

**In the  
Supreme Court of Ohio**

<b>LEAGUE OF WOMEN VOTERS OF OHIO, et al.,</b>	:	
	:	
<i>Relators,</i>	:	<b>Case No. 2021-1193</b>
	:	
v.	:	<b>Original Action Pursuant to</b>
	:	<b>Ohio Const., Art. XI</b>
<b>OHIO REDISTRICTING COMMISSION, et al.,</b>	:	
	:	<b>Apportionment Case</b>
<i>Respondents.</i>	:	

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<b>BRIA BENNETT, et al.,</b>	:	
	:	
<i>Relators,</i>	:	<b>Case No. 2021-1198</b>
	:	
v.	:	<b>Original Action Pursuant to</b>
	:	<b>Ohio Const., Art. XI</b>
<b>OHIO REDISTRICTING COMMISSION, et al.,</b>	:	
	:	<b>Apportionment Case</b>
<i>Respondents.</i>	:	

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<b>OHIO ORGANIZING COLLABORATIVE, et al.,</b>	:	
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<i>Relators,</i>	:	<b>Case No. 2021-1210</b>
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v.	:	<b>Original Action Pursuant to</b>
	:	<b>Ohio Const., Art. XI</b>
<b>OHIO REDISTRICTING COMMISSION, et al.,</b>	:	
	:	<b>Apportionment Case</b>
<i>Respondents.</i>	:	

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**SECRETARY OF STATE FRANK LAROSE'S  
RESPONSE TO PETITIONERS' APRIL 1 OBJECTIONS**

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**SECRETARY OF STATE FRANK LAROSE'S  
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**I. INTRODUCTION**

A majority of the Petitioners seek extraordinary remedies that this Court has no ability to grant and which exceeds the relief Article XI allows. Like before, this Court ordered that any party

wishing to object to the Ohio Redistricting Commission's ("Commission") March 28, 2022 maps ("the Fourth Plan") must do so by April 1, 2022. *See League of Women Voters of Ohio v. State Redistricting Comm'n*, 2022-Ohio-789, ¶ 46 ("*LWV III*"). Although all three sets of Petitioners objected, their objections and demands were not limited to the narrow question of whether the Fourth Plan complies with the Ohio Constitution. Rather, they seek improper relief that is not prayed for in the Complaint, not supported by the procedural posture of this case, and not permissible under the Ohio Constitution. *See generally Bennett Petitioners' Objections to General Assembly District Plan Adopted on March 28, 2022* ("*Bennett Obj.*"); *Objections and Request for Remedies of Petitioners the Ohio Organizing Collaborative, et al.*, ("*OOC Obj.*"); *League of Women Voters Petitioners' Objection to the Ohio Redistricting Commission's March 28, 2022 Revised Plan* ("*LWV Obj.*"), all filed April 1, 2022.

This Court should again resist Petitioners' attempt to ignore the constitutional instructions and limitations of Article XI. Instead, the *sole* question before this Court is whether the Petitioners met their burden of establishing that the Fourth Plan—a plan that meets the Court-ordered partisan statewide voter preference breakdown—violates the Ohio Constitution. They have not. And because they have not, the Plan must be upheld and immediately implemented.

## **II. LAW AND ARGUMENT**

### **A. Petitioners seek improper, unsupportable relief.**

The Bennett and Ohio Organizing Collaborative Petitioners ask this Court to adopt either the Rodden III Plan or the Plan drafted by the independent mapmakers ("the Johnson/McDonald Plan"). That is not what this Court (or Ohio's Constitution) asked for or empowered the Petitioners to do. This Court only allowed the Petitioners to submit objections to the Fourth Plan. Their sole available remedy is for this Court to return the process to the Commission. Nothing in Ohio law or its Constitution allows this Court to adopt a redistricting plan that was not adopted by the

Commission. *See L WV III*, 2022-Ohio-789 at ¶ 46. Yet here we are again, as the Petitioners, for a second time, ask this Court to take action this Court clearly lacks the authority to do – issue an advisory opinion that *their* proposed maps are constitutional *and* order either plan to be adopted. *See, e.g., Bennett Obj.* at p. 29-31; *OOC Obj.* at p. 20-22.

