand, including the availability of adequate ballot quantities. Accordingly, it is the responsibility of the board of elections, directors, and deputy directors to determine ballot quantities and machine allocation.

The ballot quantity and Direct Recording Electronic (DRE) voting machine allocation instructions are required minimums. Boards must pre-print additional optical scan ballots beyond



these minimum quantities or allocate additional DRE machines to accommodate the projected turnout, contests of interest on each precinct's ballot, and recent voter registration activity.

Boards of elections should be mindful that voter registration activity – both new registrations and changes of address – often surges immediately preceding the close of registration before an election. No board of elections can rely solely on a ballot-on-demand printer to produce its stock of optical scan ballots on Election Day. If a board has only one ballot-on-demand printer, there must be a backup plan in place should that printer become unavailable. A board of elections that utilizes a ballot-on-demand printer must ensure that it has a sufficient supply of blank ballot stock and toner on hand to print any additional ballots needed on Election Day beyond the requirements of state law and this Directive.

#### **E. Counties Using Optical Scan Voting Machines – On Demand Ballots**

In addition to the statutory minimum,<sup>1</sup> each board of elections must review the number of ballots cast in the precinct in the 2008, 2012, 2016, or 2020 general election (whichever election had the most similar circumstances taking into consideration projected turnout, contests of interest, recent voter registration activity, and other local factors that could impact turnout) and provide to each precinct a required twenty percent (20%) more stock of optical scan ballots than the number of the ballots cast in the precinct in the most similar election.

In calculating the number of ballots cast in a precinct in a past election, the board must be mindful of any changes made to the precinct's boundaries and/or the number of electors assigned to the precinct since the election and adjust the number of additional ballots accordingly.

Whenever a board plans to use ballot-on-demand printers for any voting-related purpose, it must ensure that it has on hand a sufficient inventory of printers, ballot stock, and printer consumables (e.g., toner, fusers, etc.) and that each precinct is provided an adequate supply. If precinct officials request additional ballots, the board must provide those ballots in a timely manner so that all qualified electors who want to vote can do so.<sup>2</sup> Additionally, boards must pre-print additional optical scan ballots beyond these minimums to accommodate the projected turnout, local contests of interests on each precinct's ballot, and recent voter registration activity.

#### **F. Counties Using Optical Scan Voting Machines – Pre-Printed Stock**

If a board of elections pre-prints the total stock of ballots to be used at a precinct on Election Day or if the board utilizes ballot marking devices or a hybrid voting system, the board is required to provide at least one percent (1%) more ballots or stock for the printing of the ballots than the total number of voters registered in the precinct.<sup>3</sup>

#### **G. Counties Using Direct Recording Electronic Voting Machines**

Boards of elections using DRE voting machines as their primary voting system on Election Day must deploy at least one DRE voting machine for every 175 registered voters in a precinct or

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<sup>1</sup>R.C. 3505.11(B)(1).

<sup>2</sup> R.C. 3505.11(B)(2)

<sup>3</sup> R.C. 3505.11(A)

voting location. The DRE machines must be programmed to allow any voter assigned to the location to vote on any machine in the location. There must never be fewer than three DRE machines in any precinct or voting location. The boards must allocate additional DRE machines to a polling location beyond these minimums to accommodate the projected turnout, local contests of interest on each precinct's ballot, and recent voter registration activity.<sup>4</sup>

These boards must provide sufficient supplies and equipment (e.g., paper for voter verified paper audit trail printers) so that voting may continue without undue delay resulting from missing or insufficient replacement supplies.

A board of elections using DRE voting machines as its primary voting system on Election Day must provide backup paper ballots for this election. Boards should determine the minimum number of optical scan ballots to provide for each precinct by multiplying the number of ballots cast in the precinct (public count) from the 2008, 2012, 2016, or 2020 general election, whichever is most like the current set of circumstances taking into consideration projected turnout, contests of interest and recent voter registration activity, by twenty percent (20%). This is the required minimum number of optical scan ballots to be provided for that precinct. Boards of elections may print ballots totaling more than the calculated minimum number, when taking into effect projected turnout, local contests of interest on each precinct's ballot, and recent voter registration activity.

## **H. Provisional Ballots and Supplies**

Boards of elections are required to provide at least twenty percent (20%) more provisional ballots and envelopes than the number of provisional ballots cast by party in that precinct at the 2008, 2012, 2016, or 2020 general election, whichever is the most similar election, considering the circumstances. Additionally, each board is recommended to provide to each precinct and/or polling location a stock of provisional ballot affirmation envelopes containing Secretary of State Form 12-B that is greater than the number of provisional ballots being provided for this election. Additionally, any multi-precinct polling location must have a sufficient supply of Secretary of State Form 12-D.

