IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*,	:	
	:	**Case No. 2021-1193**
Petitioners,	:	
	:	**Original Action Filed Pursuant to**
v.	:	**Ohio Constitution, Article XI, Section 9(A)**
	:	
Ohio Redistricting Commission, *et al.*,	:	**[Apportionment Case Pursuant to S. Ct.**
	:	**Prac. R. 14.03]**
Respondents.	:	

Bria Bennett, *et al.*,	:	
	:	**Case No. 2021-1198**
Petitioners,	:	
	:	**Original Action Filed Pursuant to**
v.	:	**Ohio Constitution, Article XI, Section 9(A)**
	:	
Ohio Redistricting Commission, *et al.*,	:	**[Apportionment Case Pursuant to S. Ct.**
	:	**Prac. R. 14.03]**
Respondents.	:	

The Ohio Organizing Collaborative, *et al.*,	:	
	:	**Case No. 2021-1210**
Petitioners,	:	
	:	**Original Action Filed Pursuant to**
v.	:	**Ohio Constitution, Article XI, Section 9(A)**
	:	
Ohio Redistricting Commission, *et al.*,	:	**[Apportionment Case Pursuant to S. Ct.**
	:	**Prac. R. 14.03]**
Respondents.	:	

RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE MINORITY LEADER C. ALLISON RUSSO TO PETITIONERS' OBJECTIONS

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RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE MINORITY LEADER C. ALLISON RUSSO TO PETITIONERS' OBJECTIONS FILED FEBRUARY 28, 2022

This marks the third attempt by the Republican Commissioners to advance a patently unconstitutional redistricting plan that would enable Republicans to maintain a stranglehold on the Ohio Senate and House of Representatives. The Republican Commissioners continue to stubbornly resist doing what Article XI mandates, even though this Court has provided clear guidance about what a constitutionally-compliant plan requires. *See League of Women Voters of Ohio v. Ohio Redistricting Comm*., Slip Opinion No. 2022-Ohio-65 ("*LWV I*"); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022- Ohio-342 ("*LWV II*").

Because the Commission's February 24 Plan violates Sections 6(A) and 6(B), it should be invalidated in its entirety. And because the Republican Commissioners appear dead set on implementing unconstitutional maps to retain Republican legislative power, the Court should order additional relief discussed below.

I. THE FEBRUARY 24 PLAN VIOLATES SECTIONS 6(A) AND 6(B).

The Democratic Commissioners agree with the Petitioners: the Republican Commissioners' maps—adopted on February 24 to stave off contempt penalties—violate Sections 6(A) and 6(B) of Article XI of the Ohio Constitution. *See* Bennett Petitioners' Objs. to Feb. 24 Plan at 18–29; Ohio Organizing Collaborative Petitioners' Objs. to Feb. 24 Plan at 8–15; League of Women Voters of Ohio Petitioners' Objs. to Feb. 24 Plan at 2–6.

The February 24 Plan violates Section 6(A)'s partisan fairness requirement because it was drawn primarily to favor the Republican Party over the Democratic Party. *See LWV I*, ¶ 117. It once again "absurdly labels" 26 competitive House and Senate districts as Democratic-leaning and contains ***zero*** similarly competitive Republican-leaning districts. Russo Aff. ¶ 20

(Mar. 2, 2022); *LWV II*, ¶ 40. It once again has a "partisan skew" that "cannot be explained solely by nondiscriminatory factors," since constitutional, less-partisan plans exist. Sykes Aff. ¶ 6 (Mar. 2, 2022); Russo Aff. ¶ 39 (Feb. 23, 2022); *LWV I*, ¶ 121; *LWV II*, ¶ 45–47. It once again was passed with awareness of its partisan effects. Sykes Aff. ¶ 21 (Mar. 2, 2022); Russo Aff. ¶ 20 (Mar. 2, 2022); *LWV II*, ¶ 37. And, as the attached affidavits of Co-Chair Sykes and Leader Russo detail, it once again was the product of a single party's exclusive control of the redistricting process. Sykes Aff. ¶¶ 5–20 (Mar. 2, 2022); Russo Aff. ¶¶ 6–21 (Mar. 2, 2022); *LWV I*, ¶ 120.

The February 24 Plan independently violates Section 6(B)'s proportionality requirement because it does not correspond closely with statewide voter preferences. *See LWV II*, ¶ 55. It once again labels seven districts with Democratic vote shares between 50 and 51 percent as Democratic-leaning, which, in the absence of similarly-labeled Republican districts, is "absurd on its face." Russo Aff. ¶ 20 (Mar. 2, 2022); *LWV II*, ¶ 61. If that weren't enough, it labels another nineteen districts with Democratic vote shares only between 51 and 52 percent as Democratic-leaning, which is still "absurd on its face." Russo Aff. ¶ 20 (Mar. 2, 2022); *LWV II*, ¶ 61. With 26 competitive Democratic House and Senate districts and ***zero*** similarly competitive Republican-leaning districts, the plan once again displays a "grossly disparate" "quality and degree of favoritism in each party's allocated districts." *LWV II*, ¶ 61. And it once again could have been drawn in a "proportional" way. Sykes Aff. ¶ 6 (Mar. 2, 2022); Russo Aff. ¶ 39 (Feb. 23, 2022); *LWV II*, ¶ 54.

Beyond a reasonable doubt, the February 24 Plan violates Sections 6(A) and 6(B). Accordingly, this Court should invalidate the plan in its entirety, and it should order additional relief discussed below.

II. THE REPUBLICAN COMMISSIONERS APPEAR DEAD SET ON IMPLEMENTING UNCONSTITUTIONAL MAPS TO RETAIN REPUBLICAN LEGISLATIVE POWER.

The Republican Commissioners' conduct throughout the redistricting process reveals a pattern of cynical arguments and attempts to maintain a stranglehold on Republican legislative power. The majority Commissioners repeatedly twist the law and facts to justify unconstitutional maps or inaction. Consider just a few examples of this pattern:

First, with the September 2021 plan, the Republican Commissioners claimed that the fairness requirements of Sections 6(A) and 6(B) are merely "aspirational." *LWV I*, ¶ 82. But, as this Court held, "clear language in Section 6 establishes that the section's standards are not merely aspirational." *Id.* ¶ 90. The Commission must try to achieve them.

Second, recognizing they could not ignore the proportionality requirement, the Republican Commissioners then claimed that a map that favored Republicans 80 percent to 20 percent closely corresponded to Ohio voters' preferences because Republicans had won 80 percent of elections. *See LWV I*, ¶ 106. But, as this Court admonished, the Republicans' invented methodology "does not comport" with Section 6(B). *Id.* ¶ 107. The proper methodology reveals that only 54 percent of Ohio voters preferred Republican candidates. *See id.* ¶ 108. This Court made plain: the Constitution cannot be evaded with cute mathematics. The Republican Commissioners did not listen.

Third, for the January 2022 plan, the Republican Commissioners started with the invalidated September 2021 plan, adjusted several districts to just lean Democratic by as little as a tenth of a percentage point, and called it a day. *See LWV II*, ¶ 36–37. The Republican Commissioners claimed that districts with a Democratic vote share between 50 and 51 percent

can be counted as "Democratic-leaning," even if there are no similar Republican districts. *Id.* ¶ 61. The Court called this "absurd on its face." *Id.*

Fourth, the Republican Commissioners stubbornly refused to adopt constitutionally-compliant maps presented to them. Despite the Court ordering the Commission to adopt a new map by February 17, and the Court pointing to several possibly constitutional options, the Republican Commissioners willfully chose to violate the Court's order. The Republican Commissioners and their mapmakers claimed it was impossible to devise a constitutional plan containing fewer than 57 percent Republican-leaning districts. *See LWV II*, ¶ 19. And the Republican Commissioners claimed that they should have been given more than ten days. *See, e.g.*, Pres. Huffman Comments, Ohio Redistricting Comm. Tr. Part II (Feb. 17, 2022), available at https://redistricting.ohio.gov/meetings.

Finally, under threat of contempt, the Republican Commissioners' claims of impossibility disappeared. They adopted the February 24 Plan, which they claim now contains 54 percent Republican-leaning districts. *See* Pres. Huffman Comments, Ohio Redistricting Comm. Tr. (Feb. 24, 2022), available at https://redistricting.ohio.gov/meetings. Far from taking months to develop, the majority Commissioners produced the map only seven days after receiving the Court's show cause order—and only two days after the first mention of any new plan. Sykes Aff. ¶ 10 (Mar. 2, 2022); Russo Aff. ¶ 11 (Mar. 2, 2022). That's no surprise, as the Democratic map maker has stated it now only takes "two days to create an entirely new set of General Assembly maps, starting completely from scratch." Sykes Aff. ¶ 65 (Feb. 23, 2022).

