IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel. EDWARD L. SCHIMMEL, 2239 Richmand Drive Northwood, OH 43619, Relator, v. LUCAS COUNTY BOARD OF ELECTIONS, 3737 W. Sylvania Avenue, Suite 121, Entrance B Toledo, Ohio 43623, and FRITZ SCHOEN, KURT M. YOUNG, DAWN CHRISTEN, and DONALD R. MILLER, in their official capacities as members of the Lucas County Board of Elections, All four individual Respondents to be served at: c/o Lucas County Board of Elections 3737 W. Sylvania Avenue, Suite 121, Entrance B Toledo, Ohio 43623 Respondents.	**ORIGINAL ACTION IN MANDAMUS** Expedited election matter pursuant to S.Ct. Prac. R. 12.08

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VERIFIED COMPLAINT FOR A WRIT OF MANDAMUS, ALTERNATIVE WRIT, AND IMMEDIATE RELIEF

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel. EDWARD L. SCHIMMEL, 2239 Richmand Drive Northwood, OH 43619, Relator, v. LUCAS COUNTY BOARD OF ELECTIONS, 3737 W. Sylvania Avenue, Suite 121, Entrance B Toledo, Ohio 43623, and FRITZ SCHOEN, KURT M. YOUNG, DAWN CHRISTEN, and DONALD R. MILLER, in their official capacities as members of the Lucas County Board of Elections, All four individual Respondents to be served at: c/o Lucas County Board of Elections 3737 W. Sylvania Avenue, Suite 121, Entrance B Toledo, Ohio 43623 Respondents.	:	**ORIGINAL ACTION IN MANDAMUS** Expedited election matter pursuant to S.Ct. Prac. R. 12.08

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Relator Edward L. Schimmel, for his verified complaint against Respondents the Lucas County Board of Elections and its members (collectively, the "Board"), states as follows:

NATURE OF THE ACTION

1. This is an expedited election action under S.Ct.Prac.R. 12.08.

2. The General Assembly has made the location of casting an express condition of a county-to-county mover's right to vote in the election. Pursuant to R.C. 3503.16(C), if a registered elector moves from one Ohio county to another and has not registered to vote in the county to which the elector moved, that elector may vote only if the elector appears at, and votes a provisional ballot at, the office of the board of elections or a site the board has designated under R.C. 3501.10(C). The statute does not authorize a county-to-county mover to vote at a precinct polling place.

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3. R.C. 3505.183(A) directs the Board to preserve sealed provisional ballot envelopes in a secure location until the validity of the ballot is determined in accordance with R.C. 3505.183(B).

4. R.C. 3505.183(B)(4)(a)(ii) directs the Board to reject provisional ballots cast by individuals who are not eligible to cast a

ballot in the precinct or for the election in which that individual cast the provisional ballot.

5. R.C. 3505.183(C) directs the Board to record the name of the provisional voter who cast the ballot, the identification number of the provisional ballot envelope, the names of the election officials who determined the validity of that ballot, the date and time that the determination was made, and the reason that the ballot was not counted, unless the board has already recorded that information in another database.

6. Relator seeks a writ of mandamus compelling the Board to perform the duties imposed by R.C. 3505.183: To determine that provisional ballots cast at precinct polling places by electors who were registered in another Ohio county, and who moved to Lucas County without updating their registrations (the "Category"), are not eligible to be counted, and therefore to leave those ballot envelopes unopened and uncounted, record their rejection, and preserve them.

7. Relator does not ask this Court to enjoin the Board from performing a statutory duty. He asks the Court to compel the Board to perform the determination, recording, and preservation duties R.C.

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3505.183 requires, and to hold the sealed envelopes in the Category in the secure location where R.C. 3505.183(A) already requires them to remain until their validity is determined.

JURISDICTION AND PARTIES

8. This Court has original jurisdiction over actions in mandamus. Ohio Const., art. IV, § 2(B)(1)(b); R.C. 2731.02.

9. Because this action is filed within ninety days of the November 3, 2026, general election and relates to the count of ballots cast at that election, it is an expedited election case governed by S.Ct.Prac.R. 12.08.

10. Relator Edward L. Schimmel is a candidate for election to the Ohio House of Representatives for House District 44 at the November 3, 2026 general election. He is also a registered elector of Wood County, Ohio. As of election night, Mr. Schimmel held a 56-vote lead over his opponent in their race. Approximately 80% of the votes cast in the race as of election night were cast in Lucas County. Relator has a clear interest in ensuring that only lawfully cast ballots are counted in his race.

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11. Respondent Lucas County Board of Elections is the board of elections for Lucas County, Ohio, with its office at 3737 W. Sylvania Avenue, Suite 121, Entrance B, Toledo, Ohio 43623. Respondents Fritz Schoen (Chairman), Kurt M. Young, Dawn Christen, and Donald R. Miller are the members of the Board and are sued in their official capacities. LaVera Scott is the Board's Director and Timothy Monaco is its Deputy Director.

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FACTS

A. The statutory framework.

12. R.C. 3503.16(C) governs "[a]ny registered elector who moves from one county to another county within the state on or prior to the day of a general, primary, or special election and has not registered to vote in the county to which that registered elector moved." Such an elector "may vote in that election if" the elector, among other things, (1) appears at the office of the board of elections or, if the board has designated another location under R.C. 3501.10(C), at that other location, including "on the day of the election"; (2) completes the written affirmation on the provisional-ballot envelope; (3) "[v]otes a provisional ballot under section 3505.181 of the Revised Code at the office of the board of elections" or the designated location; and (4) signs a statement

attesting that the elector voted at that location and will not vote at any other location for that election.

