

IN THE SUPERIOR COURT OF GWINNETT COUNTY
 STATE OF GEORGIA

REPUBLICAN NATIONAL COMMITTEE,
 GWINNETT COUNTY REPUBLICAN
 PARTY, and TIM FLEMING,

Plaintiffs,

v.

DAVID HANCOCK, LORETTA
 MIRANDOLA, AMY BRAY, ALICE
 O'LENICK, and RICHARD PORTER,
 in their individual capacities,

Defendants,

DSCC and JON OSSOFF FOR SENATE,

Intervenor-Defendants.

Civil Action No. 26-A-05660-10

ORDER DENYING MOTION FOR INTERLOCUTORY INJUNCTION
 AND GRANTING MOTIONS TO DISMISS

This case concerns whether the Gwinnett County Board of Registrations and Elections (the “Board”) may designate certain advance voting locations as additional registrar’s offices at which voters may hand-deliver their completed absentee-by-mail (“ABM”) ballots. Counsel for all parties presented their case well and raised important considerations. Plaintiffs Republican National Committee (“RNC”), Gwinnett County Republican Party (“Gwinnett GOP”), and Tim Fleming contend that the Board’s Policy BRE-603 (the “Policy”) exceeds the Board’s statutory authority. Gwinnett Defendants, the five members of the Board sued in their individual capacities, and Intervenor-Defendants DSCC and Jon Ossoff for Senate (“Intervenors”) contend that the Election Code expressly authorizes the practice.

Statutory and Regulatory Background

Georgia has allowed no-excuse absentee voting for more than two decades. *See* Ga. L. 2005, p. 53 (H.B. 244); O.C.G.A. § 21-2-381 *et seq.* Absentee voting occurs in two forms: by mail and in-person during the statutory advance-voting period (“advance voting”). *See* O.C.G.A. § 21-2-385.

Georgia’s election code provides detailed absentee-voting procedures. To vote absentee, either in person or via ABM ballot, an elector must submit an application pursuant to O.C.G.A. § 21-2-381(a). Electors may apply online, by mail, or in person at a registrar’s office. *Id.* A voter that requests an absentee ballot in person at a registrar’s office during the advance-voting period may cast a ballot at the office through advance voting. *Id.* § 21-2-381(b)(2).

In-person absentee voting occurs only at designated advance-voting sites during the advance-voting period prescribed by law. *Id.* § 21-2-385(d). Since 2019, all advance voting has occurred via electronic ballot marker. Georgia Voting Systems Technology Act, Ga. L. 2019, p. 7 (codified at O.C.G.A. § 21-2-300(a)(2)) (“[A]ll federal, state, and county general primaries and general elections . . . shall be conducted with the use of scanning ballots marked by electronic ballot markers and tabulated by using ballot scanners for voting at the polls and for absentee ballots cast in person.”).

A voter may return an ABM ballot in any one of three ways: (1) by mail, O.C.G.A. § 21-2-385(a); (2) via personal delivery (by the voter or another authorized individual) to a board of registrars, *id.*; or (3) into a statutorily authorized drop box at an advance-voting site, *id.* § 21-2-382(c)(1).

This case centers on the county boards’ statutory authority to create “additional registrar’s offices” for two enumerated purposes: “receiving absentee ballots” and “advance voting.” *Id.* § 21-

2-382(a). The only limit on this authority is that “any such site” must be “a building that is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a building that is used as an election day polling place, notwithstanding that such building is not a government building.” *Id.*

The operative language in Section 21-2-382(a) arose out of the General Assembly’s comprehensive amendments to the election code via S.B. 202, enacted in 2021. *See* Election Integrity Act of 2021, Ga. L. 2021, p. 14 (originating as S.B. 202).¹ The previous version of Section 21-2-382(a) identified the two purposes for “additional registrar’s offices” as “receiving absentee ballots” and “voting absentee ballots.” Ga. L. 2019, Act No. 24, § 28, eff. Apr. 2, 2019. The 2021 amendment rephrased only the second purpose, replacing the phrase “voting absentee ballots” with “advance voting.” *See* S.B. 202, Ga. L. 2021, Act No. 9. This change is consistent with other changes throughout the code making clear that in-person absentee voting means “advance voting.” *See, e.g., id.* § 25 (revising O.C.G.A. § 21-2-381(a)(1)(A)); *id.* § 41 (revising O.C.G.A. § 21-2-493).

Motions

Three motions are before the Court: Plaintiffs’ Expedited Motion for Interlocutory Injunction, Gwinnett Defendants’ Motion to Dismiss, and Intervenor’s Motion to Dismiss. The Court heard argument on all three motions on September 28, 2026, and invited the parties to submit proposed findings of fact and conclusions of law. Having considered the Verified Petition and its exhibit, the briefing, the evidence submitted in connection with the motion for interlocutory

¹ Available at Georgia General Assembly, S.B. 202 <https://www.legis.ga.gov/legislation/59827> (last visited Oct. 5, 2026).

injunction, the exhibits admitted at the hearing, and the arguments of counsel, the Court concludes that at least one plaintiff has adequately alleged standing; that sovereign immunity does not bar this individual-capacity action for prospective relief; and that the Election Code authorizes the Board to establish additional registrar's offices for the purpose of receiving hand-delivered absentee ballots in the manner the Policy describes. Accordingly, the Motion for Interlocutory Injunction is **DENIED**, and the Motions to Dismiss are **GRANTED** for failure to state a claim upon which relief may be granted.