Even though the Democratic Commissioners were again kept in the dark about the February 24 plan until a few hours before its adoption, they could easily spot yet another mathematical ploy. As before, so-called Democratic-leaning districts were really toss-ups, and

there were no such toss-up Republican-leaning districts. Co-Chair Cupp stated this was no problem because this Court had only addressed toss-ups "between 50 and 51" percent, but districts "between 51 and 52" percent were "not something the court addressed." *See* Co-Chair Cupp Comments, Ohio Redistricting Comm. Tr. (Feb. 24, 2022), available at https://redistricting.ohio.gov/meetings. Pure sophistry.

The Republican Commissioners have treated redistricting like a game; the Ohio Constitution is an obstacle to creatively evade. But for Ohio's voters, this is our democracy. We depend on this Court to protect it.

III. STRONG AND SWIFT REMEDIES FROM THE COURT ARE NEEDED.

The Republican Commissioners continue to display remarkable disdain for their constitutional mandates and for this Court's orders. Strong and swift action from this Court is needed to effectuate Article XI. Accordingly, Senator Sykes and Leader Russo ask that the Court:

1. Immediately stay Secretary of State Directive 2022-26 until this Court resolves the objections to the February 24 Plan, and enjoin Secretary LaRose from otherwise implementing the February 24 Plan until these proceedings end.

- Through Directive 2022-26, Secretary LaRose has instructed all county boards of elections to prepare for the May 3 primary using the February 24 Plan. Directive 2022-26 (Feb. 26, 2022), available at https://www.ohiosos.gov/globalassets/elections/directives/2022/directive-2022-26.pdf. Secretary LaRose has also told House and Senate candidates they have only until March 10 to declare if they wish to change their residence to run in a certain district under the February 24 maps. *Id.* at 5; Russo Aff. ¶ 27 (Mar. 2, 2022). He has also developed a website based on the February 24 Plan for citizens to "find my district." Russo Aff. ¶ 27 (Mar. 2, 2022); https://findmydistrict.ohiosos.gov.

- The Republican Commissioners appear to be weaponizing the primary deadline. They are using an exigency of their own making to impose an unconstitutional plan. If enough steps are taken to prepare for the primary using the February 24 Plan—preparing and printing ballots, having candidates change residency, reprogramming the voter registration system, verifying signatures on candidate petitions, and so on—it will be that much more burdensome to conduct the primary using anything except this unconstitutional plan. The primary is also being used to ask a federal

court to intervene in the sovereign process of Ohio drawing its own maps. *See Gonidakis v. Ohio Redistricting Comm.*, No. 2:22-cv-773 (S.D. Ohio).

- The Legislature can easily change the primary date, as this Court acknowledged. *LWV II*, ¶ 66. Two of the five Republican Commissioners are the top officials in both chambers of Ohio's legislature: Co-Chair Cupp is the Speaker of the House of Representatives and Commissioner Huffman is the President of the Senate. Governor DeWine, who holds veto power, is also a Commissioner. Democrats, including Leader Russo and Senator Sykes, have already voiced their support for moving the primary. Russo Aff. ¶ 18 (Feb. 23, 2022). Elections officials have implored the legislature to move the primary. Russo Aff. ¶ 25 (Mar. 2, 2022). The Republican Commissioners are *choosing* to create a timing crisis. The Court should not allow them to use this fabricated crisis to implement unconstitutional maps.

2. Declare the February 24 Plan unconstitutional.

- The plan violates Article XI, Sections 6(A) and 6(B), as discussed above.

3. Declare the Sykes-Russo Plan constitutional, or order expedited briefing regarding the constitutionality of the Sykes-Russo Plan and any other plan that Petitioners contend is constitutional.

- The Commission has had before it the Sykes-Russo Plan and at least one other plan for over a month. The Republican Commissioners have failed to identify any meritorious constitutional deficiencies in any of the plans this Court has mentioned. *See* Sykes Aff. ¶¶ 10, 45, 54, 58 (Feb. 23, 2022); Russo Aff. ¶¶ 12–17, 27–43 (Feb. 23, 2022).

- The Court should order the Respondents to provide, within 2 days, specific, detailed explanations and evidence of any alleged constitutional deficiencies with the Sykes-Russo Plan and any other plan Petitioners contend is constitutional. Senator Sykes, Leader Russo, and the Petitioners could respond to any such objections 2 days later. The Court could then adjudicate the constitutionality of these plans, establish that there are indeed constitutional options for the Commission to adopt, and order the Commission to reconvene and select a constitutional plan.

4. Alternatively, appoint a special master to prepare a constitutional plan.

- Time is of the essence, but the Court could appoint a special master, authorize him or her to employ one or more experts, and direct the special master to prepare a constitutional plan. The Commission has sufficient funding to pay a special master. *See* Russo Aff. ¶ 12 (Mar. 2, 2022).

- As the Bennett petitioners state, the Court could require the Commission to sit, in public view, with the special master and justify any changes from the special master's proposed plan. *See* Bennett Petitioners' Objs. to Feb. 24 Plan at 37.

5. Order any other relief the Court deems just and necessary to ensure that Ohio citizens can vote under a constitutional plan.

- The Court has broad inherent power to enforce its orders.

Finally, Senator Sykes and Leader Russo respectfully request that any relief be ordered to occur as quickly as possible to ensure constitutional maps for Ohio's voters. The Commission has shown time and again that, if the Court allows a ten-day deadline, due to Republican obfuscation, the Commission will not even meet until the tenth day and will not disclose a map until the eleventh-hour. *See* Sykes Aff. ¶¶ 35–32 (Feb. 23, 2022); Russo Aff. ¶ 8 (Mar. 2, 2022). The time for strong and swift action by this Court is now.

CONCLUSION

Senator Sykes and Leader Russo respectfully ask that this Court declare the February 24 Plan invalid and order the other remedies described above or that justice requires.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2022, the foregoing *Response of Respondents Senator Vernon Sykes and House Minority Leader C. Allison Russo to Petitioners' Objections* was filed electronically and sent via email to the following counsel of record:

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Respondents.	**:**	

AFFIDAVIT OF RESPONDENT VERNON SYKES

State of Ohio
County of Franklin, SS:

I, Vernon Sykes, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all the information below.

2. I am the State Senator for Ohio's 28th Senate District.

3. I serve as a Commissioner on and Co-Chair of the Ohio Redistricting Commission ("Commission"). I am the only Black person and person of color on the Commission. I serve as a representative of the Democratic Party, along with House Minority Leader Allison Russo (together, the "Democratic Commissioners"). The remaining five members of the Commission are Republicans (together, the "Republican Commissioners").

4. The Republican Commissioners unilaterally adopted new General Assembly maps on February 24, 2022 (the "February 24 Plan"). I did not vote to adopt those maps because I believe they violate Article XI of the Ohio Constitution, as well the Ohio Supreme Court's orders. I submit this affidavit to describe the secretive process leading up to the adoption of the February 24 Plan.

5. At the hearing on February 24, 2022, as the Republican Commissioners insisted on voting on General Assembly maps that were not given to the Democratic Commissioners until hours beforehand and that the Democratic Commissioners did not collaborate on, I asked: "[W]hat is your rationale [for moving forward with a vote], since we have reached out to you to be involved or to offer input, but we haven't been given any information, just the map, once you finish and complete it, how is that complying with the directive of the court?" My question was rhetorical. The process that the Republican Commissioners followed in adopting the February 24 Plan, as with each previous plan, has been in violation of the Ohio Supreme Court's orders to

work together to collaborate on a map. Each time, I am given the Republicans' plans just before the vote, and I have no ability to influence the map at all. And when I have presented a map that meets all the constitutional requirements, the Republicans refuse to engage and collaborate on it too. I have described the secretive, one-sided, rushed processes that the Republican Commissioners adopted with the Commission's previous maps and with its impasse decision in previous affidavits that I filed with the Court on January 28, 2022, and February 23, 2022, which I incorporate into this affidavit by reference. In this affidavit, I add a description of the events since my last affidavit that are within my personal knowledge, leading to the Commission's adoption of the February 24 Plan.

A. <u>February 18-21, 2022</u>.

6. On February 18, following the Commission's failure to adopt a map, including the Sykes-Russo map which satisfies all the constitutional requirements, the Republican Commissioners filed a notice with the Supreme Court stating that the Commission was at impasse. At this point, I had not seen any draft maps from the Republican Commissioners, nor had I heard of any. As detailed in my February 23 affidavit, despite meetings with several Republican Commissioners, none ever confirmed that a map was being developed by the majority. Attorney General Yost, shortly after this Court's February 7 order, had asserted that a constitutional map was not possible. And likewise, the Republican Commissioners were also indicating that drawing a proportional plan was impossible given Ohio's geography and population distribution—not that they had a plan lying in wait.

