

DIRECTIVE 2024-08

May 14, 2024

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

Re: Removal of Non-citizens from Voter Registration Databases

BACKGROUND

In 2022, Ohio voters overwhelmingly passed a constitutional amendment making it clear that only United States citizens may vote in all elections in the state of Ohio.¹ State and federal law require maintaining accurate voter registration records.² Further, the passage of the DATA Act³ clarified that boards of elections are required to remove individuals from the voter rolls who are not legally registered or eligible to vote.⁴ Moreover, Ohio law requires my office to conduct an annual review of the statewide voter registration database to identify persons who appear not to be United States citizens.⁵

The Secretary of State's office is committed to encouraging all eligible voters to remain active voters. Therefore, to comply with the Ohio Constitution and Ohio law, this directive requires each county board of elections to remove the voter registrations of individuals who fail to respond to the two notices from the Secretary of State's office and who have notified the Ohio Bureau of Motor Vehicles (BMV) on at least two occasions that they are not a United States citizen. The notices will instruct the registrant to either confirm their United States citizenship or submit a completed voter registration cancelation form. This directive then requires boards of elections to send removed registrants a notice indicating that their registration has been removed from the voter registration database.

An individual who has twice identified as a non-citizen with the BMV and who is removed after failing to respond to two notices may re-register at any time upon signing an attestation of United States citizenship under penalty of election falsification. Boards of elections must also allow such individuals to cast a provisional ballot, but the provisional ballot shall be counted only upon the individual's signed attestation of United States citizenship under penalty of election falsification.

This directive provides additional instructions and information regarding the removal of such voter registrations from the county boards of elections' databases.

¹Article V, Section 1; Article X, Section 3; Article XVIII, Section 3 of the Ohio Constitution.

² R.C. 3503.151(A)(D); R.C. 3501.11(U); 52 U.S.C. § 20507.

³ House Bill 33 of the 135 General Assembly.

⁴ R.C. 3503.151(D).

⁵ R.C. 3503.152.

INSTRUCTIONS

I. ANNUAL REVIEW OF THE STATEWIDE VOTER REGISTRATION DATABASE FOR NON-CITIZENS

My office is required by law to compare the information in the statewide voter registration database with records provided by the BMV to identify individuals who appear not to be United States citizens.⁶ Ohio law requires there to be two instances of an individual submitting documentation to the BMV indicating that they are not a United States citizen.⁷ The individual must also have either registered to vote, submitted a voter registration change of residence or change of name form, or voted in the state in between the two instances of submitting the required documentation to the BMV.⁸

The Secretary of State's office will notify county boards of elections of registrations which meet the foregoing criteria and provide instructions on how to access their list of identified individuals. Upon accessing the list boards of elections are required to upload any documentation that they have on each individual. Documentation includes registration forms, record or signature from an e-poll book, provisional ballot envelope, paper poll book signature, absentee ballot request form, or absentee return envelope. All documentation must be uploaded by the end of the day on **May 22, 2024**, and boards must notify the Secretary of State's office through the email address assigned privately by my elections staff to confirm that all documents have been uploaded successfully.

The Secretary of State's office will review the documentation and initiate the mailing of a first notice to individuals who appear to be non-citizens, asking registrants to either confirm their citizenship or cancel their registration. Recipients will have 30 days from the date of the mailing to respond to the notice. Any individual who fails to respond by the 30th day after the mailing of the first notice will receive a second notice from the Secretary of State's office, again having 30 days to respond by either confirming their citizenship or canceling their registration. By law, individuals must be given 60 days to respond before the referral and registration removal process can be initiated. The Secretary of State's Office will then refer the list of registrations to the Attorney General for investigation and possible prosecution.⁹

II. REMOVAL AND NOTICE

I am directing the boards of elections to remove the voter registrations of individuals identified by my office (1) that fail to respond to two notices sent by the Secretary of State's office seeking confirmation or cancelation of their voter registration and (2) that have submitted documentation indicating that they are a non-citizen to the BMV on at least two separate occasions in between

⁶ R.C. 3503.152(A).

⁷ R.C. 3503.152(A).

⁸ *Id.*

⁹ R.C. 3503.152(E).

registering to vote, updating their voter registration or voting. The removal of registrations contained on the list provided by my office must occur no later than **August 6, 2024**.

No later than **September 6, 2024**, boards of elections must send an additional written notice to the individuals who are removed from the voter registration database informing the individual that their registration was canceled because:

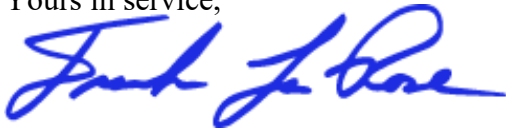
1. They failed to respond to at least two notices confirming or canceling their voter registration;
2. They submitted documentation indicating that they are a non-citizen to the BMV on at least two separate occasions in between registering to vote, updating their voter registration, or voting.

The notice must also inform the individual that they may contact the board of elections to provide a signed attestation of citizenship under penalty of election falsification. The Secretary of State's Office will provide a template of this notice with the removal list.

Additionally, boards of elections must record that the registration was removed pursuant to the annual review of the statewide voter registration database for non-citizens. An individual that was removed from the voter registration database pursuant to this directive may cast a provisional ballot. That provisional ballot shall count if the removal of the voter registration was made in error and upon the individual's signed attestation of United States citizenship under penalty of election falsification. If a voter registration was removed pursuant to this directive in error, boards of elections must restore the registration to active status and treat the registration as though it was never canceled.

If you have any questions regarding this directive, please contact the Secretary of State's office at (614) 728-8789 or via email at Intake@OhioSoS.gov.

Yours in service,



Frank LaRose
Ohio Secretary of State