



**Testimony of
Eve Sandberg
Associate Professor of Politics, Oberlin College
Councilor At Large, City of Oberlin**

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Protecting the Right to Vote: Election Deception and Irregularities in Recent Federal Elections
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Eve Sandberg, Ph.D.
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Introduction

Good Afternoon. My name is Eve Sandberg and I live in Oberlin Ohio. I teach in the Politics Department at Oberlin College and I also am an elected official serving as an At-Large City Councilor in the City of Oberlin. Like many Ohioans, I was vitally involved with the election processes in 2000, 2004, and 2006. Thank you for the opportunity to offer my perspective and relate what I heard and saw happening in Ohio during the last few elections. It appears to me, and to thousands like me, that the election process in Ohio was undermined in so many points along the voting process that any fair-minded observer must conclude that the leadership of the party in power, the Ohio Republican Party leadership, used its public offices to influence the outcomes of the elections in Ohio through irregular and unlawful practices.

Before I begin my testimony today I would like to contextualize my remarks with a few preliminary comments. The electoral contests in Ohio over the last six years have been bitterly partisan. I believe, however, that ensuring fair and free elections is a bipartisan responsibility and that addressing the reprehensible flaws in our electoral practices is a task that must be undertaken by the political leaders of all our political parties.

I want to note that my comments today will demonstrate my view that the Republican Party leadership of Ohio involved themselves in practices that undermined a fair and democratic electoral process. However, when these activities were revealed, often we found that many Ohioans who were supporters of the Republican Party cooperated with Democrats to try to rectify what they recognized to be dishonorable electoral practices. My remarks today should not be construed as an attack on Republicans, but rather on those Ohio Republicans who played leadership roles in their party's recent elections and on those Republicans who continue to deny the irregularities and undermining practices that marked Ohio's recent elections.

I also would like to note that, while living in Ohio, I am a strong Democratic partisan. Yet, when I first began to vote, I remember casting some of my first votes for Republican Senator Clifford Case of New Jersey and also for Gubernatorial Republican candidate, Richard Cahill, also of New Jersey. Additionally, my mother volunteered in the campaign for, and stuffed envelopes for Mr. Cahill. I come from a family that was comprised of classic swing voters. My brother, Mark, is a thoughtful voter who votes for the best possible candidate. My father voted for Senator John F. Kennedy in 1960, but he later voted for Presidential candidate, Richard Nixon. My father was an immigrant to this country and my mother grew up in an immigrant family. My family has always viewed democracy and democratic practices with the utmost respect.

I also want to note that as a Politics professor and as a political consultant, I sometimes find myself abroad explaining the virtues of multi-party politics and democratic institutions. For example, in 2001 and again in 2002, I had the privilege of traveling to the Muslim Kingdom of Morocco with a team led by Seattle political consultant Cathy Allen. In Morocco we met with the Executive Boards of Morocco's political parties to discuss strategies of targeting and messaging as the Moroccan party leaders prepared to contest their first free and fair elections. Our team also trained about 120 Moroccan women who hoped to run for parliament because Morocco's electoral laws for women had recently changed. It pains me greatly as an American when I encounter foreigners overseas who offer their comments on the reported electoral corruption in the United States. Such reports support cynical anti-Americanism around the world. Over the years, I have learned that one of the best means by which the United States can promote democracy abroad is to lead by example. Acknowledging the flaws in our election processes and fixing our electoral system is a job that is in the interests of all Americans, both Democrat and Republican. My remarks today should be taken by fair-minded Republicans as well as by Democrats to mean that we must put our electoral house in order at home if we wish to model democracy abroad.

Now let me tell you a little bit about what I saw and heard in Ohio's recent elections in 2004 and 2006. Sadly, I report that to someone like me in a small town in Ohio, it appears that every aspect of the election process was undermined by a Republican Secretary of State's office and by many in his employ: the registration process, the actual voting process, and the checks and balance procedures that are supposed to occur with bi-partisan participation after any election.