13. The General Assembly treated electors who move within a county differently. Under R.C. 3503.16(B)(2)(a)(i), "[a]ny registered elector who moves from one precinct to another within a county" may, on Election Day, appear at "[t]he polling place for the precinct in which that registered elector resides," as well as at the board office or a designated site. No comparable authorization appears in R.C. 3503.16(C).

14. R.C. 3505.183(A) requires the board to separate provisional-ballot envelopes from the other ballots, to place the sealed envelopes in a secure location within the board's office, and to keep them there "until the validity of those ballots is determined under division (B) of this section."

15. R.C. 3505.183(B)(4)(a) provides that if the board determines that, among other things, "[t]he individual named on the affirmation is not eligible to cast a ballot in the precinct or for the election in which the individual cast the provisional ballot," then "the provisional ballot envelope shall not be opened, and the ballot shall not be counted." R.C.

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3505.183(B)(4)(a)(ii). Under R.C. 3505.183(B)(4)(b), the same result follows if the board "is unable to determine" whether the individual is eligible to cast a ballot in the precinct or for the election.

16. For each rejected provisional ballot, the board must record the voter's name, the envelope's identification number, the officials who made the determination, the date and time, and the reason the ballot was not counted. R.C. 3505.183(C). Rejected ballots must be preserved unopened in their envelopes. R.C. 3505.183(E). And "[n]o provisional ballots shall be counted in a particular county until the board determines the eligibility to be counted of all provisional ballots cast in that county." R.C. 3505.183(F).

17. A provisional-ballot affirmation may serve as a notice of change of residence, R.C. 3503.16(C)(2), but the affirmation does not cure a failure to satisfy the statutory conditions for voting in the election at issue. *See* R.C. 3505.182.

B. The Secretary of State's guidance.

18. The Secretary of State's Directive 2026-31 distinguishes the two categories of movers. For a county-to-county change, the Directive instructs that, after the registration deadline, a voter should go to the

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board office during the 28 days before Election Day, or "[g]o to the board office or other designated site in their new county on Election Day, update their registration, and vote a provisional ballot." Directive 2026-31 at 4-143 (Exhibit B). For a within-county change, the Directive adds that the voter may go to "their new polling location, the board office, or another site designated by the board on Election Day." *Id.* at 4-142 to 4-143.

19. Directive 2026-35 contains provisional-ballot counting instructions. The Directive provides that "[c]ertain voters can cast a provisional ballot at the board office or early voting site during the established early voting period, or at their polling place on Election Day, including" both county-to-county movers and within-county movers. Directive 2026-35 at 8-301 to 302 (Exhibit C). To the extent any directive could be read to authorize counting a county-to-county mover's provisional ballot cast at a precinct polling place, it would conflict with R.C. 3503.16(C) and could not control. *Kelly v. Accountancy Bd.*, 88 Ohio App.3d 453, 458 (10th Dist. 1993) ("Because administrative agencies possess only such rule-making powers as are delegated to them by statute, an administrative rule which conflicts with a valid, existing

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statute is invalid.") (citing *Athens Home Tel. Co. v. Peck*, 158 Ohio St. 557, 562 (1953)).

19A. The Manual does not say that, and could not lawfully do so. *First*, the passage on which the Board may rely cites R.C. 3503.16(C) as the source of the county-to-county bullet, and R.C. 3503.16(C) permits such an elector to vote only at the board or a designated site. *Second*, the sentence about voters using "their assigned polling place for their precinct" applies to "registered voters" of that precinct, which an elector registered in another county is not. *Third*, Directive 2026-31, issued on that same subject, instructs that a county-to-county mover on Election Day must "[g]o to the board office or other designated site in their new county." Directive 2026-31 at 4-143 (Exhibit B). *Fourth*, the Secretary's prior Manual language, Directive 2023-28, ch. 8, at 242–43 (Exhibit D), described the county-to-county mover as one who can vote "at the board of elections office or at another site designated for early in-person absentee voting," and the General Assembly's enactment of R.C. 3503.16(C) controls regardless of how the Manual is worded.

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19B. The Manual's Step 6 states that a provisional voter who "moved and provided a new address within the precinct" is considered a

resident of the new precinct. Directive 2026-35 (Exhibit C), ch. 8, § 8.05, at 8-316. That step governs residency for purposes of R.C. 3503.01(A); it does not purport to excuse the separate location condition of R.C. 3503.16(C), which R.C. 3505.183(B)(3)(b) and (B)(4)(a)(ii) make a condition of eligibility "for the election." The Secretary himself cites R.C. 3505.183(B)(4)(a)(ii) as a ground for rejecting ballots cast at the wrong location. *Id.* at 8-317 n.88.

C. The Category of ballots and Relator's demand.

20. At the November 3, 2026 general election, provisional ballots were cast at precinct polling places in Lucas County by electors whom the statewide voter registration database shows as registered in another Ohio county and who indicated on their affirmations that they had moved to Lucas County without submitting a notice of change of address. The Board holds the records needed to identify the provisional ballots within the Category, namely the affirmations, which are not at this point public records.