7. Even once the Ohio Supreme Court issued an order on February 18 requiring the Commissioners to show cause as to why the Commission failed to adopt General Assembly maps

in accordance with the Court's February 7 order, I did not hear anything to lead me to think that the Commissioners were going back to the drawing board to adopt General Assembly maps.

8. During the following days, I had several conversations with Speaker Robert Cupp, the Republican Co-Chair of the Ohio Redistricting Commission. He never confirmed that a General Assembly plan was being developed, and he never sought my input on such plans. Our conversations were about the congressional maps and the agenda for Commission meetings to discuss congressional maps.

B. <u>February 22, 2022</u>.

9. The Commission held a hearing on the congressional maps at 1:30 p.m. on February 22, 2022. Earlier in the day, I had spoken to Co-Chair Cupp to set the agenda for that meeting, and only the congressional maps were on the agenda. At the hearing, however, the Republican Commissioners raised the possibility of meeting to discuss General Assembly maps in the coming days. Specifically, Auditor Faber revealed that the Republicans had been working on a map that would be ready for consideration, or, in the alternative, proposed that the Commission should consider the Rodden III map. At that point, Leader Russo voiced her concern that the Democratic Commissioners "have not so far been involved" in any such discussions about proposing a new map, and she asked that the Republican Commissioners "make their staff available to us to have those discussion" if there were legislative maps that the Commission wanted to put forward that week. A video recording of this meeting is available at https://ohiochannel.org/video/ohio-redistricting-commission-2-22-2022.

10. This was the first time that it was confirmed to me that the Republican Commissioners were preparing new General Assembly maps. President Huffman told the press that he and Co-Chair Cupp had been working on these maps since February 11. I have no way to

verify the veracity of that statement, but to the extent Co-Chair Cupp and President Huffman had their staff (Mr. Ray DiRossi and Mr. Blake Springhetti) prepare new maps, I was unaware. Indeed, despite numerous phone calls with Co-Chair Cupp, and numerous Commission meetings after February 11th, I had no knowledge of this map; again, the Republican Commissioners continued to insist that drawing a constitutional map was geographically impossible.

11. Despite Leader Russo's request that the Republican Commissioners include us and our staff in discussions about the General Assembly maps, we did not hear from Mr. DiRossi or Mr. Springhetti about the General Assembly maps until the day they were adopted.

12. On February 22, the Commission noticed a meeting for the next day for the purpose of hearing testimony on the congressional map; the state legislative maps were again not on the agenda.

C. <u>February 23, 2022</u>.

13. On the morning of February 23, 2022, the Commissioners filed their responses to the Court's show cause order. Leader Russo and I filed a separate response detailing our diligence in attempting to collaborate with the Republican Commissioners on a constitutional map, and the refusal of the Republican Commissioners to provide meaningful feedback on our map, or even call a timely meeting of the Commission. While reading the filing of Co-Chair Cupp and President Huffman in response to the show cause order, and discussing it with my staff, I learned not only that the Republican Commissioners alleged they had legislative maps in the works, but also that they planned to vote on it that very week. I had still never seen the plan.

14. My staff had a working session on the congressional maps later on February 23 that only Auditor Faber and Secretary LaRose's staff attended. We were hoping to speak with Mr. DiRossi and Mr. Springhetti about legislative maps too, but they did not attend, claiming

they were too busy. We still had never been able to speak with them about the plans they were developing.

15. The Commission met at 4:00 p.m. to hear testimony on the congressional maps. The state legislative maps were not on the agenda. However, I asked Co-Chair Cupp and President Huffman when we could see their General Assembly plan. They would not commit to even a rough timetable.

16. Indeed, when I spoke again with Co-Chair Cupp in the evening, he would not commit as to when the Democratic Commissioners' staff would have access to their maps. I had been continuously asking Co-Chair Cupp about getting the Republicans' proposed maps since I heard they were in progress. It was important to me that the proposed maps be released to the public in order for the Commission to receive public input. But he would never commit to a timeline for sharing the Republicans' plan.

D. <u>February 24, 2022</u>.

17. Finally, in the morning of February 24, 2022—the day the Republican Commissioners' unilaterally adopted the new plan—I received a call from Co-Chair Cupp that his staff was willing to brief us on their maps at 12:30 p.m. Co-Chair Cupp told me that the Republican Commissioners wanted the Commission to vote on the plan (which we had not yet even seen) that day, and that he would give us a few hours to review the map. The meeting was originally scheduled for 11:30 a.m., but by an email at 10:00 a.m., Co-Chair Cupp emailed notice that the Commission's meeting would be delayed until 2:00 p.m. Around noon, a second email went out delaying the meeting until 3:00 p.m. I asked for even further delay so we could review the map; Co-Chair Cupp refused, citing weather forecasts and his fellow Republican Commissioners' unwillingness to stay late that evening or continue discussions later that week.

18. At 12:30 p.m., Mr. DiRossi and Mr. Springhetti met with Leader Russo, myself, and our staff. The meeting mostly consisted of us asking questions about the details of the map. Because the Republican Commissioners gave us the data files in that meeting (on a USB drive), we knew nothing about the maps prior to talking with them. Consequently, we could only ask basic questions from a paper version that Mr. DiRossi and Mr. Springhetti had in order to try to understand the plan. During the meeting, Mr. DiRossi and Mr. Springhetti presented us with a USB drive with the map files, but by the time the briefing had concluded there was very little time to analyze those files before the Commission meeting began.

19. When the Commission meeting began at 3:00 p.m., we heard testimony about congressional maps and then turned to the General Assembly plan. But President Huffman did not present the map, and the map had not yet been released to the public. I was also unsure whether the files my staff had received at the 12:30 p.m. meeting reflected the final version of the plan that was to be introduced. If so, it was confusing as to why the files had not been posted on the Commission's website and as to why President Huffman needed more time. The Commission recessed, and the plan was finally posted on the Commission website at approximately 5:00 p.m. After review, my staff determined that it was the same as the files that had been presented to us only hours earlier that day.

20. The Commission reconvened at 6:00 p.m., which meant we had very little time to assess the proposed maps. A few hours at most. And we had no input from the public. I asked President Huffman if he intended for us to vote on the maps today despite having little time to analyze them and no opportunity to seek input from the public. He indicated that time was of the essence and that hours mattered. He was insistent on rushing the maps through the Commission

right then. A video recording of the meeting is available at https://ohiochannel.org/video/ohio-redistricting-commission-2-24-2022.

21. Leader Russo pointed out that, in the little time we had to review the maps, it was clear that they suffered the same asymmetry problem that the Ohio Supreme Court identified in the January 22 Commission map. This asymmetry in how many so-called Democratic leaning districts were just barely past the 50% margin (what I would call a "toss up"), versus how many Republican leaning districts were toss-ups, led the Ohio Supreme Court to conclude that the Commission's last map failed the proportionality requirements of Article XI, Section 6. But that was of no moment to the Republican Commissioners. When Leader Russo read the words of the Ohio Supreme Court opinion about asymmetry to the Republican Commissioners, it landed on deaf ears. Irrespective of the Court's admonitions, the Republican Commissioners were dead set on enacting another map without our input, and one that again failed to satisfy the Constitution.

22. After less than half an hour of discussion, the Commission voted. I voted against the plan. But four of the Republican Commissioners voted for the February 24 Plan, thereby adopting it.

FURTHER AFFIANT SAYETH NAUGHT.

Vernon Sykes

Sworn to before me and subscribed in my presence this 2 day of March, 2022.

Notary Public

SCOTT STOCKMAN
NOTARY PUBLIC
STATE OF OHIO
My Commission Has No
Expiration Date

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*,	**:**	
	:	**Case No. 2021-1193**
Petitioners,	**:**	
	:	**Original Action Filed Pursuant to**
v.	**:**	**Ohio Constitution, Article XI, Section 9(A)**
	:	
Ohio Redistricting Commission, *et al.*,	**:**	**[Apportionment Case Pursuant to S. Ct.**
	:	**Prac. R. 14.03]**
Respondents.	**:**	

Bria Bennett, *et al.*,	**:**	
	:	**Case No. 2021-1198**
Petitioners,	**:**	
	:	**Original Action Filed Pursuant to**
v.	**:**	**Ohio Constitution, Article XI, Section 9(A)**
	:	
Ohio Redistricting Commission, *et al.*,	**:**	**[Apportionment Case Pursuant to S. Ct.**
	:	**Prac. R. 14.03]**
Respondents.	**:**	

The Ohio Organizing Collaborative, *et al.*,	**:**	
	:	**Case No. 2021-1210**
Petitioners,	**:**	
	:	**Original Action Filed Pursuant to**
v.	**:**	**Ohio Constitution, Article XI, Section 9(A)**
	:	
Ohio Redistricting Commission, *et al.*,	**:**	**[Apportionment Case Pursuant to S. Ct.**
	:	**Prac. R. 14.03]**
Respondents.	**:**	

AFFIDAVIT OF RESPONDENT C. ALLISON RUSSO

State of Ohio
County of Franklin, SS:

I, C. Allison Russo, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

Introductory Information

1. I have personal knowledge of all the information below.

2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.

