UPDATE TO INSTRUCTIONS CONCERNING DIVISION OF MOTOR VEHICLES APPLICANTS

JULY 29, 2016

On Friday, July 29th, 2016, a Shawnee County District Court Judge issued a preliminary injunction concerning the voting procedure to be used during the 2016 Primary Election. The injunction covers individuals who have applied to register to vote at a Division of Motor Vehicles office and have not provided proof of citizenship (currently 17,468) , and individuals who have applied to vote using a federal voter registration application prior to February 1, 2016 (currently 192), and have not provided proof of citizenship.

As we have previously instructed, all persons who fall into these categories should be given a provisional ballot during the 2016 Primary Election. Effective immediately, these persons should be instructed that they are eligible to vote a full provisional ballot. In our previous instructions, we asked board workers to instruct these persons they are only eligible to vote for federal office. That is no longer applicable. These persons will still cast a provisional ballot, but should be informed the entirety of the ballot will be counted.

After Election Day, persons who have cast a provisional ballot should be entered into ELVIS with a provisional ballot reason of "DMV Applicant – NO POC – Should count" (Code M1).

When each county presents the provisional ballots to the county board of canvassers, each county election office should present these ballots to the commissioners along with instructions that the entirety of these ballots should be counted according to a judicial order.

There will be a full court hearing on this case after the Primary Election. At this time, do <u>not</u> change the status of persons in these categories. Continue to obtain and process acceptable forms of proof of citizenship.

NEW ACTION ITEMS

1. Prepare to issue provisional ballots to '**DMV office – Federal Election Only – No POC**' applicants at the primary election and count the votes for all offices that are voted on the ballot. The voter should be instructed they are eligible to cast a vote for all offices due to a judicial order.

A. Maintain a list of **'DMV office – Federal Election Only – No POC'** applicants in the county election office. County election offices should distribute this list to all polling places throughout the county.

B. Do not print these applicants' names on the poll book. They are not registered voters under Kansas law for the purposes of state and local elections, even though they will be permitted to vote for all offices during the August 2, 2016, primary election.

C. Poll workers will issue provisional ballots to these voters the same as any other voters whose names do not appear in the poll book.

D. When provisional ballots are returned to the election office after the close of polls on Election Day, use the list of **'DMV office – Federal Election Only – No POC'** applicants to separate their provisional ballots into a separate stack. Use the provisional ballot code mentioned above when processing in ELVIS.

E. Unless these provisional ballots are determined to be invalid for another reason, make a recommendation to the county board of canvassers to count the votes for all offices.

F. Count the votes and add them to the other vote totals.

G. Report to the Secretary of State the number of persons who voted a provisional ballot under these circumstances. The report should be sent at the conclusion of the county board of canvassers certification of the primary election.

Please contact Bryan Caskey, Director of Elections with questions concerning this policy.