21. On November 15, 2026, Relator's counsel sent the Board, its Director and Deputy Director, and the Lucas County Prosecuting Attorney a written objection (Exhibit A) setting out the grounds stated

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above. The letter requested that the Board, before opening any affected envelope: (1) identify and report, by precinct, the number of provisional ballots in the Category by November 16, 2026; (2) segregate and preserve those envelopes, together with the related poll-book entries and precinct-official logs; (3) vote on the record to reject those ballots under R.C. 3503.16(C) and R.C. 3505.183(B)(4)(a)(ii); and (4) give advance written notice of the Board meeting at which the ballots would be considered and permit Relator and his counsel to attend and be heard. The letter asked for a written response by November 17, 2026. The Board has not responded to the letter, provided the requested count, or committed to leave the Category unopened.

22. On November 16, 2026, the Board voted to open and count provisional ballots in the Category.

23. The Board's determination of provisional-ballot validity and the counting of ballots determined to be valid are scheduled to occur on November 24, 2026.

CLAIM FOR RELIEF — WRIT OF MANDAMUS

24. Relator incorporates the preceding paragraphs.

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25. To obtain a writ of mandamus, Relator must show by clear and convincing evidence that he has a clear legal right to the requested relief, that the Board has a clear legal duty to provide it, and that he lacks an adequate remedy in the ordinary course of the law. In an expedited election case, the question on the second and third elements is whether the board engaged in fraud or corruption, abused its discretion, or acted in clear disregard of applicable law. *State ex rel. Lambert v. Medina Cty. Bd. of Elections*, 2023-Ohio-3351, ¶ 12; *State ex rel. Florio v. Sandusky Cty. Bd. of Elections*, 2026-Ohio-4090, ¶ 9.

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A. The Board has a clear legal duty with respect to county-to-county mover provisional ballots.

26. R.C. 3505.183(B)(3) allows a provisional ballot to be opened and counted only if the board determines that the voter "is eligible to cast a ballot in the precinct and for the election in which the individual cast the provisional ballot." R.C. 3505.183(B)(4)(a)(ii) and (B)(4)(b) provide that where the voter is not eligible, or the board cannot determine eligibility, the envelope "shall not be opened, and the ballot shall not be counted." The use of "shall" leaves the Board no discretion.

27. A county-to-county mover who has not registered in the new county may vote in the election only if the mover satisfies R.C.

3503.16(C), including voting the provisional ballot "at the office of the board of elections" or a site designated under R.C. 3501.10(C). Because R.C. 3503.16(C) conditions the right to vote in the election on casting the ballot at the board office or designated site, a mover who casts a ballot at a precinct polling place has not satisfied that condition and was therefore not eligible to cast that ballot "in the precinct" or "for the election." R.C. 3505.183(B)(4)(a)(ii).

28. The General Assembly's distinction between R.C. 3503.16(B)(2)(a)(i) (within-county movers may vote at the new precinct polling place) and R.C. 3503.16(C) (county-to-county movers must vote at the board office or designated site) is deliberate, and a court may not erase it. This Court has refused to engraft exceptions onto the provisional-ballot statutes: "We are not authorized to add an exception that is not contained in the express language of these statutory provisions." *State ex rel. Painter v. Brunner*, 2011-Ohio-35, ¶ 35. And "only ballots cast in the correct precinct may be counted as valid." *Id.* at ¶ 34 (quoting *Sandusky Cty. Democratic Party v. Blackwell*, 387 F.3d 565, 578 (6th Cir. 2004)). Although *Painter* involved ballots cast in the wrong precinct, its principle applies here: a board may not excuse

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noncompliance with a statutory condition governing where a provisional ballot must be cast.

29. That a precinct official accepted a county-to-county mover's provisional ballot does not change the result. An official's acceptance cannot eliminate the location condition the General Assembly imposed on county-to-county movers, and R.C. 3505.183(D), which provides a remedy for certain wrong-precinct ballots cast at the correct polling location, does not apply to a voter who is not registered in the county. *See* R.C. 3505.183(D)(3).

30. The Board therefore has a clear legal duty to (a) determine, ballot by ballot from its own records, which provisional ballots fall in the Category; (b) determine under R.C. 3505.183(B)(4)(a)(ii) that they are not eligible to be counted; (c) leave those envelopes unopened and the ballots uncounted; (d) record each rejection and the reason under R.C. 3505.183(C); and (e) preserve the envelopes under R.C. 3505.183(E). The Board also has a clear duty under R.C. 3505.183(A) and (F) not to open or count any provisional ballot before it has made these determinations for all provisional ballots cast in the county.

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31. The Board acts in clear disregard of applicable law if it opens or counts a ballot in the Category. The Board has nonetheless indicated that it will do so.

B. Relator has a clear legal right to relief, but no adequate remedy in the ordinary course of law.

32. Relator, a candidate in an election in which the Category may be counted, has a clear legal right to a canvass conducted in accordance with R.C. 3505.183. He lacks an adequate remedy in the ordinary course of the law because of the proximity of the election, the Board's imminent counting of provisional ballots, and the irreversibility of commingling counted ballots. See *Florio* at ¶ 9 (adequate-remedy element satisfied due to proximity of election). The principal alternative, a statutory election contest under R.C. Chapter 3515, is inadequate because the contested provisional ballots will have already been opened and mingled into the otherwise valid ballots.

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C. The Manual cannot excuse the Board's duty.

33. A board of elections must follow the statute over any conflicting administrative guidance. An administrative rule that conflicts with a valid statute is invalid. *Kelly v. Accountancy Bd.*, 88 Ohio App.3d 453, 458 (10th Dist. 1993), citing *Athens Home Tel. Co. v.*

Peck, 158 Ohio St. 557, 562 (1953). Directive 2026-35 therefore supplies no "valid excuse" for the board to open or count the Category, and a board that relies on a directive that contradicts the statute acts in clear disregard of applicable law.