This Court lacks jurisdiction to issue advisory opinions with accompanying injunctions. *See, e.g., State ex rel. JobsOhio v. Goodman*, 133 Ohio St.3d 297, 2012-Ohio-4425, 978 N.E.2d 153, ¶ 14 (noting that the Ohio Supreme Court lacks original jurisdiction to grant a declaratory judgment). As to the Rodden III plan, not a single member of the Commission introduced, voted on, or approved that particular plan. Similarly, although the Johnson/McDonald Plan was introduced by Senator Sykes, the Commission voted against its adoption by a vote of 5-2. As was the case with their challenges to the Third Plan, both remedies here are clearly unconstitutional. This Court's duty is "to answer the questions posed in [that] controversy." *Allen v. Totes/Isotoner Corp.*, 123 Ohio St.3d 216, 2009-Ohio-4231, 915 N.E.2d 622, ¶ 21 (O'Connor, J., concurring in judgment only), citing *Fortner v. Thomas*, 22 Ohio St.2d 13, 14, 51 O.O.2d 35, 257 N.E.2d 371 (1970). Whether a map that was unilaterally presented by the Petitioners is constitutional is not relevant here. Whether Petitioner's favorite map is constitutional has nothing to do with the actual controversy, which is whether Petitioners have proven that the Fourth Plan is unconstitutional. That decision will not be "legitimately affected" by any opinion regarding a different plan. *Fortner* at 14 ("it is the duty of every judicial tribunal to decide actual controversies between parties legitimately affected by specific facts and to render judgments which can be carried into effect"). What is more, this Court is constitutionally prohibited from ordering any General Assembly district plan that has not been approved by the Commission, and neither the Rodden III plan nor the Johnson/McDonald Plan has been so approved. Ohio Const. Art. XI, Sec. 9(D).

**B. Petitioners' efforts to sidestep Article XI must be rejected.**

Petitioners' demand to supplant the Fourth Plan with their favorite, non-Commission approved plan is a remedy in search of a claim. According to one set of Petitioners, this Court must impose a remedy that the Ohio Constitution withholds, *see* Ohio Const. Art. XI, Sec. 9(D)(1)-(2), to avoid an “*imminent* violation of federal law.” *OOC Obj.* at p. 15. There are two problems with that assertion.

First, the Petitioners have raised no federal constitutional claim in this case until now. That alone should be fatal to their claim at this stage. This Court rightly decided in *Adams v. DeWine*, 2022-Ohio-871, \*1, that it could not entertain new claims about the Congressional Plan raised late in that litigation. Here, the Parties are in round *four* of this long-running case, and Petitioners are just now raising a federal claim. If anything, the request here is even further afield than what the *Adams* petitioners sought. While the litigants in *Adams* at least sought to file an amended complaint, the Petitioners here seek to sidestep any attempt to amend and suggest this Court remedy a previously unpled and unlitigated federal claim as part of its “inherent authority.” *See Bennett Obj.* at p. 33. This jurisdiction by extension argument must fail.

Second, contrary to Petitioners' assertion, this motion is not the last, best hope for relief and resolution of their alleged federal law claims. The time for acting may be tight, but a violation of Ohioans' federal rights is not imminent. Although the Petitioners assert that Ohioans will be deprived of their right to vote under federal law unless this Court takes immediate, extraordinary, extra-constitutional action, last week's proceedings in *Gonidakis v. LaRose*, No. 2:22-cv-00773, (S.D.Ohio), tell a different story.

Despite extensive briefing and a day of testimony and argument, even the federal court has stayed its hand. *See* Ex. A, *Gonidakis* March 30, 2022 Courtroom Minutes. Rather than rushing

to issue orders and edicts commanding action, the three-judge panel has requested additional briefing and decided that it need not act until April 20. *Id.*

In past decisions, this Court has made clear that a “[c]onstitutional question will not be decided until the necessity for a decision arises on the record before the court.” *State ex rel. Herbert v. Ferguson*, 142 Ohio St. 496, 52 N.E.2d 980 (1944), at paragraph 2 of the syllabus. That time is not yet here.

