

Election Reformers Issue Joint Statement on Proposed Election Reform

Suggestions for legislative and administrative implementation on election reform solutions are proposed by the Joint Working Group of Election Advocates, which includes: Advancement Project, Ohio AFL-CIO, League of Women Voters of Ohio, NAACP, Project Vote, Ohio Citizen Action, Northeast Ohio Voter Advocates, Miami Valley Coalition of Election Advocates, Brennan Center for Justice, and Advocates for Basic Legal Equality.

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Columbus, Ohio – In late November 2008, the League of Women Voters of Ohio (LWVO) convened statewide election reformers including advocates, academics and attorneys to discuss the 2008 election and to develop a joint statement on identified problems and possible solutions.

“Ohio election advocates and academics specializing in election law eagerly answered the LWVO’s call to collectively evaluate Ohio’s election process. Through our work over the past five months, we have developed a joint statement that not only identifies problems but offers possible solutions with the interests of Ohio Voters in mind,” says Linda D. Lalley, President of the League of Women Voters of Ohio.

Ohioans cast about 200,000 provisional ballots in the 2008 general election, a very high percentage compared to other states. Of these, approximately 40,000 (20%) were ultimately rejected, mostly for voting in the wrong precinct, being perceived as “not registered,” or having errors and omissions.

The Joint Working Group of Election Advocates focused on the issues of provisional ballots and voter ID. The Joint Working Group noted that it is important to reduce the number of unnecessary provisional ballots while retaining their use as the fail-safe mechanism for voters whose names do not appear on the poll books for a variety of reasons.

The Joint Working Group of Election Advocates offers the following statement on identified problems and possible solutions for proposed election reform:

Rejection of Provisional Ballots due to Poll Worker Error

Problem: Election laws related to provisional ballots are complex, confusing, and often administered incorrectly. No provisional ballot should be rejected based on poll worker error. [See *NEOCH v. Brunner* (November 2008)].

Solution: Amend the Ohio Revised Code to define the meaning of poll worker error and to clarify those provisional ballots should not be rejected based upon poll worker error. Legislation should require the statewide use of standardized, simplified provisional ballot forms. Poll workers should affirmatively record actions they take on matters that may lead to the rejection of a provisional ballot.

Rejection of Provisional Ballots on Technical Grounds

Problem: There is a lack of consistency in the rejection of provisional ballots during the verification process at Boards of elections throughout Ohio. Some boards of elections reject ballots missing any information; other Boards only reject those ballots with omissions on the affirmation statement. Some boards rejected provisional ballots with signatures but no printed names; other boards accept the same type of ballots.

Solution: Amend the statute to clearly reflect that the purpose of provisional ballot verification is to determine that the voter is a qualified elector who is entitled to vote in the election. It must be made explicit that under current law, the provisional voter's only legal obligation is to complete a provisional ballot affirmation statement. All of the extraneous information on the provisional ballot affirmation form may help the board of elections verify the voter's identity and qualifications to vote, but is not required to be completed by the voter.

Rejection of Provisional Ballots Cast in the Wrong Precinct

Problem: Currently, a provisional ballot cast in the wrong precinct cannot be counted, even if the voter was in the correct polling location but the wrong precinct line at that location. Provisional Ballots rejected for wrong precinct was one of two leading causes of provisional ballot invalidation in Ohio in the November 2008 election.

Solution: Enact legislation to ensure that provisional ballots cast in the wrong precinct are counted or partially counted for all races in which the voter is eligible to vote. Expand Ohio's statutory definition of "jurisdiction" to encompass the entire "county" in which a person is a legally qualified elector rather than limit jurisdiction

to the “precinct” in which a person is a legally qualified elector. This would require changes to [ORC 3505.181](#) and [ORC 3505.183](#).

Rejection of Provisional Ballots Because Voter Is Not Registered

Problem: A major cause of provisional ballot rejection is that the voter does not appear to be registered. Research shows that some of these voters are actually registered but are not listed in the poll book due to (a) improper database deletions, (b) database data entry errors, and (c) defective registration submissions.

Solutions: Implement greater oversight and monitoring of county and statewide database maintenance by the Secretary of State, particularly during database upgrades and duplicate vote elimination

Enact legislation requiring the Secretary of State to define a database search method for required use by all boards of elections when confirming the registration status of provisional voters. The method should exceed basic search procedures and allow for the confirmation of a provisional registrant’s status despite database variations or errors such as the following:

- misspellings and numerical information,
- name changes,
- reversed names,
- inconsistent use of middle initials or suffixes, and
- illegible voter information on the provisional ballot form.

Amend registration forms to include telephone and email information. Enact legislation requiring boards of elections to take affirmative action contacting voters regarding apparent registration submission errors.

Prohibition of the Release of Certain Provisional Ballot Data, According to Secretary of State Advisory 2008-22.

Problem: Ohio elected officials have misinterpreted the Help America Vote Act of 2002 (“HAVA”) to preclude access to the names, addresses and phone numbers of voters who cast provisional ballots that are counted or rejected, and the basis for the rejections. HAVA only precludes access to the HAVA-mandated “free access” system that may contain confidential voter information. The inability to gain access to provisional ballot records denies voter protection advocates the ability to investigate the use of provisional ballots and in particular, whether election officials required certain voters to cast provisional ballots, rather than regular ballots, because such voters had been wrongfully purged from the voter rolls.

Solution: Amend Ohio administrative rules to specifically permit access under Ohio’s Public Records Act and HAVA to the names, addresses, and phone numbers

of all Ohio voters who cast provisional ballots that were counted or rejected and the basis for any rejections.

“It is critical that advocates have the ability to evaluate provisional ballot data to assure voters’ rights,” states Deidra Reese, LWVO Executive Director. “The members of this coalition agree that this information can be provided in such a way that it is HAVA compliant and protects the voter. Access to information on provisional ballots cast in Ohio elections is useful to assure that Ohio voters are not casting ballots due to wrongful purging and/or pollworker error, and to guarantee that provisional ballots that should be counted are counted.

For a full copy of the joint statement, please go to www.lwvohio.org and download a copy. For more information about this proposed election reform, please contact Deidra Reese, Executive Director, League of Women Voters of Ohio, at 614-469-1505

About League of Women Voters Ohio

The League of Women Voters of Ohio, is located in Columbus, Ohio, and has 33 local affiliate organizations around the state. The mission of the League of Women Voters is to encourage informed and active participation in government, to increase understanding of major public policy issues, and to influence public policy through education and advocacy. The League of Women Voters is nonpartisan - it neither supports nor opposes any political party or candidate.

Members, as individuals, are encouraged to participate fully in the political process and persons with partisan affiliations are actively sought as members. For more information, go to <http://www.lwvohio.org/index.htm>.

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