3. I serve as a Commissioner on the Ohio Redistricting Commission ("Commission"). I am the only woman on the Commission. I serve as a representative of the Democratic Party, along with Co-Chair Senator Vernon Sykes (together, the "Democratic Commissioners"). The remaining five members of the Commission are Republicans (together, the "Republican Commissioners").

4. I also serve as Co-Chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley. The legislature appropriates funds for redistricting support, and the Task Force allocates funds to the Republican and Democratic legislative caucuses, authorizing them to purchase equipment, software, and other useful redistricting services. The Task Force could also allocate funds to the Commission itself and its members.

5. The Republican Commissioners unilaterally adopted new General Assembly maps on February 24, 2022 (the "February 24 Plan"). I did not vote to adopt those maps because I believe

they violate Article XI of the Ohio Constitution, as well as this Court's orders. I submit this affidavit to describe the secretive process leading up to the adoption of the February 24 Plan.

The Republican Commissioners Continue to Draw Maps Through a Secretive Process that Excludes the Democratic Commissioners

6. The process leading up to the Commission's adoption of the February 24 Plan was apiece with all the other plans it has adopted—and the Court has invalidated, admonishing that the Commission's process must be collaborative and not partisan. As before, Co-Chair Senator Vernon Sykes and I were left completely in the dark about whether the Republicans were presenting a map and the contents of that map until hours before its adoption. Then, when it came time to discuss the map, we were presented with a Republican fait accompli. There was no room for collaboration, edits, public input, or even an extension of time so we could fully understand the plans we were voting on.

7. I have detailed the secret and exclusive processes leading up to the Commission's adoption of previous plans and the impasse notice of February 18 in previous affidavits submitted to the Court on January 28, 2022, and February 23, 2022, which are incorporated by reference. As these affidavits show, the pattern is clear and unbroken. Much like the redistricting process a decade ago, the maps have been drawn in secret, by a single party, without meaningful input from the Democratic Commissioners or the public.

8. The Democratic Commissioners do not even receive the files for the maps until the day they are adopted, sometimes only hours before, as I summarize in this chart:

Maps	**Date maps made available or notified of impasse**	**Date maps adopted by Commission or impasse declared**
First state maps	Sept. 15 (An initial map was published by Huffman's staff on Sept. 9, but the final map revealed on Sept. 15 changed significantly.)	Sept. 16 just after midnight
Second state maps	Jan. 22	Jan. 22
Impasse	Feb. 17	Feb. 17
Third state maps	Feb. 24	Feb. 24

9. As our affidavits detail, both myself and Co-Chair Sykes have urged the Republican Commissioners to engage in a collaborative process. But they continue to refuse.

The Democratic Commissioners Were in the Dark About the February 24 Plan

10. As detailed in my February 23 affidavit, despite Co-Chair Sykes's and my efforts to collaborate in presenting constitutional maps in accordance with the Supreme Court's February 17 deadline, the Republican Commissioners failed to present a proposed map or collaborate with us on the Sykes-Russo maps. Instead, most of the Republican Commissioners insisted that it was impossible to draw a constitutional map given Ohio's geography. And in our meetings and communications with Republican Commissioners or their staff in advance of the February 17 deadline—including the offices of Governor DeWine, Secretary LaRose, and Auditor Faber—there was no indication that the Republican Commissioners were drawing any map at all. The party line seemed to be that Ohio's geography made a constitutional map impossible, so there was no map in progress that any of the Republican Commissioners alerted me to.

11. I was not notified that General Assembly maps were being created by Republican Commissioners until two days before the Republicans adopted them. On February 22, 2022, the Commission held a meeting regarding congressional maps. That meeting lasted less than ten minutes and concluded with Co-Chair Speaker Cupp and Co-Chair Senator Sykes directing their staff to work together on a congressional map. Auditor Faber then moved that the Commission

meet again in the next two days to consider a new state map that he understood was being prepared, or, in the alternative, the Rodden III map. Co-Chair Cupp asked if Auditor Faber was referring to state maps in addition to congressional maps and Auditor Faber said that he was. I had not been privy to any such discussions to which Auditor Faber had just alluded, and I said so in the meeting. I also asked that Commissioners make their staff available for any discussions of state maps. The Republican Commissioners did not respond to my request. A video recording of this meeting is available at https://ohiochannel.org/video/ohio-redistricting-commission-2-22-2022. I was completely in the dark about the contents of those maps, and I was a bit surprised that new maps might now exist, because the Republican Commissioners had been insisting that drawing maps was impossible.

12. After the meeting adjourned, Secretary LaRose told me he had also not been part of any discussions on new state maps. He remarked that he did not have staff who had the requisite expertise to draw maps, to which I responded that the Commission had sufficient funding and that more staff could be hired, including a mediator. In my role as Co-Chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research, I know that there are sufficient funds to hire a mediator, expert, special master, or other map drawing expert to aid the Commission's work. (It would require sign off by my Republican co-chair Senator Rob McColley.)

13. The next day, February 23, 2022, Co-Chair Sykes's and my staff met with the staff of two of the Republican Commissioners. We had directed our staff to invite the staff of all the Republican Commissioners to meet, but Mr. Ray DiRossi and Mr. Blake Springhetti (the Republican map drawers from Co-Chair Cupp and President Huffman's staff) said they were too busy, and Governor DeWine's staff did not attend. The discussion was only about congressional

map principles. Neither Auditor Faber nor Secretary LaRose's staff brought up state legislative district maps at all.

14. The Commission also met on February 23, 2022, and heard testimony on congressional maps. At that meeting, I noted that the Republican Commissioners had told the Court in a filing to stave off contempt that they would vote on new state maps that week. Co-Chair Cupp, despite Co-Chair Sykes's questions, would not commit as to when those proposed state maps would be released. No other Commissioners gave me any information about the maps or indicated when we would be able to see the maps. The Commission's next meeting was scheduled for 11:30 a.m. the next day, February 24, 2022.

15. On Thursday, February 24, 2022, the Commission adopted new General Assembly maps. As of that morning, however, I did not know we would be voting on General Assembly maps that day, and I did not have a copy of those maps. Though the meeting was scheduled for 11:30 a.m., it was delayed until 2:00 p.m., and then to 3:00 p.m., following the Court's announcement of a show cause hearing on March 1.

16. Before the Commission reconvened, Co-Chair Cupp informed Senator Sykes and myself that he would send Mr. DiRossi and Mr. Springhetti to meet with us and show us a new set of state maps. Our staff asked for the block assignment files so we could quickly perform meaningful analysis, but those files were not sent in advance. At approximately 12:30 p.m., Mr. DiRossi and Mr. Springhetti met with us to present their maps. They brought paper printouts of their maps and a thumb drive with files on it. Because we did not have the files in advance, all we could do was ask questions about the printed out maps, which were small and included little data. We asked if there was the opportunity to provide feedback and suggestions. Mr. DiRossi said that was above his paygrade. Mr. DiRossi and Mr. Springhetti urged us to contact Co-Chair Cupp and

President Huffman. The meeting concluded at about 2:00 p.m., giving us only ***one hour*** to review the map files before the Commission convened at 3:00 p.m. And, even then, we had no assurance that these exact maps would be the ones introduced at the Commission meeting.

After Shutting the Democratic Commissioners Out of the Process, the Commission Adopted the February 24 Map Despite Glaring Constitutional Flaws

17. The Commission reconvened just after 3:00 p.m. on February 24, 2022.

18. After hearing from members of the public about congressional plans they had submitted to the Commission, at a little after 3:30 p.m. President Huffman said that he would have state maps to present to the Commission soon. President Huffman said all the Republican Commissioners had seen the maps, so I was not sure if there had been changes to the maps since the Democratic Commissioners had met with his staff. But President Huffman said he would post the new map files on the Commission website in about a half hour. The Commission recessed at about 3:45 p.m., announcing it would reconvene again at 6:00 p.m. I did not know if the Republican Commissioners planned to call for a vote on the proposed maps when we reconvened at 6:00 p.m.

19. The maps were uploaded to the Commission website over an hour later at about 4:50 p.m., with only about one hour until the Commission meeting would resume. I did not know if these were the exact same map files we had received earlier, so our staff had to confirm with Mr. DiRossi that they were. By now, it was about 5:00 p.m., with only one hour to complete analysis of these maps before the Commission reconvened. I still did not know if we were about to vote on these maps at the meeting that day.