## **I. Logic and Accuracy Testing**

Boards of elections must review and comply with [Chapter 5, Section 5.08, of the EOM](#) in conducting Logic and Accuracy (L&A) to ensure that all electronic voting systems are accurately and uniformly tabulating votes cast during an election. All boards of elections must complete L&A testing before conducting the required pre-election public testing. Boards must conduct L&A testing on each voting machine and component of automatic tabulating equipment, including backup machines and equipment, in order to confirm its functionality. Under no circumstances should a board deploy any voting equipment that has not undergone L&A testing. The board should conduct thorough L&A testing prior to the distribution of any ballots to voters. Additionally, should any changes be made to the ballots or systems after L&A testing is conducted, the board must thoroughly and completely retest all components of the voting system.

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<sup>4</sup> 3501.11(I)

## **J. Paper Pollbook Backups**

Boards of elections must review and comply with [Chapter 9, Section 9.03 of the EOM](#). If a board of elections uses electronic pollbooks, the board must have a paper pollbook to serve as a backup for each electronic pollbook at each check-in station within a polling location. If the board's secondary method of checking in voters is by dividing the paper pollbooks alphabetically, then it is acceptable to have the backup paper pollbooks divided alphabetically. The board may decide to provide a full copy of the pollbook for each check-in station, but the board must develop a procedure to ensure a voter only receives one ballot. Boards of elections should consider the way voters will be checked in to ensure accuracy and efficiency.

A board is required to notify the Secretary of State's office if they switch to backup paper pollbooks on Election Day.

Prior to Election Day, precinct election officials must receive training to use backup paper pollbooks. These instructions should include how to determine which ballot the voter must receive based on the precinct or precinct split in which they reside and how to create and post the Precinct Voter Registration Lists.

## **K. Public Test**

Boards of elections must review and comply with [Chapter 5, section 5.09, of the EOM](#). Prior to each election, the board of elections must test and audit the variable codes applicable to that election to verify the accuracy of any computer program that will be used for tallying the ballots for each precinct in which an election will be held.

Public notice of the time and place of the test shall be given by proclamation or posting, as in the case of notice of elections. If an error is detected, the cause of the error must be ascertained and corrected, and an errorless test must be made and certified by the board before the count is started. The public test does not replace the L&A testing the board must perform, and the L&A testing does not serve as the public test. However, the public test may be completed on the same day, immediately following the L&A testing.

## **L. Early Voting and Absentee Voting**

Boards of elections must review and comply with and follow the proper process for absentee voting by mail and absentee voting in person. Voter turnout during presidential elections often trends higher, and boards should be aware of issues that may occur due to an increase of voter participation. Boards must conduct planning activities to determine best practices for the following categories:

- Traffic flow and parking for the early vote center and surrounding areas including the public streets and sidewalks.
- Proper signage and line management inside and outside of the board of elections.
- Campaigning and electioneering.
- Early in-person voting flow.

Additionally, planning considerations for items listed above should include having staff available to act as parking attendants and to monitor encroachment of the neutral zone, voting station/booths, and exit flow.

Boards must prioritize building a professional relationship with the postmaster at their local post office prior to absentee ballots being mailed to ensure election related mail is delivered timely. Boards should also ensure a 24/7 point of contact has been established with the postmaster should an urgent matter arise.

### **M. Vendor Relationships**

Boards of elections are required to have at least one coordination call with each vendor to ensure that all documents, training material, and 24/7 point of contact have been established. In addition, each vendor must submit a plan to ensure support on Election Day. The plan must detail, at a minimum, staffing plans for the early vote period and Election Day, virtual communications options if the vendor is not onsite, any pre-election meetings to be scheduled, training plans, and training materials provided prior to Election Day, and any other information that establishes support procedures for a successful election.

Although election vendors play a significant role in the election process, boards should not be solely dependent on their vendor for conducting important election processes such as election management system programming, ballot creation, L&A testing, report generation, etc. Boards must coordinate with voting system vendors and election mail vendors to set expectations and confirm the support that will be needed during the general election period.