FINDINGS OF FACT

For purposes of the Motions to Dismiss, the Court accepts as true the well-pleaded factual allegations of the Petition, but not its legal conclusions. *Trop, Inc. v. City of Brookhaven*, 296 Ga. 85, 87 (2014). For purposes of the Motion for Interlocutory Injunction, the Court also considers the Affidavit of Kelvin Williams ("Williams Aff.") and its Exhibits A-1 through A-7, which Gwinnett Defendants filed with their response to the motion; the Court finds the affidavit credible and the exhibits authentic.² The findings below are drawn from those sources as indicated.

A. The Parties

1. The RNC is a national political committee that allegedly nominates candidates whose names appear on the ballot and recruits and credentials poll watchers. Pet. ¶ 11.

2. The Gwinnett GOP is a political party organized and operating in Gwinnett County whose officers and members are citizens, residents, electors, and taxpayers of Gwinnett County,

² There are two primary motions considered in this order with disparate criteria. The Court has not considered the affidavit or its exhibits in ruling on merits of the Motions to Dismiss. *See* O.C.G.A. § 9-11-12(b).

and which is authorized by local law to nominate members of the Board. Pet. ¶ 13 (citing Ga. L. 1988, p. 4296).

3. Tim Fleming is a resident and elector of Newton County and a qualified candidate for Secretary of State in the November 3, 2026 general election, in which his name will appear on ballots cast in Gwinnett County. Pet. ¶ 14.

4. Gwinnett Defendants David Hancock, Loretta Mirandola, Amy Bray, Alice O’Lenick, and Richard Porter are the members of the Board, which serves as both the election superintendent and the board of registrars for Gwinnett County. Pet. ¶¶ 5, 15, 31; Pet. Ex. A § I (citing Ga. L. 1988, p. 4296, § 9). Plaintiffs sue Gwinnett Defendants only in their individual capacities and seek only declaratory and prospective injunctive relief. Pet. ¶ 15 & Counts I–III.

B. Policy BRE-603

5. On February 21, 2024, the Board adopted Policy BRE-603, “Return of Absentee By Mail Ballots at Advance Voting or Alternate Locations.” Pet. ¶¶ 6, 32; Pet. Ex. A.

6. The Policy’s stated purpose is “to establish standards for the return of absentee by mail ballots at advance voting locations or alternate sites established by the Board pursuant to O.C.G.A. § 21-2-382(a).” BRE-603, § II. The Policy lists as “Related Documents and References” O.C.G.A. §§ 21-2-381, 21-2-382, and 21-2-385, and State Election Board Rule 183-1-14-.08(2), with the express goal of “provid[ing]” a simple and transparent process to ensure confidence” when the Board authorizes ABM ballot returns at such additional sites. *Id.* § IV.

7. The Policy provides that the Board will determine “for each election cycle whether the Board will authorize additional registrar offices for the purpose of receiving absentee ballot[s] under O.C.G.A. § 21-2-382(a).” *Id.* § V(1). Where a location already has a drop box authorized

under O.C.G.A. § 21-2-382(c)(1), “the voters will utilize the drop box and no alternative will be offered.” *Id.* § V(3).

8. Where the Board authorizes a location to collect hand-delivered absentee ballots, the Policy directs that “staff shall establish a secure procedure for the return of the ballot to include the following”:

- (a) the voter hands the ballot “directly to the poll manager or assistant manager who shall be responsible for applying a time and date stamp”;
- (b) the ballot is “placed in a secured ballot bag with the appropriate seals”;
- (c) the ballots are “recorded on the chain of custody forms at the end of the night in a separate category as a hand delivered absentee ballot”; and (d) “[o]nce returned to the office the ballots shall be stored in the ballot vaults until they are ready for processing.” *Id.* § V(4)(a)–(d).

C. The Board’s Designations and Implementing Procedures (Interlocutory Injunction Record)

9. The Board has designated advance voting locations without drop boxes as additional registrar’s offices for receiving absentee ballots in the 2022 general election, the 2024 primary and general elections, and the May 2026 primary. Williams Aff. ¶ 4.

10. For the November 3, 2026 general election, the Board has designated thirteen advance voting locations. Seven will have drop boxes. The remaining six have been designated as additional registrar’s offices for the purpose of receiving absentee ballots pursuant to O.C.G.A. § 21-2-382(a). Williams Aff. ¶ 3.

11. The six designated locations are the Bogan Park Community Recreation Center, Collins Hill Library Branch, Five Forks Library Branch, Gwinnett County Fire Station #30,

Rhodes Jordan Park Community Recreation Center, and Shorty Howell Park Activity Building. Each is a government service center providing general government services or a government building generally accessible to the public. *Id.* ¶ 5.

