

OHIO

PROGRAM

The Ohio Election Protection program took calls from around the state and administered comprehensive field programs with hundreds of volunteers monitoring polling locations in target counties that included Hamilton, Franklin, Cuyahoga, Montgomery, Lucas, Mahoning, and Trumbull. Field volunteers were also deployed to Summit and Stark counties on Election Day in response to problems reported into the hotline.

Voters in Ohio had to contend with changes to Ohio's election rules, in addition to voter intimidation, provisional ballots concerns, machine failures, and long lines.

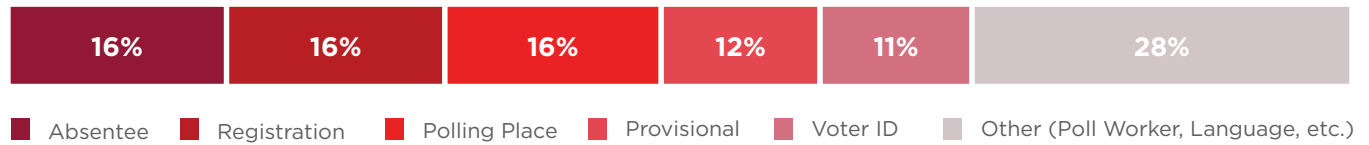
BEFORE ELECTION DAY

Changes to Ohio Election Law

Well before Election Day, Ohio elections were marred by controversy. The rules governing Ohio elections were in a constant state of flux due to a series of controversial legislative reform efforts by lawmakers and administrative rulemaking decisions by election officials in the run-up to the election. The proposed changes to Ohio's voting rules were opposed at the outset by voting rights advocates because the changes restricted voting opportunities without justification. The earliest of these efforts occurred in early 2011 when Ohio Secretary of State Jon Husted announced a legislative proposal entitled "Ready 2012 and Beyond" (Ready 2012).

Ready 2012 was a package of changes to Ohio's election rules that, among its numerous proposals, aimed to reduce the early voting period from 35 days to 16 days, limit Saturday hours that boards of elections were able to offer early voting, eliminate early voting on Sundays altogether, and eliminate the last three days of the early voting period. In addition to early voting restrictions, the Ready 2012 proposals would have reduced the absentee voting period from 35 to 21 days, eliminated "Golden Week" which allows voters to register to vote and vote early at the same time, and prohibited boards of elections from sending unsolicited absentee ballot applications to voters and from paying return postage on

2012 VOTING PROBLEMS IN OHIO



applications or voted ballots, a service which many counties offered in past elections to shorten long lines on Election Day by encouraging absentee voting participation.

The reform agenda encompassed by Ready 2012 was introduced in the Ohio legislature as HB 194. HB 194 was strongly opposed by Ohio voting rights groups, but their concerns were disregarded and HB 194 quickly passed through the Ohio legislature and was signed into law by Governor John Kasich. The cuts to early voting opportunities were particularly unpopular and opposed by many Ohioans, since early voting has become an increasingly popular way for voters to cast their ballots, especially among African-American voters. In 2008, African-American churches organized massive GOTV efforts on Sundays, popularly known as “Souls to the Polls;” and the elimination of Sunday voting was regarded by many within the community as a racially motivated effort to suppress turnout because of perceived political leanings.

The Lawyers’ Committee for Civil Rights Under Law released an analysis in October 2012 demonstrating the disparate impact that reductions in early voting opportunities would have on African-American voters in Ohio’s most populous county, Cuyahoga County. The study, “Early Voting Patterns by Race in Cuyahoga County, Ohio: A Statistical Analysis of the 2008 General Election,” found that in the 2008 election African-American voters voted early at a rate 26 times that of white voters, and despite accounting for only 28.6% of the estimated overall vote, African-American voters cast approximately 78% of all early in-person votes. The study concluded that because of the disparate use of early voting by African-American voters, reducing opportunities to vote early would have a disproportionate impact on those voters.

Ohio’s voting rights groups mobilized in response to HB 194’s passage by securing over 250,000 certified signatures to place the measure on the November ballot for a referendum vote. But rather than face what was expected to be a successful referendum repealing HB 194, the legislature, led by Ohio Senate President Tom Niehaus, passed SB 295, which repealed HB 194 before the November 2012 election.

The early voting fight, however, did not end with HB 194's repeal. A subsequent bill was enacted (HB 224), which eliminated the last three days of early voting for most of Ohio's voters, yet established a more generous early voting period for military and overseas voters. A lawsuit filed in by the Presidential campaign of Barack Obama, Obama for America (OFA), challenged the disparate early voting deadlines and sought to restore early voting for the three days prior to Election Day for all Ohio voters. In support of its challenge, OFA claimed that "tens of thousands of Ohio voters" would attempt to cast ballots on those days, and that early voters are disproportionately members of minority groups and the working class. After litigating the case in federal district court and the Sixth Circuit Court of Appeals (including a failed emergency petition filed by Ohio in the U.S. Supreme Court), OFA was successful in restoring the last three days of early voting for all Ohio voters.