### **N. Communications**

Boards of elections must review and ensure that Section III of their EAP, Pre-Election Day and Election Day communication plan, has the following communication resources available and updated annually:

- Required to have a printed copy of the EAP and utilities contact numbers printed before election and on-hand on Election Day.
- Required to have a checklist that determines the confirmation of voting hours, location, and frequently visited websites that are needed to do the job effectively.
- Required to have a virtual and printed list of local and national media outlets with names, email, and phone numbers.
- Required to have a standard template for press releases on letterhead, with pre-populated contact information, in a standard press release format.
- Required to have all county board of elections social media platforms listed and the contact information for those who have passwords. Include also the list of points of contact email address for issues and complaints.
- Required to have a location identified and noted for all press conferences that may need to be scheduled.
- Required to have a list of communication partners to assist with communication needs (example: community partners and state partners).

Boards of elections must have a plan in place to address potential mis/disinformation related to the election. The board must notify the Ohio Secretary of State of any urgent communication need as the office is prepared to assist county boards with urgent communication matters. The Ohio Secretary of State will provide additional training in the development of a communication response plan.

#### **O. ADA Accessibility**

Boards of elections must review and comply with [Section 6.01 of the EOM](#) to ensure the proper procedures are in place for voters with disabilities to have proper access to your accessible voting systems.

All county boards of elections are required by both state and federal law to provide polling locations that are accessible to people with disabilities. Before the day of an election, the director of the board of elections of each county must sign a statement verifying that each polling location that will be used in that county at that election meets the requirements of the EOM and must be signed by the director and the deputy director or, if a board of elections does not have a deputy director, by the chairperson of the board. Additionally, the director and deputy director (or chairperson when the board of elections does not have a deputy director) of a board of elections must file a signed statement before each election that states that they have verified that each polling location is in compliance with federal and state laws governing general polling location accessibility.

County boards of elections must always use the most recent version of the Secretary of State's [Polling Location Accessibility Checklist and Accessible Parking Guide](#) to evaluate every polling location in its county, upon selection of that location as a polling location, at a minimum of every two years. All county boards of elections must develop a plan of action based on the assessment results for each polling location to remove or mitigate any accessibility barriers identified using either permanent improvements or using temporary equipment. It is required that county boards of elections develop a setup plan for each polling location, which must include a list of accessibility equipment needed, instructions, and a diagram or pictures showing the set up.

Boards must review [section 6.01 of the EOM](#) on accessibility and must train early vote center staff and PEOs on access and disability awareness to ensure all Ohioans have equal access to the voting process. Training information can be found in the Secretary of State's [Disability Resource Guide](#).

Thank you for your dedicated service and support ensuring safe and secure elections. Through continued diligent preparation we will ensure Ohio is truly ready for November.

Yours in service,



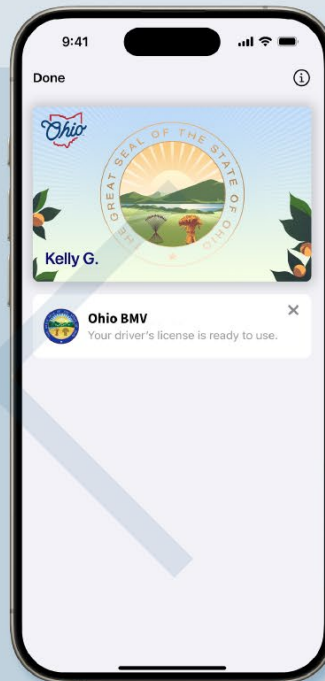
Frank LaRose  
Ohio Secretary of State

# EXAMPLES OF UNACCEPTABLE FORMS OF IDENTIFICATION

The State of Ohio noncitizen identification, also known as a Non Renewable/ Non Transferable credential, is not acceptable.



Ohio Mobile ID is not a valid form of photo identification when casting a ballot.



For more information about acceptable and unacceptable forms of identification please visit

[VoteOhio.gov](http://VoteOhio.gov)



**Exhibit B**

**AFFIDAVIT OF MARY McGIRR**

State of Ohio )  
 ) ss:  
County of Montgomery )

Comes now MARY McGIRR, having duly been cautioned and sworn, and declares:

1. I am over 18 years old and have personal knowledge of the facts stated herein.
2. On September 20, 2024, I attended the voting location manager training conducted by the MONTGOMERY COUNTY BOARD OF ELECTIONS. The voting location managers is a precinct election official designated to serve as the group leader for the precinct election officials in each precinct.
3. During the course of the voting location manager training that I attended, the presenter did not mention, let alone specifically address, non-citizen photo identification considerations or familiarization, including not mentioning or addressing unacceptable forms of photo identification including photo IDs issued to non-citizens by the Ohio Bureau of Motor Vehicles.

Further the Affiant sayeth naught.

*Mary McGirr*  
\_\_\_\_\_  
Mary McGirr

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, on this the 30th day of September 2024.

*Braden Miller*  
\_\_\_\_\_

