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February 2, 2009

The Honorable Jennifer Brunner
180 East Broad Street
Columbus, Ohio 43215

Dear Secretary of State Brunner:

Please accept this letter in response to the Secretary of State waiver from Directive 2008-113, Post-Election Audits for the November 4, 2008 General Election.

The following are the errors discovered in the Audit and the Cuyahoga County Board of Elections' action plan to reduce or eliminate them for future elections.

Human Error in "Double-Bubble" Manual Count

The errors that were discovered during the Audit were of two instances. The first was a case where the voter wrote in a name in the write-in space provided but did not fill in the oval. This should have been regularly counted as a vote, not a "Double Bubble" vote. In these instances, an extra vote was assigned to that candidate.

The second occurrence was a data entry error of assigning the "Double Bubble" vote to the incorrect candidate. These errors became evident during the hand counting of the Audit precincts, and were confirmed in reviewing the manual entry log in the UNITY system.

The CCBOE is taking the following steps to correct the errors that were discovered during the Post Election Audit:

1. The "Double-Bubble" Spreadsheet was only checked once after the original team entered the data onto the spreadsheet. The CCBOE Ballot Department will now begin having two teams proof the information that is entered onto the spreadsheet as well as have two teams proof the information as it is entered into the UNITY System.
2. Each ballot containing a "Double-Bubble" vote will be checked by two teams to ensure that the vote is in fact a "Double-Bubble" and not simply an overvote or a vote for a single candidate with only one of the ovals filled in but the name of a candidate written on the write-in line.

Data Entry Errors

The errors discovered during the Audit for the "Double Bubble" and write-in candidates were the result of data entry errors in assigning the "Double Bubble" vote to the incorrect candidate. These

occurrences became clear upon management review of the manual entry log and comparing it to the spreadsheets used for the initial data entry.

The CCBOE is taking the following steps to correct the errors that were discovered during the Post Election Audit:

1. The manual entry of the “Double-Bubble” spreadsheet was only checked once by a single team. We are amending our processes to have two separate teams check the information once it is entered into the UNITY System.

Errors in Attributing Write-in Votes to the Correct Candidate

The errors discovered during the Audit were for write-in candidates. In these instances the cause was found to be a data entry error of assigning the vote to the incorrect candidate.

The CCBOE is taking the following steps to correct the errors that were discovered during the Post Election Audit:

1. The manual entry of the write-in candidates was only checked once by a single team. We are amending our processes to have two separate teams check the information once it is entered into the UNITY System.
2. Each ballot containing a write-in vote will be checked by two teams to ensure that the vote is in fact a valid candidate and that the vote is recorded for the proper candidate.

Absentee and Provisional Ballots Filed in the Wrong Precinct

The errors discovered during the Audit were during the hand count. More provisional or absentee votes were counted than ballots cast in the Official. This was due to the absentee and provisional ballots getting mixed up during scanning. Also, some ballots were mixed into the wrong precinct when the ballots were opened for absentee and provisional. These “orphan” ballots were discovered throughout the audit process, during hand-counting as well as during the collection of materials to be counted.

The CCBOE is taking the following steps to correct the errors that were discovered during the Post Election Audit:

1. We are amending our procedures to include different color envelopes to designate the type of ballot contained within. This should enable staff to easily distinguish between types of ballots and where they need to be filed.
2. We are reworking our filing system. We have begun plans to redesign the tabulation room area to better control the storage of ballots. The racks being utilized by the CCBOE Ballot Department are being reorganized to ensure that all ballots are properly filed with the correct ballot type.
3. We will reinstitute the use of Header Cards when scanning any ballots on the M650 Scanners to ensure that any misfiled ballots are rejected and segregated to ensure they are placed back with the proper precinct.

A Ballot Being Scanned Twice due to a Paper Jam during the Scanning of Absentee & Provisional Ballot Counting

The errors discovered during the Audit were additional votes in the Absentee and Provisional categories. When the hand count was matched to the scan count, the number scanned was higher than the number counted. This is due to the folded absentee and provisional ballots being scanned. When an error message appears on the machine, it was often difficult to determine which was the top ballot due to multiple ballots folding together. This led to the incorrect ballot being rescanned. This problem is exacerbated by the on-screen messages the M650 provides to the operators, which do not give any detail to aid in solving the problem.