The registration process

Let me begin with the registration process. We all know that pollsters have learned that college students on certain campuses, African Americans, and women, tended to vote in greater numbers for Democrats than for Republicans. If elections were being closely contested, it makes sense that if Ohio's Republican leadership could eliminate-- or suppress-- the vote of these target voting groups by just a percentage point or two, Republicans might be able to squeak out a victory that otherwise they could not earn in a legally and fairly contested race.

We know that the courts had ruled that college students are legally permitted to vote in the states in which they reside while attending college. Obviously, the only rule is that students can only vote once. If they vote in the state in which they are students, they cannot vote absentee in their home states. However in Ohio in 2004 and again in 2006, prior to the election, the Ohio Secretary of State's office held by the Republican leadership sent out mixed messages when our students at Oberlin College inquired about their voting rights. The Secretary of State's office let it be known that election officials would vigorously challenge out-of-state students who chose to vote in Ohio by requiring a photo identification card with a current voting address on that card. In 2004, such a requirement was not legal in Ohio. Yet due to the confusion surrounding that rule, many of our out-of-state students worried as to whether or not their votes would be counted in Ohio. Student college photo identifications lack home addresses because students move around from dorm to dorm or to off-campus housing. In 2004, there was so much confusion about this issue, despite the law clearly stating that students had the right to vote in communities where they lived and attended college, that Oberlin College President Nancy Dye created a task force to discuss how to inform students of their voting rights so they would not be disenfranchised. Eventually, Oberlin College distributed a written guide to Oberlin College students. However, some out-of-state students at Oberlin College and probably many at other colleges throughout Ohio chose not to register in Ohio because they feared their vote would not be counted. Others were so confused that they did not register in Ohio and then learned that the deadline at home had passed for absentee voting in their home states. In 2004, these students were disenfranchised by a Republican Secretary of State.

It is not the responsibility of Presidents of Colleges and Universities to publish documents that clarify and defend the rights of their students to vote in a free nation. Ohio boasts over 130 colleges and universities. How many thousands of students were affected, one can only wonder. Additionally, it seems that the confusion did not just affect students but also affected poll workers who, as I will discuss shortly, tried to enforce rules that did not exist, thus preventing some students, African Americans and other citizens from voting when they were legally entitled to do so.

In 2006, the Republican leadership managed to put a photo identification requirement on the books in the final campaign period, causing enormous confusion prior to the election. Members of the League of Women Voters had trouble finding the rules as they struggled to write and publish their voting guides. One of my student advisees, Colin Koffel, hoped to publish a guide to voting procedures for students in one of our campus newspapers. Despite calling the Secretary of State's office at various times prior to the election, this student had difficulty getting the Secretary of State's office to identify any rules until the very last days before the election.

Students were not the only voters adversely affected during the registration process by changes in the requirements for voting. Poor people and the elderly, who lacked or had given up their driver's licenses, faced disenfranchisement as well from a requirement that they had to produce a photo identification in order to vote. Few voters have photo identifications other than driver's licenses. "Suppression of the vote" became a campaign tactic that was debated in Ohio as the Republican Leadership in Ohio made the registration process a circus that prevented Americans who are entitled to vote from exercising their franchise.

The Voting Process Itself

The voting processes in Ohio were undermined by manipulating the placement of voting machines and by unlawful challenges of a citizen's right to vote. Despite data on the number of registered voters, heavily Democratic Party areas, particularly precincts with large numbers of African American or student voters, were provided with so few voting machines that Ohioans in these precincts had to wait four, five, six, seven or more hours in line to vote. Yet, we heard not one report that any precinct in which voters voted largely for Republicans received too few voting machines or suffered hours of waiting on line. However, we also heard the Republican leadership celebrating the enormous Republican turnout. Curious.

The lines for voting in 2004 were so long that, as one of my students, Frances Zlotnick, reported to me, she witnessed women with young children who came up to the line, looked at its length and said, "I can't believe this. I want to vote, but I can't stand here for hours with these kids." We all know that women in a largely Democratic community are likely to vote Democratic. Not providing sufficient voting machines appeared to be a deliberate tactic to disenfranchise Democratic voters, including women with children.