34. This Court determines whether a complaint seeks mandamus relief by examining whether it "actually seeks to prevent, rather than compel, official action," and it looks past a relator's wording. *Florio* at ¶¶ 11–12 (quoting *State ex rel. Evans v. Blackwell*, 2006-Ohio-5439, ¶ 20). Relator's claim seeks to compel official action. R.C. 3505.183(B) and (F) require the Board, in a public meeting, to vote on the eligibility of each provisional ballot before opening any envelope, and R.C. 3505.183(B)(4)(a)(ii) and (C) require the Board to determine that a ballot cast by a voter not eligible "for the election" is rejected and to record the reason. The Board has indicated that it will not lawfully perform that determination for the Category. Relator asks the Court to compel to make the determination the statute requires, in accordance with R.C. 3503.16(C).

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35. *Florio* is distinguishable. There, the relator asked the Court to order the board to count only votes for one candidate in order to

prevent the counting of votes for an opponent whose name was on the ballot, relief the Court described as an "ill-disguised" prohibitory injunction. *Id.* at ¶¶ 12–13, 21. Here, Relator does not ask the Court to adjudicate any candidate's qualification or to limit the votes counted for any candidate. He asks the Court to compel the Board to apply a statute that itself conditions the opening and counting of a provisional ballot on a lawful eligibility determination. Relator acknowledges that the Court looks to the substance of the relief and that part of the relief, keeping the envelopes unopened, has a preventive effect. That effect is the statutory consequence of the determination, R.C. 3505.183(B)(4)(a), and of the Board's existing duty under R.C. 3505.183(A) and (F), not a separate injunction.

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D. Relator acted promptly to request relief.

36. The election was held on November 3, 2026; Relator's counsel raised this objection with the Board on November 15, 2026; and Relator filed this action on November 16, 2026, the same day that the Board indicated that it would count ballots in the Category. The Board cannot show prejudice from any delay.

PRAYER FOR RELIEF

Relator respectfully requests that the Court:

(A) Treat this action as an expedited election case under S.Ct.Prac.R. 12.08 and enter an expedited schedule for evidence and briefing;

(B) Issue an alternative writ or other interim order directing the Board, pending decision, to comply with R.C. 3505.183(A) and (F) as to the Category by keeping each provisional-ballot envelope in the Category sealed and unopened until the Board has made, in a properly noticed public meeting, the eligibility determinations required by R.C. 3505.183(B) and R.C. 3503.16(C);

(C) Issue a peremptory writ or, in the alternative, a writ of mandamus after expedited consideration, compelling the Board (1) to identify, from its records, the provisional ballots in the Category; (2) to determine, under R.C. 3505.183(B)(4)(a)(ii), that those ballots are not eligible to be counted and to leave the envelopes unopened and the ballots uncounted; (3) to record each rejection and the reason as R.C. 3505.183(C) requires; and (4) to preserve the envelopes as R.C. 3505.183(E) requires;

(D) Direct the Board to give Relator and his counsel reasonable advance notice of, and the opportunity to observe, the Board's

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determination of the Category, consistent with R.C. 3505.183(F) and R.C. 3505.21;

(E) Award Relator his costs and, to the extent permitted by law, reasonable attorney fees; and

(F) Grant such other relief as the Court deems just.

Respectfully submitted,

/s/ william stuart dornette
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AFFIDAVIT OF EDWARD L. SCHIMMEL

(S.Ct.Prac.R. 12.02(B); R.C. 2731.04)

STATE OF OHIO)

COUNTY OF HAMILTON) ss:

I, Edward L. Schimmel, being first duly sworn, state that I am competent to testify to all matters stated in this affidavit and that each statement below is made on my personal knowledge, and that the facts stated would be admissible in evidence:

1. I am the Relator. I am a candidate for election to the Ohio House of Representatives for House District 44 at the November 3, 2026 general election. I am a registered elector of Wood County.

2. I have read the Verified Complaint. The facts stated in paragraphs 10, 11, 20, 21, and 34 of the Verified Complaint are true on my personal knowledge.

3. Exhibit A is a true copy of the November 15, 2026, letter that my counsel sent to the Board on my behalf, which I authorized.

4. On election night, I lead the House District 44 race by 56 votes. There are more than 56 provisional ballots in the Category.

Further affiant sayeth naught.

Signed by:
698CC6599E35417...

Edward L. Schimmel

Sworn to before me and subscribed in my presence this 16 day of November, 2026.

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Signed by:
Johnny Kirschnick
E84BF6D97ABF4D4...

Notary Public
My commission expires: 04/22/2030



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AFFIDAVIT OF COUNSEL (AUTHENTICATION OF EXHIBITS)

I, W. Stuart Dornette, being first duly sworn, state on personal knowledge that I am competent to testify to the matters below: (1) I am counsel for Relator; (2) Exhibit A is a true copy of the letter I sent by email on November 15, 2026 to the persons identified on it; (3) Exhibit B is a true copy of the cited excerpts of Directive 2026-31; and (4) Exhibit C is a true copy of the cited excerpts of Directive 2026-35.

William Stuart Dornette

W. Stuart Dornette

Sworn to before me and subscribed in my presence this 16 day of November, 2026.