Notwithstanding the fact that this Court lacks authority to unilaterally implement a general assembly plan, a constitutional crisis is not imminent and no such remedy is needed. There is still time for this Court to evaluate the Fourth Plan. And, if it is found deficient in one or more areas, there is still time for the Commission to meet again<sup>1</sup>. More importantly, there is still time for the legislature to take steps to extend the time within which such a decision must be made. This Court should not give up on the Constitutional process even if the Petitioners have.

The Bennett and OOC Petitioners’ true aim remains as clear as ever: *they* want to draw Ohio’s state legislative districts and *they* want to divest the Commission—Republican and Democrats members alike—of their constitutional authority to do so. Yet, this is far outside of what this Court permitted them to do – raise objections, if any, to the Fourth Plan. As such, their demands for such extraordinary relief not afforded to them in the Ohio Constitution should be denied.

The federal panel deferred a final decision on ordering a particular district plan be used for the 2022 primaries for Ohio’s General Assembly seats. In doing so, it chose to give Ohio’s Constitutional process time to run its course. This Court should do the same.

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<sup>1</sup> To be clear, the May 3rd primary election is going forward as scheduled for every contest, with the exception of the General Assembly and State Central Committee primary elections which will occur at a later date. *See* Ex. B, Directive 2022-31; Ex. C, Directive 2022-32.



**C. The Fourth Plan Complies with All Constitutional Requirements.**

Turning to the actual question before the Court, the issue is quite narrow: Does the Fourth Plan attempt to closely correspond with this Court’s “foundational ratio” of 54 Republican leaning seats to 46 Democrat leaning seats? For the reasons set forth in the Commission’s Response to Objections, the answer is yes. Therefore, the Fourth Plan should be upheld.

**III. CONCLUSION**

Petitioners’ attempt to shoehorn extra remedies into the Court’s request for objections should be rejected. They are not entitled to a declaratory judgment, an injunction, or to a General Assembly district plan of their choosing. For the reasons set forth in the Commission’s Response to the Petitioners’ Objections, the March 28, 2022 Plan is valid, and the Petitioners failed to prove otherwise.

OHIO ATTORNEY GENERAL

/s/Julie M. Pfeiffer

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*Counsel for Respondent*

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## CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2022, the *Secretary Of State Frank Larose's Response To Petitioners' April 1 Objections* was filed electronically. I further certify that a copy of the foregoing has been served via the electronic mail upon the following counsel for Relators.

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/s/ Julie M. Pfeiffer

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Assistant Attorney General

# Exhibit A

Gonidakis, et al. v. O.R. C., et al

U.S. District Court, S.D. of Ohio Case No. 22-cv-773

Courtroom minutes, March 30, 2022

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>MICHAEL E. GONIDAKIS, <i>et al.</i>,</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>Case No. 2:22-cv-0773</b>
	:	
<b>v.</b>	:	<b>Chief Judge Algenon L. Marbley</b>
	:	<b>Judge Amul R. Thapar</b>
<b>OHIO REDISTRICTING COMMISSION, <i>et al.</i>,</b>	:	<b>Judge Benjamin J. Beaton</b>
	:	
<b>Defendants.</b>	:	<b>Magistrate Judge Elizabeth P. Deavers</b>
	:	

**COURTROOM MINUTES**  
**65.1 Conference**

<b>U.S. District Chief Judge Algenon L. Marbley, Sixth Circuit Judge Amul R. Thapar, and District Judge Benjamin J. Beaton (WDKY)</b>		<b>Date: March 30, 2022 @ 9:12 a.m.</b>	
<b>Deputy Clerk:</b>	<b>Denise Shane</b>	<b>Counsel for Plaintiffs:</b>	<b>Donald Brey, Matthew Aumann, Ryan Spitzer, Trista Turley</b>
<b>Court Reporter:</b>	<b>Shawna Evans</b>	<b>Counsel for Defendants:</b>	<b>Michael Walton, Jonathan Blanton</b>
<b>Log In</b>	<b>n/a</b>	<b>Log Out</b>	<b>n/a</b>

Additional counsel in attendance:

Percy Squire representing Intervenor Plaintiffs Kenneth L. Simon, Lewis Macklin, and Helen Youngblood.