Despite its loss in federal court on the issue of early voting days for Ohio voters, the Secretary of State continued to institute reforms to the early voting program by restricting the hours during which counties could offer early voting. In August 2012, the Secretary of State issued Directive 2012-35, which effectively prohibited counties from offering any weekend voting hours and limited the number of hours boards of elections were able to offer early voting on weekdays. To help ameliorate any voter confusion about these changes, Election Protection partners undertook an education and outreach campaign to clarify the early voting hours and locations for voters throughout the state.

Voter Intimidation

In addition to the legislative and rulemaking battles, Ohio voters were subject to overt voter intimidation tactics. In October, anonymously-financed billboards began popping up around the state predominantly in minority neighborhoods with the message, "VOTER FRAUD IS A FELONY! Up to 3 1/2 YRS & \$10,000 Fine". These billboards were placed in heavily Hispanic and black communities in Cleveland, as well as Cincinnati and Columbus. 30 such billboards were placed in Cleveland alone. The strategic placement of the billboards in neighborhoods with heavy minority concentration not only stigmatized these communities by implying that voter fraud is a more significant problem in these areas, but it attached an implicit threat of criminal prosecution to the civic act of voting. In response, Election Protection sent an open letter to Clear Channel Outdoor, the vendor who owned the billboards, and launching a petition campaign asking Clear Channel to remove the billboards citing the racially charged message conveyed by the placement in minority neighborhoods. Clear Channel responded by taking down the offending billboards and, in their place, Election Protection was able to erect get-out-and-vote billboards in Cleveland, Cincinnati, and Columbus with a positive message about voting and promoting the 866-OUR-VOTE Hotline.

Additional issues that arose prior to Election Day in Ohio included upticks in challenges to voter eligibility, third-party training and recruitment of poll workers, and problems with absentee ballot distribution. The increase in pre-Election Day challenges of registered voters was due in large part to the “Ohio Voter Integrity Project,” believed to be affiliated with True the Vote, a Tea Party subgroup. For example, in Hamilton County, a single person representing the Ohio Voter Integrity Project challenged 380 voters at once. However, over 90% of the challenges were dismissed outright by the County Board of Elections because they were based on limited evidence and non-qualifying grounds, such as addresses missing dormitory or apartment unit numbers. Similarly, boards of elections in Cuyahoga, Lucas, and Franklin Counties dismissed nearly 700 challenges, combined. Election Protection is still collecting information on the outcome of the challenges lodged by the Ohio Voter Integrity Project in ten other counties.

In addition to mass challenges, it was also reported that True the Vote volunteers were recruiting and placing poll workers inside polling locations and providing unauthorized third-party training to their poll workers in major urban Ohio counties, such as Hamilton and Franklin counties, with a focus on placement in African-American districts. The League of Women Voters of Ohio (LWVO) notified and expressed concern to Secretary Husted about the outside trainings being conducted, but no response was received by LWVO and it is unclear what, if any, corrective steps the Secretary’s office took in response. By attempting to place its observers in precincts around the state on Election Day, the organization was also potentially breaking the law. The day before Election Day, the Franklin County Board of Elections determined that True the Vote had likely falsified the forms submitted for general election observers despite the warning on the forms which read “election falsification is a 5th degree felony.” The observer forms were unanimously rejected by the board, and the True the Vote observers were not permitted inside Franklin County polling locations.

Absentee Voting

Absentee voters were not immune to pre-Election Day voting problems, as they continued to deal with the recurring problem of not receiving their ballots despite having requested them. Reports came in during the several weeks running up to the election and, though this problem is a typical one associated with absentee ballots, an investigation found at least one major cause this election cycle. A review by the Northeast Ohio Voter Advocates (NOVA) of Cuyahoga and Franklin Counties’ absentee ballot applications that were denied because the applicant was determined to be “not registered” revealed that several hundred applicants were in fact properly registered. NOVA’s investigation found that, due to inadequate voter lookup methods of the voter list, in Cuyahoga County 865 applicants were

wrongly rejected their absentee ballots, and a sample of similar rejections from Franklin County found that 38% were also mistakenly deemed “not registered” and not mailed ballots. Cuyahoga County immediately corrected this error, but similar problems surfaced again later, and similar inadequate data search methods were likely being employed for absentee ballot applications by Ohio’s other 87 counties. Voter advocates proposed more reliable search methods to the Secretary of State, and on October 31, the Secretary of State issued a bulletin advising all boards of elections on improved criteria for properly identifying registered voters in the voter list. Relatedly, because counties use similar search methods when looking up voters who cast provisional ballots to verify their eligibility and could potentially result in similar faulty rejections, Election Protection worked with the Secretary of State’s office to develop best practices for looking up voters when trying to validate provisional ballots. This guidance was emailed to all of Ohio’s 88 counties.

ELECTION DAY

While Election Day went smoothly for many of Ohio’s voters, many others dealt with distinct and recurring voting problems. Issues with provisional ballots, voting machine failures, voters missing from the rolls, voter identification rules, and poll worker confusion were reported around the state. Some counties, like Cuyahoga County, were better organized and able to efficiently respond to issues as they arose on Election Day, while others, such as Summit County, suffered disorganization at the polling locations with poll worker problems, inadequate staffing, ballot shortages, poor signage, and inadequate responses to equipment failures.