Professor Sandra Zagarell of Oberlin College's English Department was trained as a Kerry for President Democratic Party Challenger and assigned to one polling station in Oberlin for the entire voting day. She observed the voting process from 6:30 A.M. to 10:00 P.M.. Professor Zagarell reported that her polling station had lines of over three hundred people and the wait at times lasted five hours. I have included with my written testimony Professor Zagarell's letter to the Oberlin Review the week of the 2004 Presidential election as Appendix A.

Early in the morning on election day 2004, when Professor Zagarell realized that there were too few voting machines she attempted to call the Secretary of State's office to request more machines. The line was

busy or no one answered. Repeatedly, the line was busy or no one answered. Believing that I might have more information about what to do and how her polling station might secure more voting machines, Professor Zagarell phoned me. I was in a suburban (exurbia) voting location and I, too, had been trained as a Kerry Democratic Party Challenger. When she called she was distressed. Some voters were leaving the polls as they had to go to work or attend classes. Oberlin has a substantial retirement community and people who are in their seventies, eighties or nineties cannot simply stand for four to five hours so that they can vote. She realized that many of the elderly in our community could lose their right to vote. I replied that all I knew was to call the Secretary of State's office, which, of course, was Republican controlled. I said I would try to call on my cell phone on her behalf and we would hope that one of us would get through. In the suburban polling place to which I was assigned, most of the time there were no lines and empty machines. Infrequently, in this suburban polling place, a voter had to wait for another voter or two in front of him or her. I placed a call to the Secretary of State's office. It was busy. I turned to my Republican counterpart, a gentleman who was a Bush Republican Party Challenger. We had been speaking throughout the morning and realized there was no need to demonize one another; we both just wanted a fair election. When I told my counterpart the problem, he said to me, I'll call the Secretary of State's office. I skeptically replied, "I don't think you'll get through." His reply was telling. "They gave us our own number," he told me. He got through on the first try. I was stunned as I realized that the Republicans had a system to assist their party from the Secretary of State's office. American citizens who were Democrats could not expect equal treatment under the law.

Another colleague of mine from Oberlin College, Psychology Professor Karen Sutton, was a Kerry Democratic Party Challenger assigned to Maple Heights, Ohio in the 2004 election. Her polling place had a substantial African American voting population. The poll workers, however, were white. Although Ohio law prohibits campaign signs 100 feet outside of a voting place, signs are often posted just beyond that point. The poll workers at this church forbid any Democratic signs from being posted on church property but allowed Republicans to post their signs beyond the 100 foot mark. Inside the church, these official poll workers were no less biased. There was no legal need for a photo identification until the 2006 election but as Professor Sutton learned in 2004, when she walked away from the voting check-in table, a poll worker would ask any African American potential voter for a photo identification. If Sutton was attending to one voter explaining that it was his or her right to vote without the requested photo identification and looked over and saw a new challenge occurring at the check-in table, when she rushed back to the table, the poll worker pretended he/she had not made such a request. The poll workers were trained by Ohio's Republican Secretary of State.

One incredibly troubling allegation was reported to me the day after the election. A male Oberlin College student came up to me and said that he was told I would know what to do with his information. He had been sent with a few other Oberlin College students to leaflet at Kent State University. The precinct to which he was assigned was using punch card ballots. A punch card has a multitude of holes in it and you place it into a voting booth underneath a ballot that has candidate names listed on the ballot. The voter uses a ballot punch to punch a hole next to the names of each candidate for whom he or she votes. The voter sees the ballot hole and generally does not pay attention to the punch card below the ballot on which the vote is being cast by making a hole on the punch card when the ballot punch goes through to the card below. Voters generally do not pay attention to their punch cards because the cards have no writing, only holes on them. After punching a ballot, the voter just places the card through the slot of a closed voting can or box.

This young man reported that a number of Kent State students came up to him and claimed that their punch cards were pre-punched for President Bush. If they voted for John Kerry, they would have had two Presidential punches on their card and their ballot would be spoiled; none of their votes would count. If they voted for President Bush, they would just make the hole already punched for Bush on their punch card a bit larger. Their ballot would not be spoiled and all their votes would be counted. I asked the male student if he took down the names of any of the Kent State students with whom he had spoken. He said he had not. I told him I was not certain what he could do. He should call the Secretary of State's office and he should call the Democratic Party. Stupidly, I did not take down his name. It never occurred to me that I might be sitting here today.