20. When we reconvened at 6:00 p.m., President Huffman asserted that the February 24 Plan resulted in 15/18 Democratic to Republican leaning districts in the Senate and 45/54 Democratic to Republican leaning districts in the House. But even in the short time my staff had to analyze the maps, they were able to discern that they had significant constitutional flaws and

were not, in fact, proportional. Overall, there were 7 districts with Democratic vote shares between 50% and 51% labeled "Democratic-leaning" and another 19 districts with Democratic vote shares between 51% and 52% labeled as "Democratic-leaning." As I pointed out, 19 of the so-called Democratic-leaning House seats were instead toss-ups (with Democratic indexes between 50% and 52%). None of the Republican-leaning seats in the new maps were toss-ups. Likewise, I pointed out that 7 of the so-called Democratic-leaning Senate seats were instead toss-ups, while none of the Republican Senate seats were. This was, in my view, worse than the January 22 Commission map. As I noted, the Commission map from January 22 had *fewer* so-called Democratic-leaning seats that were in fact toss-ups and the Court had invalidated them. I asked how the Commission thought this plan was constitutional. Speaker Cupp responded that, in his view, the Court's prior order only addressed toss-up districts between 50% and 51%, so his staff could comply with the proportionality requirement by making Democratic districts with just a single percentage point more, between 51% and 52%. Reading from this Court's most recent decision, and particularly paragraph 40, I stated that I did not believe the maps were constitutional, or that Speaker Cupp had made a good faith reading of the Court's decision. It was just more games to evade both the Court's orders and the will of the Ohio voters. But the Republican Commissioners, except for Auditor Faber, voted for the map. So, in less than twenty minutes, the new maps were adopted.

21. At the end of the meeting, Co-Chair Cupp read the Section 8(C)(2) statement of the Commission. He said that all members of the commission had been given the "opportunity to meet with the map drawers to express concerns, make suggested edits, and otherwise participate in the mapmaking process in a collaborative fashion. The final adopted plan contains input from those members directly or through their staff who chose to participate." This is simply not true. I had no

opportunity to collaborate on this proposed map. When I asked if there was opportunity for input or suggestions earlier in the day, Mr. DiRossi said that was above his pay grade. And Mr. Springhetti did not offer any opportunity for input or suggestions. Co-Chair Sykes asked during the meeting for the opportunity to work on the map together, but President Huffman said he wanted to vote that night instead, claiming this Court was rushing us, and that our only time for input was right then and there. A video recording of the meeting is available at https://ohiochannel.org/video/ohio-redistricting-commission-2-24-2022.

The Secretary of State Has Acted Swiftly to Implement Unconstitutional Maps

22. Although the Republican Commissioners know that this Court has retained jurisdiction over the above-captioned lawsuits, that the maps contain the constitutional flaws I articulated at the meeting, and that the Petitioners would likely challenge the February 24, 2022 maps, several have moved swiftly to try to implement these maps. Their strategy seems to be that if they can get far enough in implementing this February 24 Plan, and refuse to move the May 3 primary, this Court or the federal court will have no choice but to let this map go forward.

23. There is Legislation pending, which I support, to move the primary. In a conversation on February 28, 2022, Secretary LaRose told me that he actually also supports moving the primary despite taking action to implement the February 24 maps. But President Huffman and Co-Chair Speaker Cupp, who together control the Legislature's agenda, will not move this legislation.

24. Secretary LaRose and elections officials are understandably worried that there is not enough time to conduct a May 3 primary. Secretary LaRose instructed Boards that the May 3 primary ballot would not have the legislative races on them in a directive he issued on Feb. 22.[1]

25. The Ohio Association of Election Officials copied me on a letter to Senate President Huffman on February 28 asking that the legislature move the primary and stating, "Many counties around the state no longer have the ability to run a successful May 3rd election, and more counties lose that ability each day that we do not have final maps and the legal descriptions we need to implement them." A true and accurate copy of that letter is attached as Exhibit A.

26. Indeed, I do not believe that a May 3 primary is possible now. But the timing crisis is one of the Republicans' own creation, as they continuously fail to follow the Court's orders. And it is one they can easily resolve: as the majority leaders in both chambers, they can easily move the primary back. But they are *choosing* not to. On March 2, during a meeting of the Ohio House, Rep. Paula Hicks-Hudson (D – Toledo) offered an amendment to a bill to move the primary from May 3 to June 21. The House tabled her amendment on a party line vote, and it did not pass.

27. In the meantime, and despite his purported desire to move the primary, Secretary LaRose is taking active steps to implement the unconstitutional plan. *First*, he has issued a new directive ordering the Boards of Elections to implement the maps adopted on February 24. In it, he states, "This Directive is not contrary to any order of the Ohio Supreme Court, nor should it be construed as such. This new General Assembly district plan adopted by the Ohio Redistricting Commission was filed with my office and is presumed valid."[2] *Second*, in that same directive, he

[1] This directive is available at https://www.ohiosos.gov/globalassets/elections/directives/2022/dir2022-25.pdf.
[2] This directive is available at https://www.ohiosos.gov/globalassets/elections/directives/2022/directive-2022-26.pdf.

has ordered the Boards of Elections to email candidates and ask them to let the appropriate Board know by March 10 if the candidate plans to exercise their right to move their residence by March 26. Effectively, the Secretary is forcing candidates to give up their right to move within 30 days after the effective date of a final map, because there currently are no final maps. The emails from the Boards vary by county. True and accurate copies of two such emails are attached as Exhibit B. *Third*, he has created a page on the Secretary of State's website so that Ohio voters can "find my district," available at https://findmydistrict.ohiosos.gov. Upon accessing the website, it says "This map was enacted by the Ohio Redistricting Commission on 2/24/2022 in adherence to an Ohio Supreme Court order." It does not even mention that the map is under review or subject to litigation.

28. I am concerned that these steps to implement an unconstitutional plan will cause confusion among Ohio voters and those seeking office. Indeed, they already have. Many members of the legislature have passed on concerns from many voters, candidates, and employees of Boards of Elections who have been asked to do something that seems impossible.

Conclusion

29. There is a clear pattern. The Republican Commissioners exclude the public, Co-Chair Sykes, and myself from the map drawing process. They present us with a map they will adopt just hours before doing so without any real opportunity to collaborate. And while the Republican Commissioners assert the maps are proportional, they are anything but once we look at the underlying data.

30. I fear that if the Court merely instructs the Commission to reconvene to enact a new map, without further guidance and admonition, the Commission will simply continue in this pattern of excluding the Democratic Commissioners and the public from the map drawing process

and adopting maps that fail to meet the Ohio Constitution's proportionality requirement. The Court might consider taking more aggressive steps, lest the voters of Ohio be denied constitutional maps.

FURTHER AFFIANT SAYETH NAUGHT.

C. Allison Russo

Sworn to before me and subscribed in my presence this 2nd day of March, 2022.

Notary Public

NOTARIAL SEAL
STATE OF OHIO

Charles Benjamin Cooper, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Exhibit A
to Affidavit of
Respondent C. Allison Russo

Ohio Association Of Election Officials
The Election Professionals

February 28, 2022

The Honorable Matt Huffman
Statehouse
Columbus, OH 43215
VIA ELECTRONIC MAIL

Dear President Huffman:

We want to thank you for the continued dialogue regarding the 2022 primary election and your thoughtful approach to considering the options before the legislature. As indicated in our last correspondence, we wish to continue to share our perspective with you and your members as you work through these options.

OAEO is in receipt of the letter dated February 22nd from Secretary LaRose to your office as well as the accompanying letter from Attorney General Yost. The letters point out concerns that are being vigorously discussed by local election officials. We urge you to give due consideration to the issues they raise.

There is a saying among election officials that "It takes three things to run a successful election: time, money and people. You can always get more money and more people, but you can't get more time." This saying looms large for Ohio's 88 boards of elections right now. Although we would be grateful to have additional money to hire more people to complete the myriad tasks before us, what we really need is more time. And only you, as legislators, can help us with that.

We just received state legislative maps on Saturday and still do not have the legal descriptions, which are necessary for boards of elections to begin implementing the new districts. (District maps closely approximate the actual districts, but they do not correspond exactly to the legal descriptions.) Moreover, these maps are subject to further proceedings in the Ohio Supreme Court, the result of which likely will not be known until next week. Congressional maps are still being debated by the Commission and must be completed before election officials can begin our internal process of redrawing district lines and assigning voters to those districts. Given these facts, our ability to administer a fair and accurate election has been compromised. Critical functions such as ballot proofing and testing of equipment will necessarily be delayed and then rushed. The result will likely be mistakes in the election. This is not how we want to do business, but it is the only option currently left open to us. This confluence of circumstances causes grave concerns on the part of election officials. As the ultimate arbiter of the time, manner and place of elections in Ohio, the General Assembly should be concerned as well.