Donald McTigue and David Fox, Derek Clinger and Jyoti Jasrasaria representing Intervenor Plaintiffs Bria Bennett, Regina Adams, Kathleen Brinkman, Martha Clark, Susanne L. Dyke, Meryl Neiman, Holly Oyster, Constance Rubin, and Everett Totty.

Christina Marshall representing Intervenor Plaintiff The Ohio Organizing Collaborative, Council on American-Islamic Relations, Ohio Environmental Council, Samuel Gresham, Jr., Ahmad Aboukar, Mikayla Lee, Prentiss Haney, Pierrette M. Talley, and Crystal Bryant.

Michael Walton and Jonathan Blanton, representing Defendant Frank LaRose.

David J. Carey representing Intervenor Defendant League of Women Voters of Ohio and A. Philip Randolph Institute of Ohio.

Benjamin Cooper and Matthew Wessler representing Intervenor Defendants Vernon Sykes and Allison Russo.

Eric Clark, representing Ohio Redistricting Commission (the body).

Phil Strach and Phillip Williamson representing Intervenor defendants Cupp & Huffman.

Yurij Rudensky representing the Brennan Center.

9:05am

Mr. Brey enters Exhibits 1-15 and calls Amanda Grandjean

Direct of Ms. Grandjean by Mr. Blanton

Cross of Ms. Grandjean by Mr. Carey

Cross of Ms. Grandjean by Mr. Fox

Re-cross by Mr. Brey of Ms. Grandjean

Recess for Lunch 12:30pm

1:25 pm

Mr. Brey calls Michael Gonidakis

Plaintiffs rest

Defendant rests

Mr. Cooper calls Chris Glassburn, Sykes/Russo Ex #1, Sykes/Russo Ex #2, Sykes/Russo Ex #3 (provisionally admitted)

Cross of Glassburn by Mr. Brey

Cross of Glassburn by Mr. Squire

Redirect of Glassburn by Mr. Cooper

Dr. Rodden called by Ms. Jasrasaria (Via Video)

Cross of Dr. Rodden by Mr. Brey

Declaration admitted by Fox

Mikayla Lee called by Ms. Marshall

Jeniece Brock called by Ms. Marshall

Christopher Tavenor called by Ms. Marshall

Michael Latner called by Ms. Marshall

Plaintiff rests

The court will take the Preliminary Injunction motion under advisement and is not going to intervene presently in the State Court proceedings. Opening briefs due by 4/6/22; Reply briefs 4/11/22.

Mr. Brey closing statement

Mr. Blanton closing statement

Mr. Carey closing statement

Mr. Wessler closing statement

Mr. Squire closing statement

Mr. Fox closing statement  
Ms. Marshall closing statement

5:45pm

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# Exhibit B

Directive 2022-31, March 23, 2022

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## **DIRECTIVE 2022-31**

March 23, 2022

To: All County Boards of Elections  
Board Members, Directors, and Deputy Directors

Re: Revised Form of Ballot for the May 3, 2022 Primary Election

### **SUMMARY**

Last Thursday, our Office issued [Directive 2022-30](#) ("*League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.* Decision and Additional Instructions"). That Directive prohibited boards of elections from altering or sending ballots until further notice. This step was taken to maintain the state of preparedness that all 88 county boards of elections have worked tirelessly toward for the last three months in anticipation of administering a complete May 3, 2022 Primary Election.

In the wake of the Ohio Supreme Court's decision last week invalidating the February 24, 2022 General Assembly district plan, it is not possible to include the primary contests for the Ohio House, Ohio Senate, and State Central Committee on the May 3, 2022 Primary Election ballot. The Plaintiffs in the federal court case *Gonidakis v. LaRose*<sup>1</sup> filed a motion on Monday asking the court to order the use of the February 24, 2022 district plan for the primary. But the federal court's ultimate decision on that motion has not been made as of the issuance of this Directive or rather in time for boards of elections to finalize ballots for the May 3, 2022 Primary Election. Likewise, the General Assembly has not changed the date of the election. Therefore, offices and candidates for Ohio House, Ohio Senate, or State Central Committee will not appear on the ballot. This is the only currently lawful and reasonable option to continue to move forward toward the May 3, 2022 Primary Election at this unprecedented point in time. This Directive provides a revised form of the ballot without those offices for the May 3, 2022 Primary Election. This Directive supersedes any provisions that may conflict in [Directive 2022-26](#), [Directive 2022-28](#), and [Directive 2022-30](#).