12. All advance voting poll managers and assistant managers are trained on the Board's Standard Operating Procedure for accepting ABM ballots at advance voting locations without a drop box (the "SOP") and, after that training, are sworn as deputy registrars using an oath that tracks O.C.G.A. § 21-2-214(d). *Id.* ¶¶ 6, 12; Exs. A-5, A-7.

13. Under the SOP, the ABM ballot container at each designated location is verified empty and sealed before the polls open each day, with the seal number recorded on a transfer form. Ex. A-5 ¶ 2. A poll official confirms that the individual intends to return an already-voted ABM ballot rather than vote in person. *Id.* ¶¶ 3–4. The poll manager or assistant manager accepts the ballot and records the date, time, and his or her initials on the oath envelope, and the individual returning the ballot completes a "Ballot Returned by" label with his or her name, signature, and relationship to the voter. *Id.* ¶¶ 5–6. The sealed container is kept "in a secure location within the enclosed space and within view of the voters, monitors, watchers, or other individuals." *Id.* ¶ 7; Williams Aff. ¶ 8.

14. At the close of each day, the poll manager or assistant manager verifies the seal number, counts the ballots, records the count, and secures the ballots in a sealed transport bag whose seal number is also recorded. Ex. A-5 ¶¶ 9–12. The poll manager and one designee travel together to deliver the ballots to the main elections office, where office staff verify the seal and count and secure the ballots in a locked vault for processing. *Id.* ¶¶ 13–16; Ex. A-6; Williams Aff. ¶¶ 9–10.

15. This process closely mirrors the handling of ABM ballots hand-delivered to the main elections office, where election staff at the front desk receive the ballot, mark the time and day of receipt and the person who received it, and store it securely until processing staff retrieve it. Williams Aff. ¶ 11.

CONCLUSIONS OF LAW

I. Legal Standards

A. Motion to dismiss. A motion to dismiss under O.C.G.A. § 9-11-12(b)(6) should be granted where “(1) the allegations in the complaint disclose with certainty that the claimant would not be entitled to relief under any state of provable facts asserted in support thereof; and (2) the movant establishes that the claimant could not possibly introduce evidence within the framework of the complaint sufficient to warrant a grant of the relief sought.” *Atlanta Metro Leasing v. City of Atlanta*, 353 Ga. App. 785, 786 (2020) (citation omitted). The Court construes the pleadings in the light most favorable to the plaintiff, but it need not accept as true “legal conclusion[s] [that are] couched as fact.” *Mabra v. SF, Inc.*, 316 Ga. App. 62, 65 (2012). An exhibit to a pleading is part of the pleading for all purposes. O.C.G.A. § 9-11-10(c).

B. Interlocutory injunction. In deciding whether to grant an interlocutory injunction, the Court considers whether (1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits; and (4) granting the injunction will not disserve the public interest. *City of Waycross v. Pierce Cnty. Bd. of Comm’rs*, 300 Ga. 109, 111 (2016). These factors are balanced rather than applied as rigid elements. *Id.* at

111-12. The power to grant an interlocutory injunction “shall be prudently and cautiously exercised and, except in clear and urgent cases, should not be resorted to.” O.C.G.A. § 9-5-8.

II. Standing

Georgia courts may exercise judicial power only where the plaintiff “has a legal right at stake that requires adjudication to protect it.” *Republican Nat’l Comm. v. Eternal Vigilance Action, Inc.*, 321 Ga. 771, 775 (2025) (citation omitted). The right may be “either [the plaintiff’s] own private right, or a public right shared by the relevant community.” *Wasserman v. Franklin Cnty.*, 320 Ga. 624, 629 (2025).

A. Tim Fleming. Fleming is a qualified candidate for statewide office whose name will appear on the November 3, 2026 ballot in Gwinnett County, and he alleges a direct interest in the procedures by which ABM ballots cast for or against his candidacy are received, processed, and counted. Pet. ¶¶ 14, 63. The Supreme Court of Georgia has recognized that a candidate has a “substantial right . . . to seek election to public office.” *Handel v. Powell*, 284 Ga. 550, 553 n.3 (2008). Accepting the Petition’s allegations as true, Fleming meets the standard set forth in *Eternal Vigilance* to establish standing.

B. Gwinnett GOP. “Georgia has long recognized that members of a community . . . may be injured when their local government fails to follow the law,” and such an injury confers standing on community stakeholders “even if the plaintiff suffered no individualized injury.” *Sons of Confederate Veterans v. Henry Cnty. Bd. of Comm’rs*, 315 Ga. 39, 39–40 (2022). The Supreme Court reaffirmed that principle for suits against local governments in *Eternal Vigilance*, 321 Ga. at 781. The question here is whether the Gwinnett GOP belongs to the relevant community to which the Board owes a legal duty. *DeKalb Cnty. Republican Party, Inc. v. Raffensperger*, 376 Ga. App. 757, 766 (2025) (community-stakeholder standing “turns on whether that plaintiff

belongs to that relevant community”). The Gwinnett GOP alleges that it is organized and operates in Gwinnett County, that its members are Gwinnett County electors and taxpayers, and that it is authorized by local law to nominate members of the Board. Pet. ¶ 13. Those allegations are sufficient to establish that the Gwinnett GOP is a member of the relevant community with a cognizable interest in whether the Board complies with the Election Code. Therefore, the Gwinnett GOP has sufficiently established standing.