Many counties around the state no longer have the ability to run a successful May 3rd election, and more counties lose that ability each day that we do not have final maps and the legal descriptions we need to implement them. Although HB 93 gave the Secretary of State needed flexibility to move state election deadlines, no one in Ohio can change the federal deadline to mail ballots to our military and overseas voters on March 18th. We are aware that the Secretary of State has requested a waiver of this deadline,

but as election officials we cannot count on that occurring as we do our internal planning. Missing this deadline will inevitably lead to litigation and additional confusion for voters, election boards, and the candidates seeking office this spring.

Rather than face this seeming inevitability, we ask you to consider delaying the May 3rd primary for all contests. Please rest assured that we do not ask this lightly. Our strong preference has always been to hold the election on the day it was originally scheduled. However, we feel obligated to share our concerns about the consequences of maintaining our current course.

Again, we greatly appreciate the ability to share our thoughts with you. As Ohio's election professionals, we are happy to provide any additional information you or your colleagues may require.

Sincerely and respectfully,

Brian Sleeth

Brian Sleeth, President
Ohio Association of Election Officials

Sherry Poland

Sherry Poland, First Vice-President
Ohio Association of Election Officials

CC: Speaker Bob Cupp
Minority Leader Allison Russo
Minority Leader Kenny Yuko
Secretary of State Frank LaRose

Exhibit B
to Affidavit of
Respondent C. Allison Russo

Cherry, Sarah

Subject: FW: Hamilton County Board of Elections - Candidate Notification
Attachments: Form 2-ZA-Addendum to Declaration of Candidacy, Nominating Petition, or Declaration of Intent to be a Write-in Candidate.pdf

---------- Forwarded message ---------
From: **McFarland, Lynn** <lynn.mcfarland@boe.hamiltoncountyohio.gov>
Date: Mon, Feb 28, 2022 at 3:48 PM
Subject: Hamilton County Board of Elections - Candidate Notification
To: jessicaforohio@gmail.com <jessicaforohio@gmail.com>
CC: Poland, Sherry <Sherry.Poland@boe.hamiltoncountyohio.gov>, Linser, Alex <alex.linser@boe.hamiltoncountyohio.gov>, McDaniel, Karen <Karen.McDaniel@boe.hamiltoncountyohio.gov>

Dear Ms. Miranda,

On February 24, the Ohio Redistricting Commission passed new district lines for the Ohio General Assembly. The Ohio Secretary of State has directed county Boards of Elections to place candidates for the Ohio House of Representatives, State Senate, and State Central Committee on the ballot in the district in which the candidate resides. Based on the Declaration of Candidacy you filed with our office, you reside in the

28th OHIO HOUSE DISTRICT. Pursuant to the Article XI, Section 9(C) of the Ohio Constitution, candidates have 30 days from the passage of the new district lines in which to change their residence. If you intend to change your residence and run in a different district, you must submit Secretary of State Form 2-ZA (attached) to the Board of Elections **no later than 4:00pm on March 10, 2022**. You will have until March 26, 2022 to move into the new district.

Sherry Poland

Director

(513) 632-7077

Alexander Linser

Deputy Director

(513) 632-7011

Board of Elections

Hamilton County Ohio

4700 Smith Road

Cincinnati OH 45212-9002

votehamiltoncountyohio.gov

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Jessica E. Miranda
State Representative
Ohio House District 28
Www.jessicaforohio.com

Form No. 2-ZA Prescribed by the Ohio Secretary of State (02-22)

Addendum to Declaration of Candidacy, Nominating Petition, or Declaration of Intent to be a Write-in Candidate

For District Office

For State Senator or State Representative

To be filed with the Board of Elections of the most populous county or part county of the district not later than 4 p.m. on March 10, 2022.

Addendum to Filing

I _____, the undersigned, hereby declare under penalty of election falsification that
Name of Candidate

(Select and complete one of the options below)

Option A

☐ **I currently reside in the district of the office in which I seek to represent.**

Option B

☐ **I do not currently reside in the district of the office in which I seek to represent and I intend to move into district _____ (insert district number) by March 26, 2022.**

By signing this addendum I affirm that I understand to be a valid candidate for the district office I seek, I must move into the district I seek to represent and file a change of address form with the appropriate board of elections by March 26, 2022.

I further declare that I desire to be a candidate for nomination to the office of _____
Office

as a member of the _____ Party from the _____ District.
Political Party District Number

Dated this _____ day of _____, _____. _____
Day Month Year **Signature of Candidate**

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Cherry, Sarah

Subject: FW: IMPORTANT - May 3, 2022 primary - ballot access
Attachments: Form 2-ZA-Addendum to Declaration of Candidacy, Nominating Petition, or Declaration of Intent to be a Write-in Candidate.pdf; Directive 2022-26 - State House and Senate District Maps and House Bill ("H.B." 93).pdf

From: Brent Lawler <blawler@cuyahogacounty.gov>
Date: February 28, 2022 at 1:20:00 PM EST
To: Brent Lawler <blawler@cuyahogacounty.gov>
Cc: Cory Milne <cmilne@cuyahogacounty.gov>, "Anthony W. Perlatti" <aperlatti@cuyahogacounty.gov>
Subject: IMPORTANT - May 3, 2022 primary - ballot access

Dear State Senate and State Representative candidates:

On Saturday, February 26, 2022, the Ohio Secretary of State provided all Board of Elections with *Directive 2022-26 "State House and Senate District maps and House Bill 93" (attached)* instructing the Board of Elections to include the State Senate and State House contests on the May 3, 2022, Primary Election.

Section 4(C) of H.B. 93 implements the broad constitutional provision in Article XI, Section 9(C) by requiring any such candidate to:

(1) Become a resident of the district the filer seeks to represent;
(2) File an addendum to the declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate with the board of elections that indicates the filer's new address; and
(3) Update their voter registration record to reflect their new residency.

The purpose of this email is to inform you of this constitutional provision and request of each of you to complete the attached SOS Form No. 2-ZA Addendum to District Office for State Senator or State Representative.

To determine the district you reside in under the current district plan passed on 2/24/22, please visit the Ohio Secretary of State's website at https://findmydistrict.ohiosos.gov/.

We request you return this completed form to us, via email, by 4:00 p.m. on March 10, 2022. If you do not return this form by this deadline, the Board of Elections will deem the correct District number of your contest as well as verify the signatures on your petition, based on your residence as stated in the Declaration of Candidacy or write-in form.

Regards,
Brent

Brent E. Lawler, Manager
Candidate & Petition Services

Cuyahoga County Board of Elections
2925 Euclid Avenue
Cleveland, OH 44115-2497
Phone: 216.443.6509
Fax: 216.443.6466
Email: blawler@cuyahogacounty.gov

Form No. 2-ZA Prescribed by the Ohio Secretary of State (02-22)

Addendum to Declaration of Candidacy, Nominating Petition, or Declaration of Intent to be a Write-in Candidate

For District Office

For State Senator or State Representative

To be filed with the Board of Elections of the most populous county or part county of the district not later than 4 p.m. on March 10, 2022.

Addendum to Filing

I _____, the undersigned, hereby declare under penalty of election falsification that
Name of Candidate

(Select and complete one of the options below)

Option A

☐ **I currently reside in the district of the office in which I seek to represent.**

Option B

☐ **I do not currently reside in the district of the office in which I seek to represent and I intend to move into district _____ (insert district number) by March 26, 2022.**

By signing this addendum I affirm that I understand to be a valid candidate for the district office I seek, I must move into the district I seek to represent and file a change of address form with the appropriate board of elections by March 26, 2022.

I further declare that I desire to be a candidate for nomination to the office of _____
Office

as a member of the _____ Party from the _____ District.
Political Party District Number

Dated this _____ day of _____, _____. _____
Day Month Year **Signature of Candidate**

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Frank LaRose
Ohio Secretary of State

DIRECTIVE 2022-26
February 26, 2022

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

Re: State House and Senate District Maps and House Bill ("H.B." 93)

I recognize the unprecedented nature of this Directive and the incredible challenge it presents to each of our 88 county boards of elections. The General Assembly has the legal authority to set the time, place, and manner of Ohio's elections, and they have made clear their instructions to include the state House and Senate contests on the May 3, 2022 Primary Election ballot. Senate President Matt Huffman and House Speaker Robert Cupp sent a letter to me on Thursday, February 24, 2022 stating the following:

> *"…We are providing your office with the underlying information for the newly adopted plan, including the shape files.*
>
> *"Please immediately transmit the relevant information to all the state's boards of elections as you deem appropriate so that the necessary preparations may be made for carrying out the primary election on May 3rd, 2022."*

I have communicated to the legislative leaders the risks associated with rushing this process and shared your concerns about the compressed timeline for everything from candidate certification and ballot preparation to the programming and testing of voting equipment. These are serious concerns, but our directive is clear, and I am confident that, together, we will work tirelessly to achieve it. Winston Churchill said, "It's not enough that we do our best; sometimes we have to do what's required." We have the hardest-working elections officials in the nation, and you are known for doing your best. This one requires more. Beyond doing our best, we will need unprecedented courage, optimism, and maybe a little divine blessing to get it done. I told the leaders of our General Assembly that we will do everything we can to rise to their challenge. As it relates to conducting this unprecedented election, I reminded them that our State's motto is: "With God all things are possible."

