



## **DIRECTIVE 2022-37**

June 26, 2022

To: Fairfield, Franklin, Licking, Montgomery, and Perry County Boards of Elections  
Board Members, Directors, and Deputy Directors

Re: Court Order Impacting the August 2, 2022 Primary Election for Fairfield, Franklin,  
Licking, Montgomery, and Perry County Boards of Elections

### **SUMMARY**

On June 24, 2022, a narrow majority of the Supreme Court of Ohio made an unprecedented and untimely decision to intervene in an election in which voting had already begun. While this decision is disruptive to the process of election administration and no doubt confusing to the impacted voters, our job as election officials is to minimize the chaos caused by this order. This Directive provides new guidance intended to meet that objective.

The Court's ruling requires the five county boards of elections to review six candidates' petitions and declarations of intent to be write-in candidates, all six of whom were parties to the lawsuit. The Court ordered "Secretary of State Frank LaRose, the Franklin County Board of Elections, the Montgomery County Board of Elections, and the Licking County Board of Elections to accept the declarations of candidacy and petitions of William DeMora, Anita Somani, Elizabeth Thien, Leronda Jackson, Bridgette Tupes, and Gary Martin as timely and to certify them to the ballot if they otherwise qualify."<sup>1</sup> The *DeMora* litigation applies only to these individuals and impacts the following counties: Fairfield, Franklin, Licking, Montgomery, and Perry. Therefore, boards of elections that are parties to the *DeMora* litigation must amend their ballots for the August 2, 2022 Primary Election for the offices of State Representative, State Senator, and Member of State Central Committee to account for their determination on those candidates' declarations of candidacies and petitions. This Directive supersedes any provision in a prior Directive that may conflict with this Directive.

### **INSTRUCTIONS**

#### **I. PETITION VERIFICATION AND CERTIFICATION**

The Supreme Court's order requires the boards of elections of Fairfield, Franklin, Licking, Montgomery, and Perry Counties to follow normal procedures for the verification of the validity of the plaintiffs' declarations of candidacy and declarations of intent to be write-in candidates, whichever is applicable. For verification of signatures on the declarations of candidacy, not later than **12:00 p.m. on Monday, June 27, 2022**, the board of elections of the most populous county for each district must (1) scan the part-petitions for each less populous county; and (2) provide the

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<sup>1</sup> *State ex rel. DeMora, et al. v. LaRose*, Case No. 2022-0661.

less populous county an electronic image of the part-petitions from their respective county. The less populous county must then determine the validity of signatures purported to be from voters registered in their county. All other matters affecting the validity or invalidity of the petition papers are determined by the board with whom the petition papers were filed.

Upon receipt of the part-petitions, the less populous county must immediately begin verifying signatures, electronically recording decisions on the validity or invalidity of each signature on the voter registration record, tracking for duplicate signatures, and ensuring that the voter registration record is updated with voter activity credit if the signature and address match.<sup>2</sup>

Not later than **12:00 p.m. on Thursday, June 30, 2022**, the less populous county must do all of the following:

1. Print the scanned images they received from the most populous county;
2. Determine the validity or invalidity of the signatures and circulator statements for the part-petitions;
3. Scan the examined part-petitions for each candidate; and
4. Email the most populous county (1) the number of valid signatures for each candidate; and (2) the scanned images of the part-petitions.

The less populous county must, under proper regulations, make the part-petitions that the less populous county scanned and electronically returned to the most populous county available for public inspection until **4:00 p.m. on Thursday, June 30, 2022**.<sup>3</sup> The most populous county for each plaintiff must hold a meeting to certify or reject the declarations of candidacy or declaration of intent to be a write-in candidate for the August 2, 2022 Primary Election not later than **9:00 p.m. on Thursday, June 30, 2022**.

## **II. PROTESTS AND FINAL BALLOT PREPARATIONS**

Protests filed against the candidates subject to the Supreme Court's order must be filed no later than **12:00 p.m. on Friday, July 1, 2022**.<sup>4</sup> Protest hearings must be held and decided not later than **9:00 p.m. on Tuesday July 5, 2022**.