Annette Burgess

Notary Public

NOTARY PUBLIC STATE OF OHIO

ANNETTE R BURGESS
Notary Public
State of Ohio
My Comm. Expires
August 20, 2031

CERTIFICATE OF SERVICE

I certify that, on November 16, 2026, the foregoing Verified Complaint, Motion for Immediate Relief, and supporting affidavits and exhibits were filed with the Clerk of the Supreme Court of Ohio, with a request that summonses issue to each Respondent, and that courtesy copies were served by email on: the Lucas County Board of Elections, 3737 W. Sylvania Avenue, Suite 121, Entrance B, Toledo, Ohio 43623 (lscott@lucascountyoh.gov; tmonaco@lucascountyoh.gov); each Respondent board member; and Julia Bates, Lucas County Prosecuting Attorney (lcprosecutors@co.lucas.oh.us).

/s/ william stuart dornette
W. Stuart Dornette

INDEX OF EXHIBITS

Exhibit A — November 15, 2026 letter to the Lucas County Board of Elections

Exhibit B — Directive 2026-31 (excerpts, pp. 4-142 to 4-143)

Exhibit C — Directive 2026-35 (provisional-ballot counting instructions, pp. 8-301 to 8-302 and 8-316 to 8-317, excerpts)

Exhibit D — (Superseded) Directive 2023-28 (provisional-voting instructions, pp. 242 to 243, excerpts)

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EXHIBIT A

Letter to the Lucas County Board of Elections

Taft Stettinius & Hollister LLP

November 15, 2026

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November 15, 2026

VIA EMAIL
Lucas County Board of Elections
3737 W. Sylvania Avenue, Suite 121, Entrance B
Toledo, OH 43623
lucas@ohiosos.gov

Attn Board Members: Fritz Schoen, Chairman (*rschoen@lucascountyoh.gov*); Kurt M. Young (*kyoung@lucascountyoh.gov*); Dawn Christen (*dchristen@lucascountyoh.gov*); Donald R. Miller (*dmiller@lucascountyoh.gov*); LaVera Scott, Director (*lscott@lucascountyoh.gov*); and Timothy Monaco, Deputy Director (*tmonaco@lucascountyoh.gov*)

FREE REVIEW FROM DEMOCRACYDOCKET.COM

Re: November 3, 2026 Election: County-to-County Address-Change Provisional Ballots Cast at Precinct Polling Places

Dear Members of the Board, Director Scott, and Deputy Director Monaco:

I write on behalf of Edward L. Schimmel, candidate for election to the Ohio House of Representatives for House District 44 in the November 3, 2026 Election, concerning provisional ballots cast in Lucas County by electors who were registered in another Ohio county, had moved to Lucas County without updating their registrations, and cast their ballots at precinct polling places rather than at the Board of Elections or a Board-designated site. The Board should reject that category of ballots because Ohio law makes the location of casting an express condition of a county-to-county mover's eligibility to vote in the election.

For a voter who moves from one Ohio county to another, R.C. 3503.16(C) provides that the elector may vote only if the elector completes the statutory requirements, including casting a provisional ballot at the office of the board of elections or at a site designated under R.C. 3501.10(C). The statute does not authorize such a voter to cast a county-to-county address-change provisional ballot at a precinct polling place. The distinction is meaningful: Ohio separately allows a voter who moved within the same county to update the registration and vote at the new polling place, the Board office, or another designated site, while a county-to-county mover is directed to the Board office or designated site.

The statutory eligibility consequence follows from R.C. 3505.183(B)(4)(a)(ii), which requires rejection when the provisional voter is not eligible to cast a ballot in the precinct

or for the election in which the individual cast the provisional ballot. A county-to-county mover who casts a ballot at a precinct polling place has not satisfied the condition imposed by R.C. 3503.16(C) and therefore was not eligible to cast that ballot in the precinct. Because R.C. 3503.16(C) conditions a county-to-county mover's right to vote in the election on casting the ballot at the Board office or a designated site, a ballot cast elsewhere is one the voter was not eligible to cast "for the election," as well as in the precinct, within the meaning of R.C. 3505.183(B)(4)(a)(ii). The provisional-ballot affirmation may operate as a registration or address-change record for future elections, but it does not cure a failure to meet the statutory conditions for voting in the election at issue. R.C. 3505.182.

This reading accords with the Secretary of State's election-administration guidance distinguishing county-to-county movers from within-county movers. The guidance directs a voter making a county-to-county change on Election Day to go to the Board office or another designated site in the new county:

> **County-to-County Change**
>
> - Voters who move from one Ohio county to another may update their voter registration at any time using a voter registration form. If updated after the voter registration deadline, voters can do one of two things:
>
> - During the 28 days before Election Day, voters should go to the board office, update their voter registration, and vote a provisional ballot.
>
> - Go to the board office or other designated site in their new county on Election Day, update their registration, and vote a provisional ballot.

Ohio Sec'y of State Directive 2026-31 at 4-143. The Secretary's guidance recognizes the difference: a within-county mover may vote at the new polling location, the Board office, or another designated site:

> **Change Within the County, Outside of Precinct**
>
> - Voters who move from one precinct to another in the same county may update their voter registration at any time using a voter registration form or the Online Voter Registration System. If updated after the voter registration deadline before an election, voters can do one of two things:

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- Go to the board office between the 28th day (or 25th day in presidential elections years) and the Sunday prior to the election, update their registration, and vote a provisional ballot.

- Go to their new polling location, the board office, or another site designated by the board on Election Day, update their registration, and vote a provisional ballot.

Directive 2026-31 at 4-142-43. That guidance follows directly from the language of R.C. 3505.16(B)(2)(a)(i), which allows "Any registered elector who moves from one precinct to another within a county" to vote at "The polling place for the precinct in which that registered elector resides."