### **INSTRUCTIONS**

#### **I. GENERAL ASSEMBLY DISTRICTS**

The Ohio Supreme Court's decision in *League of Women Voters of Ohio et al. v. Ohio Redistricting Commission, et al.* ("*League of Women Voters of Ohio*") invalidated the General Assembly district plan adopted on February 24, 2022. Therefore, the House and Senate shapefiles, legal descriptions, and lists of most populous counties accompanying [Directive 2022-26](#) are invalid. The Court ordered the Ohio Redistricting Commission to adopt a new General Assembly district plan by March 28, 2022. Even if the Commission adopts a new district plan by that

<sup>1</sup> Case No. 2:22-CV-773 (S.D. Ohio 2022).

deadline, the shapefiles, legal descriptions, and lists of most populous counties will not be ready in time to program the new districts and re-certify petitions by the start of absentee voting on April 5, 2022.

## **II. STATE CENTRAL COMMITTEE DISTRICTS**

Ohio's major political parties' state central committee members are elected according to State Senate districts. Due to the invalidation of the February 24, 2022 General Assembly district plan, the districts for State Central Committee are also invalid.

## **III. CONSEQUENCE FOR CERTIFIED CANDIDATES FOR OHIO HOUSE, OHIO SENATE, AND STATE CENTRAL COMMITTEE**

Candidates' petitions for Ohio House, Ohio Senate, or State Central Committee were certified based on the February 24, 2022 General Assembly district plan. Due to the Supreme Court's decision in *League of Women Voters of Ohio*, by operation of law, a board's decision to certify or reject those candidates' petitions for the May 3, 2022 Primary Election is null and void. Board members must acknowledge this on the record at their next board meeting.

## **IV. REVISED FORM OF BALLOT AND BALLOT PREPARATION**

Boards must reprogram their election databases and prepare ballots to be ready by April 5, 2022, without the offices of Ohio House, Ohio Senate, or State Central Committee. If boards' election management systems allows for it, boards must maintain a copy database of the ballot program file that contains the offices and candidates for Ohio House, Ohio Senate, and State Central Committee pursuant to the February 24, 2022 district map.

Please see the accompanying form of the ballot with a revised order of offices for each major political party accompanying this Directive. This revised form of ballot does not include the offices of Ohio House, Ohio Senate, or State Central Committee. This Directive supersedes the forms of the ballot that accompanied [Directive 2022-28](#). Boards are required to notify my Office via [Intake@OhioSoS.gov](mailto:Intake@OhioSoS.gov) or by calling (614) 728-8789 as soon as their ballots are reprogrammed and finalized but prior to sending any ballots. Once ballots are finalized, my Office will direct boards to issue the ballots to ensure that any impact of ongoing litigation is taken into consideration. In the event that the federal court order alters the ballot outside of this Directive, my Office will issue additional guidance immediately to comply with the court's order.

[R.C. 3505.14](#) requires boards to post printed proofs of the ballot for 24 hours for inspection and correction of any errors on the ballot. Even if a board previously posted proofs of the ballot, the board must post proofs again once the offices of Ohio House, Ohio Senate, or State Central Committee are removed from the ballot. Boards must notify the chairman of the local executive committee of each party or group represented on the ballot by candidates or issues and should proactively encourage both parties to review ballots for accuracy.