The CCBOE is taking the following steps to correct the errors that were discovered during the Post Election Audit:

1. We are amending our training to have eight members of the full time Ballot Department Staff to practice operating the M650 Scanners once a week to ensure they become more familiar with the scanners and that their skills when using the machine do not lapse in the times between Elections.
2. These staff members will be given folded test decks weekly and they will run them ensuring that their skills continue to progress with the scanning of all types of ballots.
3. The Ballot Department Management Team will sign off before any scanning begins on the type of ballots being scanned and the operators' ability to scan ballots.
4. We are proposing that each packet of envelopes that are to be scanned are hand counted by the bi-partisan team before they are scanned to ensure that the number of ballots scanned matches the number of ballots hand counted.
5. We are also researching the practicality of using ballots with a single fold, rather than the 3 folds in use for November. This should provide for a smoother scanning operation, with fewer paper jams and less chance of confusion when removing a ballot from the output tray.

Last Minute Directive caused changes to procedure four days before the Election

Directive 2008-106 was received on October 31, 2008, 4 days prior to the Presidential Election. This directive prohibited poll workers from scanning optical scan ballots that were placed in the emergency bin or in the ballot box (because a voter did not want to wait in the scanner line or the machine was temporarily down due to malfunctions) on Election Day. Poll Workers were not trained this way, and although we provided an alert to the poll workers in their supplies stating the new procedures, Poll Workers did not completely follow this new procedure. The ballot department found several precincts where unscanned ballots were placed in the Transfer Ballot Box, without alerting the BOE - thus we were unaware and the memory cards were erroneously uploaded.

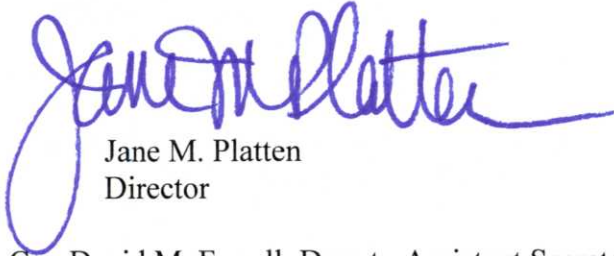
The CCBOE is taking the following steps to correct the errors that were discovered during the Post Election Audit:

While we have not reached a permanent solution for this problem, in the mean time we plan to train the poll workers to use the emergency slot as a last resort, and if the emergency slot is used, have them mark it on the certificate #1, pink memo, and call the Board of Elections immediately. In addition, the

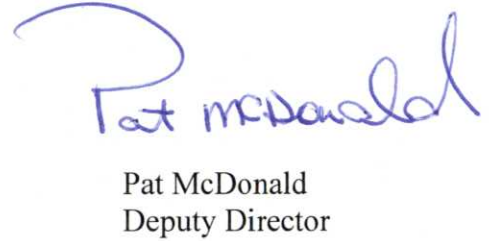
Poll Worker Department will be calling out to the Polling Locations 3 times on Election Day to inquire if they have used the emergency slot or had voters place ballots directly into the Gray Ballot Box. We will also instruct Rovers to check the machines throughout the day to ensure that the emergency slot was not used. If it was, the poll worker will again report back to the BOE. There will be one person designated from the Poll Worker Department to compile an accurate list of polling locations that used the emergency slot and then provide that list to the ballot department.

Please feel free to contact us if you have any questions regarding this response.

Cordially,



Jane M. Platten
Director



Pat McDonald
Deputy Director

Cc: David M. Farrell, Deputy Assistant Secretary of State and Director of Elections
Inajo Davis Chappell, Board Member
Robert S. Frost, Board Member
Jeff Hastings, Chairman
Eben O. (Sandy) McNair, IV, Board Member
Reno Oradini, Assistant County Prosecutor