Any broader language in provisional-ballot counting instructions of Directive 2026-35 cannot expand the locations authorized by R.C. 3503.16(C). An administrative instruction cannot enlarge a location condition fixed by statute, and the statute controls over any inconsistent instruction. *Kelly v. Accountancy Bd.*, 88 Ohio App. 3d 453, 458 (10th Dist. 1993) ("Because administrative agencies possess only such rule-making powers as are delegated to them by statute, an administrative rule which conflicts with a valid, existing statute is invalid") (citing *Athens Home Tel. Co. v. Peck*, 158 Ohio St. 557, 562 (1953)).

Ohio law also treats compliance with statutory location requirements as critical to the counting of provisional ballots. "Under Ohio law, then, only ballots cast in the correct precinct may be counted as valid." *State ex rel. Painter v. Brunner*, 128 Ohio St. 3d 17, 27, 2011-Ohio-35, ¶ 34 (quoting *Sandusky Cty. Democratic Party v. Blackwell*, 387 F.3d 565, 578 (6th Cir. 2004)). Nor is there any statutory exception allowing a provisional ballot cast in the wrong precinct to be counted. *State ex rel. Painter v. Brunner*, 128 Ohio St. 3d 17, 28 (2011) ("We are not authorized to add an exception that is not contained in the express language of these statutory provisions"). Likewise, a precinct official's acceptance of a provisional ballot cannot eliminate the location condition the General Assembly imposed specifically on county-to-county address-change voters. Although *Painter* concerned ballots cast in the wrong precinct, its principle applies here: the Board may not excuse noncompliance with a statutory condition governing where a provisional ballot must be cast.

Accordingly, before opening any affected envelopes, we respectfully request that the Board:

1. Identify and report the number of provisional ballots cast at precinct polling places by voters registered in another Ohio county who had moved to Lucas

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County without updating their registrations. Please provide the count in writing, by precinct, no later than November 16.

2. Segregate and preserve those provisional-ballot envelopes, together with the related poll-book entries and precinct-official logs, as a distinct, identifiable category pending the Board's determination.

3. Vote on the record to reject those ballots as ineligible under R.C. 3503.16(C) and R.C. 3505.183(B)(4)(a)(ii).

4. Provide advance written notice of the Board meeting at which these ballots will be considered, and permit our clients and counsel to attend and be heard.

This objection does not concern provisional ballots cast by voters who moved within Lucas County, nor does it concern county-to-county address-change ballots cast at the Board office or an authorized Board-designated site. The issue is limited to the ballots cast at precinct polling places despite the statute's express Board-office-or-designated-site requirement.

Our clients reserve all rights, claims, and objections, including the right to seek relief in court, and nothing in this letter waives any of them. Please respond in writing by November 17, 2026.

Respectfully submitted,

Taft Stettinius & Hollister LLP

/s/ W. Stuart Dornette

W. Stuart Dornette

cc: Julia Bates, Lucas County Prosecutor (*lcprosecutors@co.lucas.oh.us*)
Edward L. Schimmel

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EXHIBIT B

Directive 2026-31

Excerpts

Pages 4-142 to 4-143

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Voters who change their name and fail to update by the deadline may be eligible to cast a regular ballot if they provide one of the following to election officials before Election Day or to precinct election officials on Election Day and complete Form 10-L Notice of Name Change:

- court order
- marriage license
- proof of legal name change with both former and current names[135]

Voters who change names, fail to update by the deadline, and don't provide proof of the name change must cast a provisional ballot.[136]

Voters who change names, move outside of their precinct, and fail to update by the deadline must cast a provisional ballot at their assigned polling location on Election Day or at the board office or other location designated for early in-person absentee voting before the election.[137]

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ADDRESS CHANGES

Change Within the Precinct

Voters who move within their current precinct may update their voter registration at any time using a voter registration form or the Online Voter Registration System. If updated after the voter registration deadline before an election, the voter completes a registration form and votes a regular ballot.[138]

Change Within the County, Outside of Precinct

Voters who move from one precinct to another in the same county may update their voter registration at any time using a voter registration form or the Online Voter Registration System. If updated after the voter registration deadline before an election, voters can do one of two things:

- Go to the board office between the 28th day (or 25th day in presidential elections years) and the Sunday prior to the election, update their registration, and vote a provisional ballot.

[135] R.C. 3503.16(B)(1)(b).
[136] R.C. 3503.16(B)(1)(b).
[137] R.C. 3503.16(B)(2).
[138] R.C. 3503.16(B)(1)(a).

- Go to their new polling location, the board office, or another site designated by the board on Election Day, update their registration, and vote a provisional ballot.[139]

County-to-County Change

Voters who move from one Ohio county to another may update their voter registration at any time using a voter registration form. If updated after the voter registration deadline, voters can do one of two things:

- During the 28 days before Election Day, voters should go to the board office, update their voter registration, and vote a provisional ballot.
- Go to the board office or other designated site in their new county on Election Day, update their registration, and vote a provisional ballot.[140]

Section 4.14 Cancellation of Registration

CANCELLATION OCCURRENCES

Ohio law, as prescribed in R.C. 3503.21, outlines the circumstances under which a voter's registration must be canceled and requires that the voter be notified in writing the reason for the cancellation. To meet this requirement, boards of elections must use the following forms when canceling a voter's registration:

- Form 10-BB Voter Registration Cancellation Notice - Noncitizen
- Form 255-B Voter Registration Cancellation Notice – Cancellation Authorization
- Form 255-C Voter Registration Cancellation Notice – Deceased Voter Form
- Form 255-E Voter Registration Cancellation Notice – Felony Conviction
- Form 255-F Voter Registration Cancellation Notice – Adjudication of Incompetency
- Form 255-G Voter Registration Cancellation Notice – Fictitious Voter Registration
- Form 255-H Voter Registration Cancellation Notice – Successful Voter Registration Challenge
- Form 255-I Voter Registration Cancellation Notice – Failure to Count Provisional Ballot
- Form 255-J Voter Registration Cancellation Notice – Safe at Home

[139] R.C. 3503.16(B)(2).
[140] R.C. 3503.16(C).