SUMMARY

On February 24, 2022, the Ohio Redistricting Commission passed (4-3) a third General Assembly district map. Attached to this Directive are the following:

- House Shapefile;
- Senate Shapefile;
- State House and Senate Equivalency Files (otherwise known as BAFs or block assignment files);
- Addendum to Declaration of Candidacy, Nominating Petition or Declaration of Intent to be a Write-in Candidate;
- State House District – County Population and Filing Location – September 2021;

- State House District – County Population and Filing Location – January 22, 2022;
- State House District – County Population and Filing Location – February 24, 2022;
- State Senate District – County Population and Filing Location – September 2021;
- State Senate District – County Population and Filing Location – January 22, 2022;
- State Senate District – County Population and Filing Location – February 24, 2022;
- U.S. House District – County Population and Filing Location –S.B. 258; and
- Letter from Senate President Huffman and House Speaker Cupp to Secretary LaRose, February 24, 2022.

Governor DeWine signed H.B. 93 into law on January 28, 2022 enacting many temporary law changes to the requirements for the 2022 primary election. Ultimately, the Ohio Redistricting Commission needed to adopt a new district plan a few weeks later. This Directive provides guidance on how to apply the temporary law provisions from H.B. 93 to the third set of General Assembly district maps. Please know that my Office is actively working with the General Assembly to develop additional temporary law changes to account for this incredibly compressed timeline, including providing additional funding for the county boards of elections. My Office has also filed with the Department of Defense and Federal Voter Assistance Program a UOCAVA waiver pursuant to 52 U.S.C. 20302(g) for the May 3, 2022 Primary Election.

Additionally, decisions in ongoing litigation[1] may render some or all of this Directive moot. In that event, my Office will issue additional instruction. As you know, the redistricting process has been the subject of much litigation. This Directive is not contrary to any order of the Ohio Supreme Court, nor should it be construed as such. This new General Assembly district plan adopted by the Ohio Redistricting Commission was filed with my office and is presumed valid. If there is additional litigation over this new district plan, the outcome of that litigation will be that the new plan is either valid or invalid. Because of the severe time constraints under which we are operating to hold Ohio House and Ohio Senate primary races with the May 3, 2022 Primary Election, we must begin preparations for those elections immediately in the anticipation that the Court will uphold the new plan. Obviously, if a few weeks from now the Court rules that the new plan is invalid, it will not be possible to conduct Ohio House and Ohio Senate primary elections with the May 3, 2022 Primary Election.

The Ohio Supreme Court issued a briefing schedule requiring that objections, if any, to the General Assembly maps submitted on February 25, 2022 by the Ohio Redistricting Commission be filed by 9 a.m. on Monday, February 28, 2022 and granted the Commission three days (Thursday, March 3, 2022) after the objections are filed to respond.

INSTRUCTIONS

I. FEBRUARY 24, 2022 GENERAL ASSEMBLY DISTRICT MAP AND LEGAL DESCRIPTIONS

On February 24, 2022, the Ohio Redistricting Commission passed a General Assembly district plan. Shortly thereafter, Senate President Matt Huffman and House Speaker Bob Cupp sent a letter

[1] *Simon, et al. v. DeWine*, et. al, N.D. Ohio No. 4:21-cv-02267-JRA, *League of Women Voters of Ohio v. Ohio Redistricting Comm*., Slip Opinion No. 2022-Ohio-65, and *Adams v. DeWine*, Slip Opinion No. 2022-Ohio-89.

directing me to immediately transmit the relevant information to all boards of elections "so that the necessary preparations may be made for carrying out the primary election on May 3, 2022."[2]

As such, given the incredibly unfortunate impact that redistricting litigation has had on the election calendar and our ability to administer an election in a manner that will inevitably lead to the best chances of success, all boards must immediately begin the process of reprogramming their voter registration systems with the February 24, 2022 General Assembly district maps.

The State House and Senate district shapefiles, and equivalency files accompany this Directive. My Office is waiting for the House and Senate legal descriptions from the General Assembly. We will forward those to you as soon as we receive them. However, boards and members of the public may find the most updated district maps at OhioSoS.gov/Districts.

Boards cannot verify or certify candidate petitions until the reprogramming of the voter registration system is complete. Whenever an area included in a district is less than a county, the legal description is a political subdivision, such as city, village, township, municipal ward, or precinct and portions thereof. The descriptions are based on boundaries as they existed when the data was collected by Ohio University. If the board of elections changed precinct boundaries or if there were municipal ward boundary changes or annexations in the past year, the board needs to consider that the new assignments were made based on previous data. For example, if the board combined Precinct A and C into a new Precinct A, and Precinct A is listed in the legal description, then it is referring to the old Precinct A portion of the new Precinct A.

II. 2022 PRIMARY ELECTION DEADLINES

Pursuant to H.B. 93, the 2022 primary election filing deadline was **February 2, 2022** for all candidates *other* than those for U.S. House.

H.B. 93 also permits the Secretary of State to adjust deadlines pertaining to the administration of the May 3, 2022 primary election *except* for the following: [3]

- The deadline to file a declaration of candidacy, declaration of candidacy and petition, or declaration of intent to be a write-in candidate;
- The deadline to certify a ballot issue or question to the election officials or to file a petition with the election officials to place a question or issue on the ballot at the May 3, 2022 primary election or a special election on that date;
- The UOCAVA deadline Unless the Secretary of State obtains a waiver pursuant to 52 U.S.C. 20302(g) for the May 3, 2022 primary election; and
- Any deadline that, under Ohio law, falls on or after April 3, 2022.

The Secretary submitted a UOCAVA waiver request to the Department of Defense and Federal Voting Assistance Program. We will keep you informed on the outcome of that request.

Therefore, the certification and protest deadline for candidates to the offices of Ohio House of Representatives ("Ohio House"), Ohio Senate, and state central committee of a political party shall be as follows:

[2] *See* Letter from Senate President Matt Huffman and House Speaker Bob Cupp to Secretary LaRose, February 24, 2022.
[3] Section 4(C) of H.B. 93.

- **Monday, March 14, 2022 –** Most populous county board of elections or board of elections must certify the validity and sufficiency of partisan candidate petitions and provide the names of the certified candidates to the less populous county board(s) of elections in the district, subject to any filers changing districts and completing their move by March 26, 2022. Boards cannot verify or certify candidate petitions until the reprogramming of the voter registration system is complete.
- **Thursday, March 17, 2022 –** Protests against partisan candidates for Ohio House, Ohio Senate, and state central committee of a political party (including write-in candidates) must be filed with the most populous county board of elections by 4:00 p.m.

Each board must be open to the public on Saturday, March 26, 2022, and must notify my Office no later than 4:00 p.m. on March 26, 2022 if a candidate for General Assembly, as of that date, has not become a resident of the district the filer seeks to represent, filed an addendum, and updated their voter registration record to reflect their new residency. My Office will issue a form of the ballot directive as soon as possible. Pending the outcome of the ongoing litigation mentioned above, the Secretary may establish or amend other deadlines and dates related to the administration of the May 3, 2022 primary election.

III. OHIO HOUSE AND SENATE CANDIDATES

A. DECLARATION OF CANDIDACY, PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

i. REQUIREMENTS FOR FILING VALIDITY AND IDENTIFYING DISTRICTS

For candidates for Ohio House and Ohio Senate, boards are prohibited from invalidating a declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate on the basis that it does not include the number of the district the filer seeks to represent or includes an incorrect district number.[4] The appropriate document filed by the candidate shall be deemed to include the correct number of the applicable House or Senate district in which the filer (i.e. the candidate filing to run) for Ohio House or Ohio Senate currently resides.[5]

On February 24, 2022, in conjunction with the Ohio Redistricting Commission's adoption of the new General Assembly district plan on February 24, 2022, the Commission approved a motion that I made to authorize me to issue to the boards of election directives by which House and Senate candidates who have filed to run shall comply with Article XI, Section 9(C), if any candidates wish to do so.

This statement made it clear that I have the responsibility to reasonably interpret the law to administer an election under such unprecedented time constraints. In the alternative, Section 9(C) of Article XI of the Ohio Constitution provides that when the Ohio Redistricting Committee adopts a new district plan pursuant to an order of the Ohio Supreme Court, as is currently the case, a candidate is allowed up to 30 days to change their residence to be eligible for election in a district in which the candidate may not currently reside. As such, boards are prohibited from invalidating a declaration of

[4] Section 4(B) of H.B. 93.
[5] Section 4(B) of H.B. 93.

candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate filed by a person seeking nomination for Ohio House or Ohio Senate on the basis that it contains the filer's former residence address that is ***not*** located in the district the filer seeks to represent.