C. **RNC.** Because Fleming and the Gwinnett GOP have standing, the Court need not decide whether the RNC has standing in its own right.

III. Sovereign Immunity

Gwinnett Defendants contend that Article I, Section II, Paragraph V of the Georgia Constitution (“Paragraph V”) requires that this action be brought exclusively against Gwinnett County and that the Petition must therefore be dismissed. Because sovereign immunity bears on the Court’s jurisdiction, the Court addresses it first.

A. Individual-capacity claims for prospective relief

This case involves claims brought only against the individual members of the Gwinnett County Board of Registrations and Elections in their individual capacities, alleging that Board approval of the Policy is an action contrary to law. In *Board of Commissioners of Lowndes County v. Mayor & Council of Valdosta*, 309 Ga. 899 (2020), the Supreme Court of Georgia reiterated that “sovereign immunity has never barred most individual-capacity claims against state employees and officials for prospective injunctive and declaratory relief based on allegations that those defendants are acting beyond their legal authority.” *Id.* at 899. The Court explained that the doctrine, as it existed at common law and as preserved by the Georgia Constitution, “generally

was inapplicable ... in cases in which state officers in their individual capacities were alleged to have acted without legal authority, even if they acted under color of their offices.” *Id.* at 902 (quoting *Lathrop v. Deal*, 301 Ga. 408, 414 (2017)). Such a suit “is not against the state, but against an individual stripped of his official character.” *Id.* at 903–904 (citation and emphasis omitted).

The *Lowndes County* decision notes in Footnote 8 that the language that is now Paragraph V was to go before the voters later in the same year the *Lowndes County* case was decided. The Supreme Court noted that it “express[ed] no opinion about the proper answer to the sovereign immunity questions answered [in the case] in the event the proposed amendment becomes effective.” *Id.* at 910 n.8. But given the Supreme Court’s previous direction that individual capacity claims do not require a waiver of sovereign immunity, this Court cannot find that the language of Paragraph V requires a different result. By its terms, Paragraph V’s exclusivity requirement applies only to “[a]ctions filed pursuant to this Paragraph.” Ga. Const. art. I, § II, ¶ V(b)(2). An action is filed pursuant to Paragraph V when the plaintiff tries “to avail [itself] of Paragraph V’s waiver of sovereign immunity in any way.” *State v. SASS Grp., LLC*, 315 Ga. 893, 897 (2023) (punctuation omitted). In the current case, Plaintiffs expressly state that they do not bring their action pursuant to Paragraph V and do not invoke any waiver of sovereign immunity. Therefore, Paragraph V is not implicated, and Plaintiffs’ claims are not barred by sovereign immunity.

Proceeding only against defendants in their individual capacities raises questions about the type of relief that Plaintiffs could obtain if they were entitled to relief and who or what this Court could enjoin. The *Lowndes County* decision states that “injunctions run by operation of law not only to the parties, but also to ‘their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive notice of the order by personal service or otherwise.’” *Id.* at 909 (quoting *Lathrop*, 301 Ga. at 444 n.32 and O.C.G.A.

§9-11-65(d)). Under that principle, claims brought only against government officials in their individual capacities can have the effect of binding official government action. That principle may raise practical questions about the scope of relief available in an individual-capacity action, but the Court need not resolve them today because even though Plaintiffs' claims are not barred by sovereign immunity, they are not entitled to any relief.

IV. The Merits

The substantive question presented in this case is straightforward—does Georgia's Election Code allow the Board to establish additional locations where voters can hand-deliver their absentee-by-mail ballots? O.C.G.A. 1-3-1 provides guidance on statutory construction. It provides in relevant sections:

- (a) In all interpretations of statutes, the courts shall look diligently for the intention of the General Assembly, keeping in view at all times the old law, the evil, and the remedy. Grammatical errors shall not vitiate a law. A transposition of words and clauses may be resorted to when a sentence or clause is without meaning as it stands.
- (b) In all interpretations of statutes, the ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter, which shall have the signification attached to them by experts in such trade or with reference to such subject matter.

Therefore, in answering that question, the Court gives the statutory text “its plain and ordinary meaning,” views it “in the context in which it appears,” and reads it “in its most natural and reasonable way, as an ordinary speaker of the English language would.” *Deal v. Coleman*, 294 Ga. 170, 172–73 (2013) (citations and punctuation omitted).

A. Section 21-2-382(a) authorizes additional registrar's offices for the purpose of receiving absentee ballots.

Section 21-2-382(a) provides in relevant part:

Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of advance voting under Code Section 21-2-385, provided that any such site is a building that is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a building that is used as an election day polling place, notwithstanding that such building is not a government building.