EXHIBIT C

Directive 2026-35

Provisional-Ballot Counting Instructions

Excerpts

Pages 8-301 to 8-302 and 8-316 to 8-317

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9. The notice of registration or acknowledgment notice was returned to the board as undeliverable.[12]
10. The voter received a confirmation notice due to a database mismatch in the voter's registration information, and the voter failed to provide the requested information more than 14 days before the election.[13]
11. The voter is marked in the pollbook as having requested an absentee ballot and shows up at a polling location on Election Day.[14]
12. The voter already cast a ballot in that election.

For reasons 9 and 10, the voter should be flagged in the pollbook as needing to cast a provisional ballot.

WHEN AND WHERE CAN A PROVISIONAL BALLOT BE CAST?

When and where electors may cast a provisional ballot depends on why they need one.

Certain voters can cast a provisional ballot at the board office or early voting site during the established early voting period, or at their polling place on Election Day, including:

- Voters who moved from one precinct to another within a county and didn't update their address by the voter registration deadline.[15]
- Voters who moved from one precinct to another and changed their name but didn't update their voter registration by the deadline.[16]

  Note: A voter who changed their name **but remains in the same precinct** may cast a regular ballot if, before or on Election Day, they show election officials proof of their legal name change, including both their former and current names on any of the following documents, and completes Form 10-L:

  - court order
  - marriage license or
  - other official document that shows both former and current names[17]

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[12] R.C. 3503.19(C); R.C. 3503.201(A)(1)(a); R.C. 3505.181(A)(4).
[13] R.C. 3503.151(E); R.C. 3503.201(A)(1)(b), (D)(1).
[14] R.C. 3505.181(A)(3).
[15] R.C. 3503.16(B)(2).
[16] R.C. 3503.16(B)(2).
[17] R.C. 3503.16(B)(1)(b).

- Voters who have moved outside of their county (but still in Ohio) and didn't update their address by the deadline.[18]

Provisional voting ends at 5:00 p.m. on the Sunday before an election. It may resume on Election Day at the board of election or their correct polling location. On Election Day, registered voters can vote at their assigned polling place for their precinct, the board office, or, if the board has established another voting location in the county in lieu of its office, voters can use that location.

PROVISIONAL VOTING FOR VOTERS WITH ILLNESS, DISABILITY, OR INFIRMITY

Voters who moved to another precinct and did not update their address, or who changed their name without updating their registration, and who can't come to the board office due to illness, disability, or infirmity, can request and cast a provisional ballot like an absentee voter. They can do this from the 27th day before an election through the close of business on the seventh day before that election.[19] Form 11-I is the ballot application used for this purpose.

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For details on this type of voter, see **Chapter 7, Absentee Voting** in this manual and the information below.

On Election Day, if a voter must cast a provisional ballot for any reason other than those listed in this subsection, they must do it at their precinct.[20]

DELIVERING A PROVISIONAL BALLOT TO VOTERS WITH ILLNESS, DISABILITY, OR INFIRMITY

The board may either mail a provisional ballot or have two board staff members — one democrat, one republican — deliver a provisional ballot to a person who meets all of these conditions:

- Voter needs to vote provisionally because they changed their name or address, or their voter registration information was the subject of a BMV/SSA mismatch, and they didn't update their info before the deadline.[21]

[18] R.C. 3503.16(C); R.C. 3505.181(A)(6).
[19] R.C. 3503.16(G); R.C. 3509.02(B).
[20] *See* R.C. 3503.16(B)(1)(a)-(b).
[21] R.C. 3503.16(B)(2), (C), (G); R.C. 3503.201(A).

- The voter cast the provisional ballot in the wrong precinct, but in the correct polling location (including the board office), and a PEO didn't complete and attach Form 12-D to the provisional ballot envelope.[86]
- The voter cast the provisional ballot in the wrong precinct, but in the correct polling location (including the board office), and a PEO did complete and attach Form 12-D, but the board verified that the PEO sent the voter to the wrong precinct.[87]

Reject the provisional ballot if the voter cast the provisional ballot in the wrong precinct but in the correct polling location (including the board office), AND a PEO completed Form 12-D, AND the board verified the PEO sent the voter to the correct precinct.[88]

The voter cast the provisional ballot in the wrong precinct and polling location.[89]

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Step 7: Determine whether the voter already requested and cast a ballot in the election.

Count the provisional ballot if the voter has not cast another ballot.