Provisional Ballots

One of the most extensive problems reported statewide was too many provisional ballots being issued by widespread misapplication of the voter identification requirements – specifically, forcing voters with valid driver’s licenses to vote provisionally even though such voters were entitled to a regular ballot. Ohio law permits driver’s licenses with outdated addresses to be used as an acceptable form of identification so long as the voter is properly registered at their current address. One caller in Cincinnati observed a fellow voter turned away after presenting a valid Ohio driver’s license that had a non-matching address at the Over-The-Rhine Recreation Center. In Toledo, an Election Protection volunteer, who was also a voter, reported an exchange with a poll worker when she went to cast her vote at the Little Sisters of the Poor nursing home. After confirming that the address on the voter’s driver’s license matched the address in the poll book, the poll worker commented that voters whose addresses do not match are required to vote on a provisional ballot. Knowing this

was incorrect, the volunteer alerted the precinct captain who initially agreed with her poll workers' statements. However, after reviewing the precinct guidelines, the captain realized she had not reviewed the entire set of instructions on voter identification requirements and indicated that she had not been properly trained. The problem of misapplication of voter identification requirements came up frequently in Lucas, Montgomery, Hamilton, Franklin, Cuyahoga, Stark, and Summit counties.

Machine Problems

Machine failures were a systemic problem on Election Day, with multiple reports from Cuyahoga, Hamilton, Lorain, Lucas, Montgomery, Summit, and Franklin counties. Election Protection documented at least 10 polling locations in Cuyahoga County where there were machine breakdowns or malfunctions. The Cuyahoga County Board of Elections was responsive to machine issues as they arose, however the problems continued to occur throughout the day. In Canton, a voter reported that only three out of seven machines were printing out the verified paper record for voters, leading to longer lines. Election Protection worked with the Stark County Board of Elections, which deployed a technician to polling site and directed poll workers to issue emergency paper ballots in the interim.

At the Talmedge Community Center in Summit County, a voter reported that machines kept jamming and at least one ballot was "chewed up." Summit County had frequent reports of optical scan machines jamming when being fed ballots. In Lucas County, many polling locations were slow to open or opened without having all machines up and running because set-up took too long. Although the Lucas County Board of Elections had voting machine tech workers on site at all of the larger polling locations, the smaller ones did not have this resource.

Enlarging the problem of machine failures were poll workers who did not follow appropriate procedures when machine issues occurred, often leaving voters distressed that their vote would not count. One voter at the AJ Rickoff Elementary School polling location in Cleveland reported that when submitting the first page of her three page ballot, the voting machine read "error vote not counted." She asked a poll worker for assistance and the poll worker did not know what to do or whether the votes on the first page were counted. She was told to submit the other pages and upon submitting each the machine said "thank you for voting". The voter was very concerned that her vote would not count. Another voter, a disabled veteran, accidentally selected two choices on his ballot for President and the smudge was picked up by the machine, and gave him an option to recast the ballot. The poll worker hit the decline option to recast on the machine without the voter's permission,

even though the voter wanted to recast his ballot. Under Ohio law, voters with spoiled ballots are entitled to cast three ballots.

Long Lines

Long lines were reported in Summit, Cuyahoga, Warren, Franklin, and Montgomery counties. A caller from Summit County reported that voters were waiting for over two hours to vote at the Laurel Lake location, a retirement community, and that elderly voters were having trouble standing in line for that long. Franklin County experienced long lines at the Ohio Union and the King Arts Complex polling locations. Election Protection was in contact with the Franklin County Board of Elections throughout the day to report and resolve this problem. At the Ohio Union, voter check-in held up the line and Election Protection worked with the Board of Elections to split the poll book so there were more check-in lines. Paper ballots were also used to move some of the lines as polls opened. Adding to the delay was confusion among Ohio State student voters about their proper polling location who mistakenly believed the Ohio Union served all Ohio State University students. Election Protection deployed a team of six volunteers to help verify the polling locations of students.

Montgomery County in particular experienced much longer lines than in 2008. In addition to machine breakdowns and inefficiencies at the polling sites, Montgomery instituted the most far reaching precinct and polling place consolidation in the state after the 2008 Presidential election. There were very few lines in 2008 and those that formed were only for a few minutes in the morning. This year, Election Protection visited at least ten locations that had lines in the mornings, half of which continued into the early afternoon.

Voter Registration

Finally, Election Protection received reports from around the state of list maintenance problems with the voter registration list. A number of voters reported not being on the rolls even though they registered to vote. This problem was reported in Hamilton, Franklin, and Cuyahoga counties. In Franklin County, voters reported they had Franklin County Board of Election registration cards verifying their precincts, but poll workers were unable to find them in the poll books. Student voters from Central State University and Ohio State University who submitted registrations submitted their voter registration forms through on-campus registration drives also reported not being on the voter rolls on Election Day.