O.C.G.A. § 21-2-382(a). The sentence has a single subject of the action, "the board of registrars"; a single verb, "may establish"; and a single object, "additional registrar's offices or places of registration." It then states two purposes for which such offices may be established: the single subjection of the action remains "the board of registrars: and the verb is "receiving" as set forth in this portion, "for the purpose of receiving absentee ballots under Code Section 21-2-381" and in the second portion, the verb is "advance voting," "for the purpose of advance voting under Code Section 21-2-385." Read naturally, the first purpose clause clearly describes what the board of registrars may do at the offices it establishes: receive absentee ballots. The plain meaning of this sentence names no other actor other than the board of registrars who might be the one "receiving."

Plaintiffs read the first purpose clause to mean that additional registrar's offices may be established only so that *voters* may apply for and receive blank absentee ballots, because the clause cross-references O.C.G.A. § 21-2-381, which governs absentee ballot applications. Pls.' Reply in Supp. of Mot. for Interlocutory Inj. ("Pls.' Reply") at 3–5. In their reply brief, Plaintiffs described the statute as authorizing "places of registration for the purpose of electors receiving absentee ballots under Code Section 21-2-381." *Id.* at 4. The word "electors" does not appear in the statute. Plaintiffs' counsel candidly acknowledged the inadvertent error at the hearing, Hr'g Tr. 47:17–

48:8, and the Court does not suggest that it was anything but inadvertent. The Court notes it only because it illustrates what Plaintiffs’ reading requires: an actor whom the General Assembly did not include in the statute actually doing the action allowed by statute. Courts may not supply words the legislature omitted. *See Wilson v. Inthachak*, 372 Ga. App. 341, 346 (2024).

Several features of the statutory context confirm the plain reading. The identical purpose clause appears in the very next subsection. Section 21-2-382(b) provides that, in counties of 550,000 or more, courthouse branches and annexes “shall be an additional registrar’s or absentee ballot clerk’s office or place of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of advance voting under Code Section 21-2-385.” O.C.G.A. § 21-2-382(b). Plaintiffs themselves rely on subsection (b) as an office at which voted ABM ballots may be hand-delivered: “hand delivery is permitted to ‘the board of registrars or absentee ballot clerk,’ ... and the Election Code requires a county the size of Gwinnett to maintain an ‘additional . . . absentee ballot clerk’s office.’” Pls.’ Reply at 10 (quoting O.C.G.A. §§ 21-2-385(a), 21-2-382(b)). Identical words in adjacent subsections of the same Code section are presumed to carry the same meaning. *See Lathrop*, 301 Ga. at 442. If “for the purpose of receiving absentee ballots under Code Section 21-2-381” describes a location to which voted absentee ballots may be hand-delivered in subsection (b), it describes the same thing in subsection (a).³

³The reference in subsection (b) to an “absentee ballot clerk’s office” does not alter this analysis. That language describes the kind of office, not its purpose, and the purpose clause in the two subsections is identical. Moreover, O.C.G.A. § 21-2-385(a) authorizes delivery to “the board of registrars *or* absentee ballot clerk” (emphasis supplied), so a registrar’s office is no less a proper place of delivery than an absentee ballot clerk’s office. The absentee ballot clerk is, in any event, an office appointed by municipalities. O.C.G.A. § 21-2-380.1.

The cross-reference to O.C.G.A. § 21-2-381 does not compel a different result. Every ABM ballot a board receives was issued on an application under Code Section 21-2-381, which is the statutory basis for the ballot's issuance. *See* O.C.G.A. § 21-2-381(a)(1)(A). The reference therefore identifies the ballots that may be received — absentee ballots issued under the application process — rather than converting “receiving absentee ballots” into “receiving absentee ballot applications” or “electors receiving absentee ballots,” both phrases that the General Assembly did not use. Even accepting that the cross-reference may be imprecise, it cannot override the plain meaning of the operative words, and Plaintiffs’ alternative reading would require the Court to add words to the statute.

The legislative history on which Plaintiffs rely does not support their reading. Before 2021, the statute authorized additional registrar’s offices “for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385.” O.C.G.A. § 21-2-382 (2020). The Election Integrity Act of 2021 (“SB 202”) substituted “advance voting” for “voting absentee ballots” in the second clause and added subsection (c), which authorizes drop boxes. Ga. L. 2021, p. 14, § 26; Hr’g Ex. P-2. The first clause — “for the purpose of receiving absentee ballots under Code Section 21-2-381” — was carried forward unchanged.⁴ The change to the second purpose clause does not signal that the General Assembly withdrew authority to receive absentee ballots at additional offices.

Plaintiffs argue that the Election Code does not contemplate “voting” ABM ballots at advance voting locations. But the Election Code distinguishes between voting an ABM ballot and

⁴At the hearing, Plaintiffs suggested that SB 202 added the phrase “under Code Section 21-2-381” to the first purpose clause. Hr’g Tr. 42:12–19. Exhibit P-2, admitted at the hearing, shows that the phrase was already present in the pre-2021 version of the law. O.C.G.A. § 21-2-382 (2020).

returning it. Under O.C.G.A. § 21-2-385(a), the elector first “shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope,” complete the oath, and only “then personally mail or personally deliver same to the board of registrars or absentee ballot clerk.” No ABM ballot is voted at the locations the Policy addresses; ballots are returned there. The Policy is therefore not a means of “voting” ABM ballots in person, and the 2021 amendment to the second purpose clause has no bearing on it.