Many other troubling occurrences were reported as well. David Ashenhurst, a volunteer on election day in 2004 and currently an elected member of Oberlin City Council, reported that poll workers enforced illegal rules concerning when a person could vote if the voter had moved since the last election. In fact, questions about whether, or if, people were allowed to vote, vote provisionally, or vote in another precinct were contested all day. There were countless reports that in voting places with large numbers of Democratic voters the voting officials misconstrued the rules for provisional voting. Yet, if the rules were not followed as legally stipulated, a citizen's provisional vote was disqualified at the County Board of Elections or wherever else the provisional votes were tallied. Ms. Palli Holubar, another Oberlin volunteer on election day 2004, worked during the election and afterwards helping to trace whether or not an individual's provisional vote was ultimately counted. Across the state of Ohio, it was clear that many provisional votes were not ultimately counted and it was difficult for individuals to determine if they had been given correct information or misinformation that then resulted in their vote being disqualified. Ms. Holubar, who became a bit of an expert on provisional voting, reported that the procedures used by the Secretary of State offered voters with provisional ballots no confidence in our electoral system.

In 2006, David Ashenhurst (noted above) became a poll worker in an effort to be able to offer authoritative and correct information to voters. However, he reports that the rules on provisional ballots that were used during the training of poll workers did not match the manuals that poll workers were given. Furthermore, on the day of the 2006 election, a different set of rules was distributed at polling stations. The obvious observation here is that if there is confusion among the poll workers and the rules are

changed in the final hours prior to voting, how is a voter supposed to satisfy the rules and act in a way that protects his or her right to vote. Should a citizen who recently changed an address go to his or her old precinct where that person is on record, or should that person go to the new precinct? How many days prior to an election can a voter have moved without having to re-register? Should a voter with such a question even attempt to vote?

A great number of Ohio voters decided to vote absentee in 2006 in order to avoid lines and also in the hopes that absentee ballots would be less likely than provisional ballots to be disqualified. However in 2006, many absentee ballots were printed (about) two weeks late and thus delivered late. In Oberlin, for example, absentee ballots arrived while students and faculty were on their fall break with many away from campus. These individuals had difficulty completing the ballots and returning them in time so that their ballots could be counted in the election.

In 2006, there were also concerns in Ohio that parts of the state voted electronically with no paper trail to record the voting. In other parts of the state citizens voted electronically and the voting machines kept paper records. Still other Ohioans voted on punch cards. Professor Candace Hoke, a Cleveland State Law Professor and Director of the Center for Election Integrity, is also a member of the Republican Party. Professor Hoke has devoted much time to investigating Ohio's voting alternatives and also its professional staff of poll workers. In addition to worrying about voting machines without proper paper trails, Professor Hoke has worried about finding ways to get younger people to work as poll workers on election days. Professor Hoke's concern is that many poll workers are older, often retired citizens, who may be uncomfortable with assisting voters on electronic machines or with learning how to handle machine cards and other electronic related procedures. The practice in Ohio of hiring unemployed workers without sufficient screening to staff some polling places is also a concern. Ohio Democrats are particularly concerned when we read in the newspapers that such individuals are being assigned largely to polling places where the residents vote in large numbers for Democrats. If mistakes are made, we know it is likely to be Democratic votes that are disqualified.

At some polling places in 2006 (again it seemed to be polls where residents mainly voted Democratic, such as in Cuyahoga County), the machine's cards were inoperable when inserted into the voting machines on the day of the election. It took hours to correct the situation and therefore the voting polls opened late. For many voters who had made arrangements to vote prior to going to work, it was not possible to do so.

Just as negative advertising has made an unwelcome entry into American campaigns, so "suppression of the opposition's vote" by the leadership of the Ohio Republican Party and perhaps even voter theft now has entered election practices. And in the follow-up to elections, recounts are supposed to be open and transparent, but in Ohio we learned that this was far from the case.