Section 4(C) of H.B. 93 implements the broad constitutional provision in Article XI, Section 9(C) by requiring any such candidate to:

(1) Become a resident of the district the filer seeks to represent;
(2) File an addendum to the declaration of candidacy declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate with the board of elections that indicates the filer's new address; and
(3) Update their voter registration record to reflect their new residency.

The Redistricting Commission adopted the present General Assembly district plan on February 24, 2022. Thus, the 30-day period provided for by Article XI, Section 9(C) ends on March 26. 2022. The constitutional provision simply says that the new district plan "shall allow thirty days for persons to change residence in order to be eligible for election." Thus, Section 9(C)'s irreducible minimum is that any such candidate must be given 30 days to change their residence to run in another district.

While Section 4(C) of H.B. 93 attempts to implement Article XI, Section 9(C) by stating the three requirements that a candidate must undertake to qualify under Section 9(C) to run in another district, I am interpreting Section 4(C) of H.B. 93 to mean that as long as we allow any such candidate the constitutionally required 30 days to change their residence, which we are, the constitutional requirement is satisfied.

Thus, the requirement in Section 4(C)(1)(b) of filing the addendum indicating an intention to run in another district can be done as the first step in the process, not the second step. Once a candidate files the addendum with the board stating their intention to be a candidate in another district, the candidate may later perfect their residency in the new district and change their voter registration to the new district within the remainder of the 30-day period.

Thus, I am instructing all boards of election with which an Ohio House or Ohio Senate candidate filed petitions to immediately:

(1) Contact all such candidates by phone and/or email, inform them of this constitutional provision, and inquire of each of them whether they intend to change their residence to run in another district and confirm such contact with any candidate by **March 1, 2022.**
(2) Ask all such House and Senate candidates who may wish to change their residence to run in another district to file the addendum contemplated by Section 4(C)(1)(b) of H.B. 93 with the board the no later than **4:00 p.m. on March 10, 2022.**
(3) Provide all such House and Senate candidates with the attached template of the addendum contemplated by Section 4(C)(1)(b) of H.B. 93. The attached addendum template includes not only a space for the filer's new residence address, but in lieu of an actual new residence address, the template alternatively includes space in which the filer may simply state an indication of the filer's intent to change their residence to a new district the filer seeks to represent.

(4) If a candidate files the addendum with the board, then on whatever date a candidate files the addendum with the board, whether that addendum lists a new residence address or simply states the filer's intention to change their residence to a new district the filer seeks to represent, the board shall immediately begin to verify the signatures on the filer's petition under this section based on either the filer's new residence address or the new district the filer has indicated they now seek to represent.
(5) If a candidate who has filed with the board has not filed the addendum with the board by **4:00 p.m. on March 10, 2022**, the board shall begin to verify the signatures on the filer's petition under this section based on the filer's residence address as stated in their declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate.
(6) Notify my Office no later than **4:00 p.m. on March 26, 2022** if a candidate for General Assembly, as of that date, has not become a resident of the district the filer seeks to represent, filed an addendum, and updated their voter registration record to reflect their new residency.

However, even if a candidate files the addendum with a board of elections, the board must invalidate an Ohio House or Ohio Senate declaration of candidacy declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate if the filer ***does not*** take **all** three actions required in Section 4(C) of H.B. 93 on or before **March 26, 2022.**

ii. REQUIREMENTS FOR SIGNATURE VALIDITY

Boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for Ohio House or Ohio Senate on the ground that the signer does not reside in the *new* district the filer seeks to represent (i.e., per the plan the Ohio Redistricting Commission adopted on February 24, 2022) so long as:

(1) The House or Senate district in which the filer resided under the General Assembly district plan adopted by the Ohio Redistricting Commission in September 2021 had territory in the county in which the signer resides; **and**
(2) The *new* House or Senate district the filer seeks to represent has territory in the county in which the signer resides.[6]

Attached with this Directive is a list of counties within each district under the General Assembly district plan adopted by the Ohio Redistricting Commission in September 2021 and a list of counties within each district under the General Assembly district plan adopted by the Ohio Redistricting Commission on February 24, 2022.

Moreover, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for Ohio House or Ohio Senate on the ground that the signature was signed before a district plan for Ohio House of Representatives was adopted or enacted or took effect, provided that a signature on a nominating petition is not valid if it is dated more than one year before the date the nominating petition is filed.[7]

[6] Section 4(D)(2)-(3) of H.B. 93.
[7] Section 4(F) of H.B. 93.

IV. CANDIDATE FOR STATE CENTRAL COMMITTEE OF A POLITICAL PARTY

A. DECLARATION OF CANDIDACY, PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

i. REQUIREMENTS FOR FILING VALIDITY AND IDENTIFYING DISTRICTS

Boards are prohibited from invalidating a declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate filed by a person seeking nomination for the state central committee of a political party on the basis that is does not include the number of the district the filer seeks to represent or that it includes an incorrect district number. If the filer seeks nomination for the office of the state central committee of a political party, the document shall be deemed to include the number of the applicable district in which the filer resides.[8]

ii. REQUIREMENTS FOR SIGNATURE VALIDITY

Boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for the office of state central committee of a political party on the ground that the signature was signed before a district plan of the applicable type was adopted or enacted or took effect, provided that a signature on a nominating petition is not valid if it is dated more than one year before the date the nominating petition is filed.[9]

a. SENATE DISTRICTS

If the state central committee of a political party representation is based on Senate districts, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for the office of state central committee of a political party on the ground that the signer does not reside in the district the filer seeks to represent so long as the filer seeks nomination for the office of member of the state central committee of a political party to represent a Senate district and:

(1) The Senate district in which the filer resided under the General Assembly district plan adopted by the Ohio Redistricting Commission in September 2021 had territory in the county in which the signer resides; **and**

(2) The *new* Senate district the filer seeks to represent has territory in the county in which the signer resides.[10]

[8] Section 4(B) of H.B. 93.
[9] Section 4(F) of H.B. 93.
[10] Section 4(D)(5) of H.B. 93.

V. TRANSFER OF DECLARATION OF CANDIDACY, DECLARATION OF CANDIDACY AND PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

Please review Directive 2022-03 and the following instruction set forth below.

A. GENERAL ASSEMBLY AND STATE CENTRAL COMMITTEE PETITIONS

As you know, the filing deadline for General Assembly declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate was February 2, 2022 with the most populous county board of elections pursuant to the January 22, 2022 Ohio Redistricting Commission maps. The Ohio Supreme Court invalidated those maps on February 7, 2022. The Ohio Redistricting Commission passed new Ohio House and Senate maps on February 24, 2022. As such, the most populous county may have changed. If a candidate *properly* filed their declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate properly in the most populous county board of elections under the January 22, 2022 map by February 2, 2022, then the board of elections is required to promptly transfer that declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate to the new most populous county board of elections pursuant to Section 4(E) of H.B. 93.

B. U.S. HOUSE PETITIONS

Conversely, the Ohio Redistricting Commission has not passed congressional district maps. District maps may not exist prior to the March 4, 2022 filing deadline for congressional candidates. If new congressional district maps do not exist prior to the March 4, 2022 filing deadline and a candidate has not yet filed their petition, those candidates for U.S. House must file in the most populous board of elections pursuant to the district maps set forth in S.B. 258. That list is attached.

If the Ohio Redistricting Commission passes a new congressional district map prior to the March 4, 2022 filing deadline, and a candidate has not yet filed their petition, that candidate should file their petition with the most populous county under the new district map.

However, if a candidate has already properly filed their petition prior to the Ohio Redistricting Commission passing a new map but prior to the filing deadline with the most populous county board of elections pursuant to S.B. 258, and the most populous county board of elections has changed under the new congressional district map, that board of elections must transfer that filing to the new most populous county board of elections pursuant to the new map.

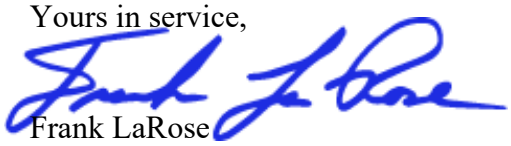
If the Ohio Redistricting Commission does pass a new congressional district map following March 4, 2022, and the most populous county changed, the board of elections that the declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate was filed in must transfer that filing to the new most populous county board of elections pursuant to the new map.

If the General Assembly makes any changes to the election administrative procedures in temporary law, my Office will issue guidance as soon as possible.

Each board of elections director must share this Directive with its legal counsel, the county prosecuting attorney, and voter registration system and voting system vendors as soon as possible. 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