The Court accordingly concludes that O.C.G.A. § 21-2-382(a) authorizes the board of registrars to establish additional registrar’s offices, in qualifying buildings, for the purpose of receiving absentee ballots, which means receiving hand-delivered ABM ballots.

B. Delivery to the board’s sworn deputy registrars at an additional registrar’s office is delivery to the board of registrars.

Plaintiffs next contend that, even if additional registrar’s offices may receive ABM ballots, the Policy unlawfully directs voters to deliver ballots to poll managers and assistant managers, who are not “the board of registrars or absentee ballot clerk.” Pet. ¶¶ 39–40; Pls.’ Reply at 8–10. The Court disagrees.

Section 21-2-385(a) requires that the elector “personally mail or personally deliver” the ballot “to the board of registrars or absentee ballot clerk.” Plaintiffs urge an interpretation that, based on this language, only the members of the Board could accept a hand-delivered ballot, but they later disclaim that result. Pls.’ Reply at 10. The surrounding statutory scheme forecloses that reading. The same phrase appears in the drop box provision, which describes a drop box as “a means for absentee by mail electors to deliver their ballots to the board of registrars or absentee ballot clerk.” O.C.G.A. § 21-2-382(c)(1). A ballot placed in a drop box is “deliver[ed] ... to the board of registrars” even though no board member ever touches it. *Id.* § 21-2-382(c)(1), (3). The

General Assembly thus plainly contemplated that delivery “to the board of registrars” may be accomplished through means and persons the board designates. That is consistent with the background principle that a public official named in a statute generally “is not legally required to personally carry out every one of the duties listed in that statute but ... may appoint appropriate staff to assist him or her in doing so.” *State v. Fed. Def. Program, Inc.*, 315 Ga. 319, 338 (2022).

The Election Code also expressly authorizes the board to act through deputies. “The board of registrars in each county may appoint deputy registrars to aid them in the discharge of their duties,” and “[t]he number of deputy registrars appointed to serve shall be determined by the board of registrars.” O.C.G.A. § 21-2-213(a). Deputy registrars may serve “for the purpose of registering voters and performing other duties as may be required.” *Id.* § 21-2-213(b). Each deputy registrar must swear to “faithfully and impartially discharge ... the duties imposed upon me by law as (deputy) registrar.” *Id.* § 21-2-214(d). The Election Code expressly assigns deputy registrars a role in handling ABM ballots. *See id.* § 21-2-386(a)(2)(A) (requiring that “registrars, deputy registrars, or absentee ballot clerks” be present while verified ABM ballots are unsealed, opened, and scanned). Plaintiffs’ contention that because deputy registrars are appointed under Article 6 of the Election Code, which deals with voter registration, they may perform only voter-registration functions, Pls.’ Reply at 10, cannot be reconciled with this text.

Nothing in O.C.G.A. § 21-2-213 caps the number of deputy registrars or prohibits the board from appointing its advance voting poll managers to that role. The Petition does not allege that the persons who receive ballots under the Policy are unrepresentative of the community or otherwise ineligible to serve. Plaintiffs’ argument that the appointments disregard the cross-section requirement of Section 21-2-213(a), raised for the first time in reply, is not supported by any factual allegations in the Petition or any other evidence. *See* Pls.’ Reply at 9.

For purposes of the Motions to Dismiss, it is enough that the Policy, on its face, provides for receipt of ABM ballots by the Board's personnel at additional registrar's offices the Board has established under O.C.G.A. § 21-2-382(a), and that the Election Code authorizes the Board to discharge that function through deputies it appoints. Plaintiffs challenge the Policy on its face, and a facial challenge fails unless "no set of circumstances exists under which [the Policy] would be valid." *Ga. Dep't of Hum. Servs. v. Steiner*, 303 Ga. 890, 899 (2018). For purposes of the Motion for Interlocutory Injunction, the record further establishes that the poll managers and assistant managers who receive ballots under the Policy are trained and sworn deputy registrars. *Williams Aff.* ¶¶ 6, 12; Ex. A-7.

Eternal Vigilance does not require a different result. There, the Supreme Court invalidated State Election Board rules that imposed requirements on hand delivery of absentee ballots that appeared nowhere in Section 21-2-385(a). 321 Ga. at 808–09. Here, by contrast, the Board has neither added to nor subtracted from the statutory requirements; it has exercised two powers the General Assembly expressly conferred—the power to establish additional registrar's offices for receiving absentee ballots, O.C.G.A. § 21-2-382(a), and the power to appoint deputy registrars, *id.* § 21-2-213(a).

C. The Policy does not create drop boxes.

Plaintiffs contend that the "secured ballot bag" in which received ballots are stored is a de facto drop box, so that the Policy evades the statutory cap on drop boxes and the chain-of-custody requirements that apply to them. *Pet.* ¶¶ 41–49; *Pls.' Reply* at 6–8. Section 21-2-382(c)(1) requires each board to establish at least one drop box and permits it to "establish additional drop boxes" up to "the lesser of either one drop box for every 100,000 active registered voters in the county or the

number of advance voting locations in the county.” Section 21-2-382(c)(3) prescribes collection procedures for “ballots deposited at each drop box.”