The checks and balance procedures after the election

Following the 2004 election of Bush vs. Kerry, I was contacted by so many distraught citizens that I rented a community center room in the City of Oberlin and held a meeting. On short notice, about 85 people attended. That day we heard many accounts of irregularities. We created an informal electronic listserve to report ongoing information concerning election practices. We also swapped information about recount efforts.

A posting by one of our listserve contributors forwarded an email from a Richard Hayes Phillips who reported that in "Warren County, the administrative building was locked down on election night, all in the name of homeland security." No independent persons were allowed to observe the vote count.

Several members of our group of 85 volunteered to be official representatives of the Democratic Party in the recount efforts to see that fair tallies of votes had been reported. They were not always successful in their efforts. An email message from Damen Mroczek reported that: "The meeting (scheduled for 9:00) didn't get underway until 9:35, at which point the Board came out...We were particularly upset that the "random" precinct selection had already been completed..."

Which precincts are selected for quality control recounts can be critical for the outcome of a recount. Obstructing openness and transparency in how recount precincts are chosen jeopardizes the legitimacy of an electoral outcome.

Others reported that the poll workers were not allowing those viewing the recounts to be close enough to actually see for themselves each vote and to make certain that each vote was being allocated to the correct party during the recount. If this is true, such recounts cannot provide the information that they are intended to provide. Certainly, such recounts cannot confirm an election outcome or support the legitimacy of our electoral process.

Conclusion

For those of us who have lived through Ohio elections over the past six years, it is hard not to conclude that every step of the election process was undermined by a Republican Secretary of State's office and by many in his employ: the registration process, the actual voting process, and the checks and balance procedures that are supposed to occur with bi-partisan participation after any election.

As an American who travels abroad and is frequently called upon to testify to the benefits of multi-party politics, it pains me that the leadership of the Ohio Republican Party has systematically found ways to undermine fair and free elections in our state. I know that when average Ohio Republicans are witness to such activities, they do the right thing. But apparently, the Republican leadership has such a stake in governance, that it has not done the right thing in our recent elections.

If there is any silver lining to the distressing reports of irregular and/or unlawful practices at every stage of the voting process, it can be seen in those voters who were able to devote four or more hours to waiting in line and who cherished democracy enough to demand their right to vote regardless of how inconvenienced they were. These citizens could not prevent the suppression of the vote or having the vote taken away from their fellow citizens. What they could and did do, however, was to patiently wait their turn, to move the elderly (those had not seen the enormous lines and driven away) up to the front of the line so the older voters could vote quickly and then sit down or go home. In Oberlin, school children showed up at the polls to walk up and down the lines giving away the Halloween candy that they had collected on October 31. Oberlin College students alerted local merchants concerning the lines and requested assistance. A number of local merchants provided food. Lorenzo's Pizza sent over free donated pizza pies to help those on line to take the edge off their hunger. Our student dining coops donated food from their kitchens. People walked the long winding lines providing water bottles. Our former Congressman, now Senator Sherrod Brown, visited Oberlin and brought with him water bottles to distribute as well as encouragement and thanks.

I am attaching to this testimony two letters to the editor written by Oberlin poll watcher Sandra Zagarell (whose letter I already noted above as Appendix A) and Oberlin Mayor Daniel Gardner (whose letter constitutes Appendix B) congratulating the citizenry on their dedication and public spirit. As Ms. Zagarell notes, Oberlin College students deserved high commendation. They came as individuals but became an improvised community to help one another through the long hours on line to vote. They allowed the elderly or ill to go to the front of the line. Mayor Gardner's letter also praises Oberlin voters, concluding: "God, I love our town. You have restored my faith."

Despite the cynicism and distrust created by the actions of our highest Ohio election officials, the determination, patience, and good will of the American citizenry in coping with adversity is admirable. Now, I hope that the United States Congress, after hearing our testimony today, will restore our faith in our political leadership and work to restore free and fair election practices in Ohio and elsewhere throughout our country.

I thank you for the honor of including my testimony today.

Sincerely,

Eve Sandberg, Ph.D.
Oberlin, Ohio