## **V. UNIFORMED SERVICES AND OVERSEAS CITIZENS' ABSENTEE BALLOTS**

Substitute Senate Bill 11 of the 134<sup>th</sup> General Assembly requires Uniformed Services and Overseas Citizens' Absentee ("UOCAVA") ballots to be sent no later than April 5, 2022.<sup>2</sup> Boards must take prompt action to revise their ballots to meet the April 5, 2022 deadline. Boards must not transmit a UOCAVA ballot with the offices of Ohio House, Ohio Senate, or State Central Committee. Boards must follow all other directions in [Directive 2022-29](#) with respect to UOCAVA voting, with the exception of instructions for "Return of the Ballot" in Section II.B. of that Directive. The United States Postal Service has since clarified that boards should use the following procedure:

- For **uniformed services voters, eligible spouses, and dependents**:
  - For any voter with an **APO/FPO/DPO address**, prepare and provide a USPS label to the voter. If the voter requests to receive their ballot by email, a .pdf of the label must be one of the attachments to the email. The .pdf can be created and downloaded on the USPS "Click-N-Ship" site. When selecting a method for mailing, utilize the quickest, earliest time for Priority Mail. Boards must include "United States of America" when inserting the board's address into the label.
  - For a **domestic mailing address**, do **one** of the following:
    - Set up and use an account with a private carrier to prepare a label containing the board's account number. This prepared label must be provided electronically or by mail, if the ballot is delivered by mail. Boards should use information available on websites or contact the delivery service directly to determine the best and fastest shipping service for the delivery of the ballot to the board of elections. Boards must include "United States of America" when inserting the board's address into the label.
    - Prepare and provide a USPS label to the voter or follow the same instructions provided below for mailing to non-military overseas voters. When utilizing the USPS, if the voter requests to receive their ballot by email, a .pdf of the label must be one of the attachments to the email. The .pdf can be created and downloaded on the USPS "Click-N-Ship" site. When selecting a method for mailing, utilize the quickest, earliest time for Priority Mail Express.
  - For an **overseas mailing address (other than an APO/FPO/DPO address)**, set up and use an account with a private carrier to prepare a label containing the board's account number. This prepared label must be provided electronically or by mail, if the ballot is delivered by mail. Boards should use information available on websites or contact the delivery service directly to determine the best and fastest shipping service for the delivery of the ballot to the board of elections. Boards must include "United States of America" when inserting the board's address into the label.
- For **non-military overseas voters**, set up and use an account with a private carrier to prepare a label containing the board's account number. This prepared label must be

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<sup>2</sup> See [Directive 2022-29](#) and [S.B. 11, Section 5](#).

provided electronically or by mail, if the ballot is delivered by mail. Boards should use information available on websites or contact the delivery service directly to determine the best and fastest shipping service for the delivery of the ballot to the board of elections. Boards must include “United States of America” when inserting the board’s address into the label.

#### **VI. NOTICE ON WEBSITE AND VOTER INFORMATION LOOKUP**

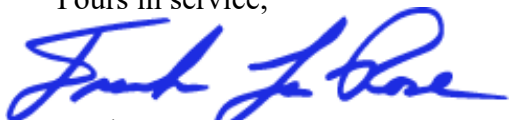
Boards must prominently display notice on their website and specifically in their Voter Information Lookup that states, “On March 16, 2022, the Supreme Court of Ohio invalidated the Ohio General Assembly district plan adopted on February 24, 2022. Therefore, the offices of Ohio House, Ohio Senate and State Central Committee will not appear on the May 3, 2022 Primary Election ballot. Voter district information for Ohio House, Ohio Senate, and State Central Committee will be updated as soon as that information is available.”

#### **VII. PROTESTS AGAINST CANDIDATES FOR OHIO HOUSE, OHIO SENATE, AND STATE CENTRAL COMMITTEE**

Any protest against a candidate for Ohio House, Ohio Senate, or State Central Committee is moot due to the Court’s decision invalidating the February 24, 2022 General Assembly district plan. The most populous county board of elections in the district must promptly notify the protestor and any candidate whose certification was challenged by protest.

If you have any questions regarding this Directive, please contact the Secretary of State’s Office at (614) 728-8789.

Yours in service,



Frank LaRose  
Ohio Secretary of State

# Exhibit C

Directive 2022-32, April 1, 2022

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## **DIRECTIVE 2022-32**

April 1, 2022

To: All County Boards of Elections  
Board Members, Directors, and Deputy Directors

Re: May 3, 2022 Primary Election Instructions

### **SUMMARY**

On March 30, 2022, the United States District Court for the Southern District of Ohio held a hearing in *Gonidakis, et al. v. LaRose, et al.* regarding the Ohio General Assembly redistricting plan.<sup>1</sup> The federal court decided that they would not intervene at this time to select new Ohio House and Senate district plans, nor would the court move the primary election date for all other races not affected by General Assembly redistricting so there could be a single primary date. Thus, this Directive provides instructions to proceed with the May 3, 2022 Primary Election without the offices of Ohio House, Ohio Senate, and State Central Committee on the ballot.

