

Testimony to the U.S. Election Assistance Commission  
Provisional Ballot Hearing  
J. Kenneth Blackwell, Ohio Secretary of State  
Columbus, Ohio  
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Members of the Commission, welcome to Ohio. It is good to be with you today.

Thank you for the opportunity to testify. We have a good report to make from Ohio, and I'm pleased to be able to share it with you.

Everyone in my office, along with the thousands of election officials and workers throughout Ohio, knew we were going to have especially demanding jobs in 2004. All of the pre-election polling indicated that the presidential election was a dead heat in Ohio. Everyone knew what that meant: a lot of newly registered voters (many of them first time voters), extra attention to the state's election laws, and some confusion about the procedures.

I am an educator by training, and I approached the situation as an educational problem. An effective educator has a command of the facts and can communicate those facts clearly. The results show that all of us, Republicans and Democrats together, carried out our difficult and closely scrutinized jobs with few hitches, which we are now seeking to correct.

One reason that Ohio did not become, as some predicated, the Florida of 2004, was that Ohio has an election system that is transparent, bi-partisan, and fair. It both makes sure that citizens have every chance to make their views heard on elections days and provides checks against possible fraud.

It is also not new to us. The rules concerning provisional balloting have been in place since the mid-1990s. In 1994, my predecessor in this office, now-Governor Bob Taft, issued a directive to the County Boards of Elections describing the rule. It included the provision that voters casting a provisional ballot must do so in the precinct where they live.

HAVA, implemented after the 2000 election, required states that did not have provisional balloting provisions to provide them. It leaves the details rightly up to the states. Ohio retained its existing system. In this, Ohio is with the majority - 28 states require voters to cast provisional ballots in their home precincts.

This provision was the subject of a pre-election lawsuit that argued that Ohio's law was too restrictive and violated HAVA. The plaintiffs lost, and we hoped that the suit did not confuse voters.

We did not leave education to the hope that everyone heard the news. We had clear standards, and we made certain that election officials and workers understood them. We sent memos that spelled out how to implement state law. We followed up the memos with conference calls with members of County Boards of Elections. As the election neared, those calls were a daily event.

We got out the word directly to the voters. I believed that with an electorate that had grown by 22 percent, a massive education campaign could dispel any lingering confusion about where and how to vote. We used radio and television ads. Cards mailed to registered voters reminded them of their precinct and voting location. Using a sophisticated computer system, we called voters in urban areas twice with a recorded message that was another reminder of their precinct and voting place.

The system worked. After the election, bipartisan boards counted and checked by hand 153,539 provision ballots. Across Ohio, 77 percent of the provisional ballots were counted in the final tally. Most commonly, ballots were rejected because voters weren't registered. A few voters voted twice. A small number were rejected because voters cast their ballots at the wrong precinct.

Ohio's rate of acceptance compares very favorably to those of other states - especially those that allow voters to cast ballots outside of their correct precinct. In Pennsylvania, for example, only 48 percent of the provisional ballots were either fully or partially counted. This is not the result that critics of Ohio's law predicted. Ohio's provisional ballot count also did not produce legal challenges after the election. In North Carolina, the results of a close race for a state office finally turned on the count of the provisional ballots - and the mistaken instructions given by election officials to voters, who were wrongly instructed to cast their provisional ballots anywhere.

Because of our clear standards, communicated plainly and often, voters, election officials, and my office were on the same page, adhering to state law.

Ohio's election system is not perfect, but our provisional balloting system and our educational efforts can stand, I believe, as a model for other states.

Thank you.

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