A drop box and an additional registrar’s office are distinct statutory mechanisms. A drop box is a receptacle into which the voter deposits a ballot without any official taking delivery of it, and the ballot remains there until a collection team removes it. O.C.G.A. § 21-2-382(c)(1)–(4). Under the Policy, by contrast, the voter hands the ballot to the Board’s personnel at a registrar’s office the Board has established, and that person takes delivery and records the time and date of receipt. BRE-603 § V(4)(a). That the ballot is then stored in a sealed container pending transport does not transform the transaction into a drop-box deposit. Every office that receives ballots must store them somewhere; the Election Code itself requires that received ballots be kept “safely, unopened, and stored in a manner that will prevent tampering and unauthorized access.” O.C.G.A. § 21-2-386(a)(1)(A). If secure storage after hand delivery created a drop box, then the secure storage of ballots hand-delivered to the main elections office would do the same — a result no party suggests. *See Williams Aff.* ¶ 11. Plaintiffs’ theory also depends on the premise, rejected above, that the persons receiving ballots under the Policy are not authorized to do so. Pet. ¶¶ 37, 42.

Because the Policy does not establish drop boxes, neither the numerical limit in Section 21-2-382(c)(1) nor the drop-box collection procedures in Section 21-2-382(c)(3) apply to it. And to the extent any provision of subsection (c) were thought to conflict with the Board’s authority under subsection (a), subsection (a) controls by its own terms by beginning with, “[a]ny other provisions of this chapter to the contrary notwithstanding.” O.C.G.A. § 21-2-382(a).

D. The Policy is consistent with the Election Code’s verification, poll-watcher, and location requirements.

Verification. Section 21-2-386(a)(1)(B) provides: “Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare” the identifying information on the envelope with the voter’s registration records, confirm the required oaths, and certify the ballot. Plaintiffs contend that “then” requires the comparison to occur immediately upon receipt and that the same individual who records receipt must complete every step. Pls.’ Reply at 12–13. The text does not bear either reading. “Then” establishes the order of the steps, not a deadline for completing them. When the General Assembly intended immediacy, it said so: in the Code section that governs drop boxes, for example, the collection team “shall then *immediately* transfer the ballots.” O.C.G.A. § 21-2-382(c)(3) (emphasis supplied). The omission of that word from Section 21-2-386(a)(1)(B) is presumed to be intentional. *See AMG, LLC v. Ga. Dep’t of Transp.*, 372 Ga. App. 160, 165 (2024). Nor does the shift from “a registrar or clerk” to “the registrar or clerk” require that a single individual perform every step; read in context, the provision assigns the steps to the registrar’s office, which may act through its deputies and staff. The Policy requires the first step — recording the date and time of receipt — at the point of delivery and leaves the remaining steps to be performed when the ballots are processed, exactly as occurs with ballots delivered by mail, by drop box, or by hand at the main elections office. *See* O.C.G.A. § 21-2-382(c)(3) (drop-box ballots processed “in the same manner as absentee ballots returned by mail”); BRE-603 § V(4)(a); Williams Aff. ¶ 11.

Poll watchers. Section 21-2-408(d) entitles poll watchers to access “advance voting locations ... and locations where absentee ballots are being verified, processed, adjudicated, and scanned,” and to “observe any activity conducted at the location at which they are serving.” Under

the Policy, ballots are received at advance voting locations and verified at the elections office; poll watchers have statutory access to both. The Petition alleges only that the Policy is “silent” as to poll-watcher observation. Pet. ¶ 53. It does not allege that any watcher has been or will be denied access. The Policy’s silence does not displace a statutory right that indisputably applies, O.C.G.A. § 21-2-408(d), and the record reflects that the sealed container is kept within view of watchers. Ex. A-5 ¶ 7.

Locations. Section 21-2-382(a) limits additional registrar’s offices to specified categories of buildings, and State Election Board Rule 183-1-14-.08(2) provides that “[w]henver practicable,” a government building “shall be utilized for such additional sites.” Pet. ¶ 26. The Policy expressly invokes both provisions as its authority. Pet. Ex. A §§ II, IV. The Petition does not allege that any location the Board has designated or will designate fails to satisfy them; it alleges only that the Policy does not restate them. Pet. ¶¶ 56–57. A policy that implements a statute need not reproduce every limitation the statute imposes in order to be lawful, and Plaintiffs’ contention that the Board will disregard those limitations is speculative. On the interlocutory injunction record, each of the six designated locations is a government building. Williams Aff. ¶ 5.

