

**Fact Sheet on Settlement Agreement in
League of Women Voters of Ohio v. Brunner,
Case No. 3:05-CV-7309 (N.D. Ohio)**

BACKGROUND OF LAWSUIT

- Filed in 2005 by the League of Women Voters of Ohio, League of Women Voters of Toledo-Lucas County, and a dozen Ohio voters
- Alleged that then-Ohio Secretary of State J. Kenneth Blackwell, Governor Bob Taft, and their predecessors had failed to protect the fundamental rights of eligible Ohio voters to vote and have their votes counted, as required by the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution.
- Complaint chronicled deficiencies in Ohio election administration over more than three decades, including widespread problems with election planning, voter registration, the absentee and provisional ballot processes, the training of poll workers, the organization of polling places and precincts, the allocation of voting equipment and resources, disability access, and voting technology and security.
- Complaint also alleged wide and constitutionally impermissible disparities among Ohio counties in their ability to protect and administer the right to vote.
- Key ruling by United States Court of Appeals for the Sixth Circuit in November 2008 held that complaint stated a cause of action under the Equal Protection and Substantive Due Process clauses of the Fourteenth Amendment.

KEY GOALS OF LAWSUIT

- Ensuring uniformity and consistency in Ohio election procedures, so that the opportunity to vote can be enjoyed equally by all Ohio citizens;
- Promoting pre-election planning so as to minimize errors and breakdowns in administering Ohio elections, and overcome past problems concerning inadequate equipment and resources at polling places, processing of provisional and absentee ballots, disability access, voting technology and security and other matters
- Enhancing the recruitment and training of election officials and pollworkers;
- Instituting consistent data collection and monitoring of key aspects of election administration as a tool of accountability.

KEY ELEMENTS OF SETTLEMENT

Pre-Election Planning

- In advance of the election, each county Board of Election (BOE) will issue a Pre-Election Administration Plan explaining how the BOE will address critical matters such as:

- Resource Allocation (e.g., plans for numbers and distribution of voting equipment);
- Security (maintaining security and integrity of ballot materials, voting equipment, and the like);
- Election Day Communication (plans for communication among pollworkers, BOE, Secretary, and the public);
- Election Day Contingencies (addressing, at a minimum, shortages of voting equipment and pollworker absences).
- The Secretary is responsible for reviewing these plans to determine whether election planning meets SOS planning requirements.
- BOEs will be required to distribute paper ballots in the event of long lines at polling places, and the Secretary will study the feasibility of establishing a maximum wait time for voters, with a report to be issued by August 30, 2009.
- The Secretary will issue recommended Best Practices to BOEs on layout and operation of polling locations that include more than one precinct, and will annually notify BOEs when precinct size exceeds the statutory maximum

Provisional Ballots and Absentee Ballots

The Secretary will study and report on why provisional ballots were not counted in the 2008 general election and make best efforts to reduce uncounted provisional ballots; will require pre-election reports from BOEs on absentee ballot processing; and will study and report on drop-offs between ballot applications submitted and ballots returned.

Pollworker Training and Recruitment

- All BOEs will be required to use the uniform pollworker training materials and manual developed by the Secretary of State, with particular attention to proper use and processing of provisional ballots and proper administration of voter identification requirements.
- All BOE Members, Directors and Deputy Directors will receive training from Secretary of State personnel.
- The Secretary will seek to support pollworker recruitment through outreach to high school seniors, partnerships with business, and development of college and university outreach.

Post-Election Reporting

To allow for better election planning, the Agreement requires a variety of data collection and assessment efforts, including:

- Continued submission of post-election data *at the precinct level* by Cuyahoga, Franklin, Hamilton, Montgomery, Lucas, Stark, Mahoning, and Summit Counties, addressing the same reporting requirements currently part of the federally-funded November 2008 data collection program;

- Post-election data from each BOE on voter registration, ballots cast, ballots counted, provisional ballots, absentee ballots, military and overseas ballots, and voting equipment problems and malfunctions;
- Monitoring and assessment of pollworker performance by the BOEs.

Voter Registration

Field staff from Secretary of State's office will at least annually make visits to each BOE for personal observation of the processing of registration applications to confirm that applications are being processed in a timely, reliable, accurate, efficient, and professional manner.

Disability Access

The Secretary will maintain a variety of improvements to ensure access for voters with disabilities, including:

- Requiring BOEs to provide signed certifications of compliance with statutory access requirements, and rigorously scrutinizing requests for exemption;
- Assigning staff to work with BOEs on ADA compliance and polling place accessibility;
- Maintaining an advisory committee for voters with disabilities.

Voting Technology and Security

Improvements to be maintained in the area of voting technology and security include procedures for post-election audits of ballots; procedures requiring paper ballots in event of DRE machine breakdown; statewide standards for Logic and Accuracy testing of tabulating machines, statewide standards for VVPAT quality and handling; security procedures for components of voting systems; and statewide standards on physical security of voting equipment.

Statewide Voter Registration Database

The settlement does not resolve plaintiffs' claims relating to implementation of Ohio's statewide voter registration database. The Secretary's office currently is examining and refining the processes by which voter information contained in the statewide voter registration database is compared with information contained in Bureau of Motor Vehicle and Social Security Administration databases. The Agreement requires the Secretary to provide an initial report on the status of voter registration database issues by December 31, 2009, and requires plaintiffs to wait until January 15, 2010, before recommencing any litigation of their database claims.

Duration of Settlement Agreement and Enforceability

The terms of the Agreement will remain in effect until January 11, 2015, and any claims arising out of the Agreement will be heard by Chief Judge James G. Carr of the United States District Court for the Northern District of Ohio.