### **INSTRUCTIONS**

#### **I. TRANSMITTING UOCAVA BALLOTS FOR MAY 3, 2022 PRIMARY**

Boards must proceed with a primary election on May 3, 2022 without the contests for the Ohio House, Ohio Senate, and State Central Committee. [Directive 2022-31](#) required all county boards of elections to prepare their ballots without those contests and notify my Office as soon as the ballots were reprogrammed and finalized, but prior to sending any ballots.

Boards are now authorized to issue ballots to Uniformed Services and Overseas Citizens' Absentee Voting Act ("UOCAVA") voters as soon as possible, but no later than April 5, 2022 and should work over the weekend to achieve this requirement.

Boards must submit the Form 12-M accompanying this Directive no later than 4:00 p.m. on April 5, 2022 via ElectCollect. After submitting the Form 12-M, the Director and Deputy Director must print, sign, and email the Form 12-M to [Results@OhioSoS.gov](mailto:Results@OhioSoS.gov). If a board transmits ballots to UOCAVA voters before April 5, 2022, the board should still wait until April 5, 2022 to complete and submit the form. This ensures that the Secretary of State's Office can accurately report the number of requested and transmitted UOCAVA ballots to our federal partners.

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<sup>1</sup> Case No. 2:22-CV-773 (S.D. Ohio 2022).

## **II. UPDATED FEDERAL WRITE-IN ABSENTEE (“FWAB”) NOTICE**

Each board must update the 46-Day FWAB notice to include the following information:

“The offices of State Senator, State Representative, and Member of State Central Committee will not appear on the May 3, 2022 Primary Election ballot.”

Form 120 (updated 04-22) is updated to include this language. The offices and candidates for State Senator, State Representative, and Member of State Central Committee must be removed from the FWAB for the May 3, 2022 Primary Election.

## **III. RESOLVING ANY OUTSTANDING PROTESTS**

Any protests filed against candidates for offices *other than* Ohio House, Ohio Senate, and State Central Committee should already be resolved. If a board of elections has not yet resolved a protest affecting the May 3, 2022 Primary Election, the board must notify our Office via [Intake@OhioSoS.gov](mailto:Intake@OhioSoS.gov) and schedule a hearing immediately.

## **IV. LOGIC AND ACCURACY TESTING**

If a board of elections has not started Logic and Accuracy (“L&A”) Testing<sup>2</sup> for the May 3, 2022 Primary, it must first complete L&A testing for every component of the voting system to be used for in-person absentee voting and the scanning of absentee ballots received by mail. Once that is complete, the board must immediately proceed to perform L&A testing for all other voting machines and automatic tabulating equipment to be used on Election Day.

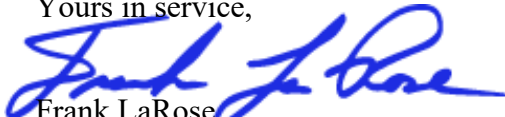
## **V. ORDERING BALLOTS**

If a board of elections has not already done so, the board must immediately place its print order for Election Day ballots. If the board outsources the printing and mailing of absentee ballots, the board must communicate with its vendor to ensure absentee ballots are properly tested and ready for mailing as soon as possible. Boards must review [Chapter 5](#), Section 5.07 of the Election Official Manual regarding appropriate ballot quantities.

Boards must provide a copy of each absentee ballot (candidates and questions and issues) by April 5, 2022 to the Secretary of State’s Office. Boards must upload ballots to SharePoint.

If you have any questions regarding this Directive, please contact the Secretary of State’s elections counsel at (614) 728-8789.

Yours in service,

  
Frank LaRose  
Ohio Secretary of State

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<sup>2</sup> See [R.C. 3506.14](#) and [Chapter 5](#), Section 5.08 of the Election Official Manual.