V. The Motions to Dismiss

Each of Plaintiffs’ claims rests on the premise that the Policy exceeds the Board’s statutory authority. Pet. ¶¶ 62–68, 70, 74(B), 78. Accepting the Petition’s well-pleaded factual allegations as true, and considering the Policy attached as Exhibit A, the Court concludes as a matter of law that the Election Code authorizes the Board to establish additional registrar’s offices for the purpose of receiving absentee ballots; that delivery of ABM ballots to the Board’s personnel at those offices is delivery to the board of registrars; that the Policy does not create drop boxes; and

that the Policy is not facially inconsistent with the Election Code's verification, poll-watcher, or location requirements. Because the dispositive questions are ones of statutory construction, no evidence Plaintiffs could introduce within the framework of the Petition would entitle them to the declaration or injunctions they seek. *See Atlanta Metro Leasing*, 353 Ga. App. at 786. Plaintiffs' contention that the Williams Affidavit creates factual disputes precluding dismissal is misplaced, because the Court has not relied on the affidavit in ruling on the Motions to Dismiss. Counts I, II, and III therefore fail to state a claim upon which relief can be granted.

The Court concludes that the Georgia Election Code expressly authorizes the Gwinnett BRE, its members, and their agents to receive ABM ballots in the manner described in the Policy. Plaintiffs' claims fail as a matter of law.

Because Plaintiffs' claims are deficient as a matter of law, there is no "state of provable facts" under which Plaintiffs can prevail. *Penny*, 282 Ga. App. at 590, 639 S.E.2d at 562. They have therefore failed to state a claim upon which relief can be granted.

For the same reason, Plaintiffs necessarily cannot show a likelihood of success on the merits for purposes of an interlocutory injunction.

VI. The Motion for Interlocutory Injunction

Likelihood of success. For the reasons stated in Part IV, Plaintiffs have not shown a substantial likelihood of success on the merits. That conclusion holds on the fuller interlocutory injunction record, which establishes that the persons receiving ballots under the Policy are sworn deputy registrars, that the designated locations are government buildings, and that the Board's implementing procedures record receipt, maintain chain of custody, and keep the ballots within view of poll watchers. Williams Aff. ¶¶ 5–12; Exs. A-5 to A-7.

Irreparable injury. Plaintiffs’ asserted injury is that ballots received through an unauthorized process cannot later be segregated from lawfully received ballots. Pet. ¶ 59; Br. in Supp. of Pls.’ Mot. for Interlocutory Inj. at 13–14. Because the Court has concluded that the process is authorized, that injury does not arise. Plaintiffs have not identified any ineligible voter, improperly handled ballot, or other concrete harm resulting from the Policy in the several elections in which it has been used. *See Williams Aff.* ¶ 4.

Balance of harms and status quo. The purpose of an interlocutory injunction is generally to preserve the status quo, which “is defined by the reality of the existing status and relationships between the parties.” *Hampton Island Founders, LLC v. Liberty Cap., LLC*, 283 Ga. 289, 293 (2008) (citation omitted). The Board has designated advance voting locations without drop boxes as additional registrar’s offices since the 2022 general election and has done so under the Policy in each election since its adoption in February 2024. *Williams Aff.* ¶ 4; Exs. A-1 to A-4. The requested injunction would alter that practice shortly before advance voting begins, *see Pls.’ Mot. for Interlocutory Inj.* at 2, requiring the Board to change established procedures and to communicate those changes to election workers and voters. The Court recognizes Plaintiffs’ point that a practice should not be continued merely because it is longstanding if it is unlawful. But having concluded that the practice is lawful, the Court finds that the harm an injunction would cause to the Board’s administration of the election and to voters who have used this method of return outweighs any harm to Plaintiffs from its continuation.

Public interest. The public interest is served by elections conducted in accordance with the procedures the General Assembly has provided. Ga. Const. art. II, § I, ¶ I. Because the Policy implements authority the General Assembly expressly granted, enjoining it would not serve that

interest. *See NEC Techs., Inc. v. Nelson*, 267 Ga. 390, 394 (1996) (“What the Legislature allows cannot be contrary to public policy.”).

Balancing these considerations, and mindful that the power to grant interlocutory injunctive relief is to be exercised “prudently and cautiously,” O.C.G.A. § 9-5-8, the Court concludes that Plaintiffs are not entitled to an interlocutory injunction.

ORDER

For the foregoing reasons, it is hereby **ORDERED** as follows:

1. Plaintiffs’ Expedited Motion for Interlocutory Injunction is **DENIED**.
2. Gwinnett Defendants’ Motion to Dismiss and Intervenor-Defendants’ Motion to Dismiss are **GRANTED** pursuant to O.C.G.A. § 9-11-12(b)(6) for failure to state a claim upon which relief can be granted.
3. Plaintiffs’ Verified Petition for Declaratory and Injunctive Relief is **DISMISSED**.

SO ORDERED this 7TH day of October, 2026.



HON. WARREN DAVIS
Judge, Superior Court of Gwinnett County

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FILING AND DISTRIBUTION – E-FILING

Pursuant to O.C.G.A. 15-6-21, the foregoing Order/Judgment shall be immediately E-filed with the Clerk of Court and a 'stamped filed' copy shall be distributed by the following method(s) to the below listed counsel/ parties:

[X] by E-filing service copies to all listed counsel, parties and service contacts:

Thomas Lee Oliver, Attorney for Plaintiffs
Kurtis Anderson, Attorney for Plaintiffs
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Rahul Garabadu, Attorney for Intervenors
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Nicole Wittstein, Attorney for Intervenors

So Ordered, this 10/7/2026



Warren Davis, Judge,
Gwinnett Superior Court