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Karen Sellers, Executive Director of State Board of Elections
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Sent via email

Re: Absentee Ballots and Provisional Ballots

Dear State Board of Elections:

We write to you concerning an issue with absentee ballots that we encountered on Election Day in November 2022. Last year, we received several reports from voters who properly requested absentee ballots, then decided to vote in person on election day. On election day, voters received mixed messages from poll workers and clerks about whether, and under what circumstances, they may be permitted to cast a ballot in-person. These reports came from voters across Fayette, Boone, Warren, Kenton, and Jefferson counties.

On November 8, 2022, we wrote to this Board expressing our concerns, and on the same day, the Board wrote back clarifying the state of the law. We understand that under state law, military and non-military voters have different timelines under which to cancel their absentee ballot to vote in person on election day. For non-military voters in these circumstances, we understand, at a high level, that state election law requires: (i) the voter to cancel and return the mail-in absentee ballot to the county clerk's office by mail or hand delivery at least seven-days before election day; and (ii) the voter will not be permitted to cast a provisional ballot until the absentee ballot is cancelled.

However, we fear that county clerks, and perhaps more likely, poll workers, may again give mixed directions to eligible voters who arrive at a polling location on election day without having first cancelled their absentee ballot. For this reason, we request that this Board send a communication to all county clerks (i) reminding them of the state of the law for these voters; and (ii) requesting that they clarify to all poll workers how the situation should be addressed, should it arise.

Please feel to respond via email to: [REDACTED]. You may also call me at [REDACTED]. Thank you in advance.

Sincerely,
Kevin Muench, Legal Fellow