Reject the provisional ballot if the voter requested and cast an absentee ballot,[90] and neither of the following exceptions applies:

- **Exception 1:** Count the provisional ballot instead of the absentee ballot if the board determines the absentee ballot is invalid because the voter's signature on the absentee voter's ID envelope doesn't match the signature on file.[91]
- **Exception 2:** Count the provisional ballot instead of the absentee ballot if the board does not receive the voter's absentee ballot by the close of polls on Election Day.[92]

[86] R.C. 3505.183(D)(1)-(2).
[87] R.C. 3505.183(D)(1)-(2).
[88] R.C. 3505.183(D)(1); R.C. 3505.183(B)(4)(a)(ii).
[89] R.C. 3505.183(D)(3).
[90] R.C. 3505.183(B)(4)(a)(iv).
[91] R.C. 3509.09(C)(2).
[92] R.C. 3501.32(A); R.C. 3509.09(C)(3); R.C. 3509.05(D).

Section 8.06 Registering to Vote/Updating Address from Affirmation

The board cannot count a provisional ballot if the voter was not registered to vote in Ohio by the voter registration deadline.[93] However, a completed Provisional Ballot Affirmation (Form 12-B) also serves as a voter registration form, a change of address, and/or a change of name form. Even if the provisional ballot envelope is not opened and the ballot is not counted, the board must use the information on the application to register the person as a new voter or to update the voter's address and/or name.[94]

If, after reviewing the Provisional Ballot Affirmation, board employees need more information to register a person to vote, they must contact the individual to request that information.

Section 8.07 Free Access System

Both Ohio and federal law require the state to establish a free access system, in the form of a toll-free number for voters to call and learn whether their provisional ballot was counted.[95] If the provisional ballot was not counted, the person can learn why, get information on how to register to vote, or resolve issues with their voter registration.[96]

Each provisional voter must be given Form 12-H, which has the toll-free number for the free access system and the deadline for providing ID at the board office.

Only the provisional voter can access information about their provisional ballot.[97] The board is prohibited from releasing information on a provisional ballot through the free access system to anyone other than the provisional voter.[98]

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[93] R.C. 3505.183(B)(4)(a)(i).
[94] R.C. 3505.182(F).
[95] 52 U.S.C. § 21082(a)(5)(B); R.C. 3505.181(B)(5)(b).
[96] R.C. 3505.181(B)(5)(b).
[97] *See* R.C. 3505.181(B)(5)(b).
[98] 2011 Ohio Op. Att'y Gen. No. 2011-012, at 2-110.

EXHIBIT D

Directive 2023-28

Chapter 8: Provisional Voting

Excerpts

Pages 242–243

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4. The voter has moved to a different precinct without updating their address by the voter registration deadline (30 days prior to the election).
5. The voter has had a name change and does not have proof of the legal name change.

   Note: A voter who has had a name change and fails to update the voter registration may be eligible to cast a regular ballot if that voter presents one of the following to the election officials prior to Election Day or precinct election officials on Election Day and completes and signs Form 10-L:

   - ☐ Court order;
   - ☐ Marriage license; or
   - ☐ Proof of legal name change that includes both the voter's former and current names.[4]

6. The voter's signature does not match the signature on file with the board of elections (for example, the signature in the pollbook or displayed by the electronic pollbook).
7. The voter has been challenged, and the challenge has been resolved against the voter.[5]
8. The notice of registration or acknowledgment notice has been returned to the board as undeliverable.
9. The voter is marked in the pollbook as having requested an absentee ballot and appears at a precinct polling location to vote on Election Day.
10. The voter already has cast a provisional ballot.

For reasons 8, 9, and 10, the voter should be marked or flagged in the pollbook as needing to cast a provisional ballot.

WHEN AND WHERE CAN A PROVISIONAL BALLOT BE CAST?

When and where electors may cast a provisional ballot depends upon the reason why they must cast a provisional ballot.

The following voters can cast a provisional ballot at the board of elections office or at another site designated for early in-person absentee voting beginning the 28th day prior to a general, non-presidential primary, or special election and the 25th day prior to

[4] R.C. 3503.16(B)(1)(b).
[5] See R.C. 3503.24

a presidential primary election and ending at the end of early in-person absentee voting on the Monday prior to the election, or on the day of the election:

1. Voters who have moved from one precinct to another within a county and failed to update their address by the voter registration deadline.[6]
2. Voters who have moved from one precinct to another within the county and changed their name but failed to update their voter registration.[7]
3. Voters who have moved outside of their county (but still reside within Ohio) and failed to update their address by the voter registration deadline.[8]

Additionally, absentee voters who are in one of the three categories above, or who changed their name but failed to update their voter registration, and who are unable to appear at the board of elections office on account of personal illness, physical disability, or infirmity can request and cast a provisional/absentee ballot beginning the 27th day prior to an election through the close of business on the seventh day prior to that election.[9] Form 11-I is the absentee ballot application prescribed for this purpose. For details on a provisional/absentee voter, please refer to Chapter 7, Absentee Voting in this manual.

If a voter must cast a provisional ballot for any reason other than those listed in this subsection, they must cast it only in their precinct on Election Day.

DELIVERY IN CERTAIN CIRCUMSTANCES OF A PROVISIONAL BALLOT TO AN INDIVIDUAL WITH A PERSONAL ILLNESS, PHYSICAL DISABILITY, OR INFIRMITY

Boards of elections are required to have two board staff members – one Democrat, one Republican—deliver a provisional ballot to an individual who meets all of the following conditions:

- The individual attests to the board that he or she has a personal illness, physical disability, or infirmity;[10]
- The individual attests to the board that he or she is unable to cast a ballot in-person during early in-person absentee voting or on Election Day;
- The individual completes Form 11-I;

[6] R.C. 3503.16(B)(2).
[7] R.C. 3503.16(B)(2).
[8] R.C. 3503.16(C).
[9] R.C. 3503.16(G).
[10] R.C. 3503.16(G).