

**PRE-ELECTION MEETING OF THE  
DELAWARE COUNTY ELECTION BOARD  
NOVEMBER 16, 2022**

**PRESENT:** Ashley Lunkenheimer, Chair, Delaware County Board of Elections  
John P. McBlain, Member, Delaware County Board of Elections  
Scott Alberts, Delaware County Board of Elections  
Jim Allen, Director of Elections  
J. Manly Parks, Solicitor  
Jackie Dunn, Voting Machine Warehouse  
Crystal Winterbottom, Voter Registration  
Shelly Chauncey, Solicitor for Delaware County Democratic Party

Ms. Lunkenheimer called the meeting to order.

Pledge of Allegiance

Chair Lunkenheimer proposed that the sole focus of the meeting be the hearing of any objection(s) or recommendations related to the processing of provisional ballots. Lunkenheimer moved, and Alberts seconded a motion to consider only recommendations and objections to provisional ballots.

Chief Clerk of Voter Registration Crystal Winterbottom discussed processing of provisional ballots and preparation of the recommendations and review in the SURE system, reviews of registrations and reviews of information related to whether the voter was registered in the precinct, in the county and/or A total of 2,458 provisional were considered. After review, staff made terminations that of these, 1,759 had recommendations that the provisional ballots be counted in full; 113 would be counted partially, based on the districts where the voter was registered versus the districts on the ballots where the voters cast the provisional ballot; and 474 would not be counted because the voter was no eligible to vote based on the records. Of the 474 with no-count recommendations, 112 of the recommendations are being challenged. All 112 challenges involved mail-ballots that were received that were canceled for no secrecy envelope, or for failure to sign or date the envelope, and where the voter then went to the polling place on Election Day.

Shelly Chauncey, solicitor with the Delaware County Democratic Party, presented on behalf of the objectors, and stated that the objections were to count provisional ballots where recommendations were to not count the ballots. Ms. Chauncey indicated that the notices to voters were not consistent. A call to one voter indicated the voter could go to the Voter Service Center or cast a provisional ballot. A letter to a second voter discussed the need to come to the Voter Service Center to obtain a replacement ballot, and the voter went instead to his precinct polling place to cast a provisional ballot. A third voter received no notice from the County but did receive a notice from the Department of State, stating that his mail-in ballot has been canceled, and a second email from the Department of State that suggested the voter could vote provisionally on Election Day. Ms. Chauncey argued that the voter's intent in each case was to cast a ballot, and that this was the method the voters chose to "cure" flaws in their mailed-in ballots. Ms. Chauncey also said that in October 2020, the Department of State issued instructions that stated that if a voter cast a mail-in ballot that was rejected by the county, the voter could cast a provisional ballot.

Chair Lunkenheimer pointed out that the notice to voters indicated that the voter who returned a flawed mail/absentee ballot needed to obtain a replacement ballot from the Voter Service Center in Media. Mr. Allen indicated that the Department of State ordered and required the County to use language on the instructions to

voters and on the mail/absentee ballots themselves that once the mail/absentee ballot was returned, the voter could not vote at the precinct. At the same time, Chair Lunkenheimer then cited the PA Election Code that a provisional ballot should not be counted if the mail/absentee voter's ballot was timely received. Chair Lunkenheimer said the issue is then, even if the voter's ballot was received, whether it was "cast" if it ultimately was canceled for a flaw such as the envelope not being signed or dated.

Mr. McBlain said that because of the conflicting advice that the voters received from the Department of State, he would support counting the provisional ballots in question, even if that information was perhaps incorrect and possibly politically motivated.

For the record, Chair Lunkenheimer read the text of the Department of State email to voter Isaiah Dorsey, which indicated that the voter's mail ballot was canceled, and the voter could go to their precinct polling place and ask for a provisional ballot.

Board member Alberts added that the guide to poll workers indicated that a provisional ballot would count if there was an error in logging in the error, but those instructions do not indicate whose error – whether it is the voter's error or the election authority's error.

Mr. Allen noted that the Elections staff sought to follow the rules, but the Department of State issued guidelines that changed, and the Courts did as well, throughout the election. Months before the election, the Department was emphatic about instructions to voters not going to the polling place once their mail/absentee ballots were received. Months later, the Department of State was sending emails to tell voters whose mail/absentee envelopes were flawed that they could go to their precinct and ask for a provisional ballot. Next, the courts ruled that voters whose mail/absentee ballots were flawed could be notified by their Counties so that they could cure problems by voting a new ballot. Next, the Courts ruled that envelopes needed to be rejected if they had improper dates, but without defining what dates would be deemed improper. Finally, three days before Election Day, the courts clarified what was meant by "improper" dates, which required another review of all of the envelopes before prec canvass and canvass on Election Day. Finally, Mr. Allen noted that the Voter Registration staff was following the advice of the Board's solicitor, based on the rules that existed at the beginning of the election cycle.

Board member McBlain moved to accept the recommendations on all ballots, except to sustain the objections to the 112 challenged ballots, and that the Bureau count those ballots in full or in part, based on the relevant circumstances, and that those 112 ballots also be sequestered. Chair Lunkenheimer seconded the motion. Motion passed 3-0.

Meeting was adjourned.