Immediately upon resolving all protests filed, the board of elections of the most populous county must email a written notice of the appropriate candidate names and political parties to the board of elections of each less populous county within the district. Each board of elections of a less populous county must send an electronic proof of its updated ballots with the overlapping contest to the most populous county not later than **10:00 a.m. on Wednesday, July 6, 2022**. The board of elections of the most populous county must email confirmation or required revisions as

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<sup>2</sup> As a reminder, voter-initiated activity includes voting, submitting a valid absentee ballot application, registering to vote, updating, or confirming an address with a board of elections or the BMV, or signing a candidate or issue petition that is verified by a board of elections. After verification of part-petitions, only voters with a valid signature should be provided voter-initiated activity. See [Chapter 4](#), page 74 of the Election Official Manual.

<sup>3</sup> [R.C. 3513.05](#).

<sup>4</sup> R.C. 3513.05 states that protests must be filed by the 74<sup>th</sup> day prior to an election. However, because of the court ordered acceptance of these candidates' petitions and declarations, and possible placement on the ballot, this Office is ordering an amended and expedited timeline for protests as well.

soon as possible after receiving the proof, but not later than **2:00 p.m. on Wednesday, July 6, 2022.**<sup>5</sup> Unfortunately, due to the timing of the Supreme Court’s decision, early in-person voting may continue while some ballot styles are changing. Boards must perform logic and accuracy testing for the new ballots in a way that does not interfere with early in-person voting.

### **III. SUPPLEMENTAL UOCAVA BALLOTS**

The Supreme Court’s order comes after voting began for UOCAVA voters. Therefore, UOCAVA voters from Fairfield, Franklin, Licking, Montgomery, or Perry County with a ballot that is impacted by this litigation may need to receive a supplemental ballot. The boards from the impacted counties must do all of the following for in-progress UOCAVA voting:

- (1) If the UOCAVA voter requests a ballot that is ***not*** impacted by the litigation, transmit the ballot to the voter as soon as possible.
- (2) Create a supplemental ballot that amends the contest impacted by the litigation. The supplemental ballot **must contain all eligible candidates** for that particular election, in addition to the other contests and questions and issues on the ballot for the August 2, 2022 Primary/Special Election. These supplemental ballots must be provided to voters as soon as they are prepared and ready.
- (3) Send the UOCAVA voter the supplemental ballot in the same way that was initially requested. For example, if the voter initially requested the ballot to be sent via email, the Board must email the supplemental ballot. Along with the ballot, the Board must include an explanation of the circumstances which lead to the supplemental ballot and that the voter may cast this supplemental ballot without fear of prosecution. A template for the notice to UOCAVA voters that must be included with the supplemental ballot accompanies this Directive. This template should be printed on county/board letterhead. If the UOCAVA voter did not receive an original ballot and will only receive a supplemental ballot, the template notice is not required.
- (4) Boards must segregate the ballots for any UOCAVA voters who received a ballot that was impacted by this litigation. The board must not remake or scan any UOCAVA ballots until the 11th day after the election.<sup>6</sup> These ballots must be kept separate in the event a voter returns their supplemental ballot prior to the deadline for returning a UOCAVA ballot.
- (5) As part of the Official Canvass remake process, if a UOCAVA voter returned a supplemental ballot, the voter’s supplemental ballot should be used in place of the original ballot. If the voter did not return a supplemental ballot, the board of elections must ensure that the original ballot the voter returned counts if otherwise valid.

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<sup>5</sup> The Court Order requires a compressed timeline of the process outlined [Chapter 5, Section 5.05](#) of the Election Official Manual.

<sup>6</sup> [R.C. 3511.11](#).

**IV. BOARD WEBSITES AND FEDERAL WRITE-IN ABSENTEE VOTERS (“FWAB”) NOTICE**

Boards of elections in Fairfield, Franklin, Licking, Montgomery, and Perry County must prominently display notice on their website and specifically in their Voter Information Lookup that states, “On June 24, 2022, the Supreme Court of Ohio issued a court order which permitted additional candidates to appear on the ballot for the August 2, 2022 Primary Election. Therefore, additional candidates may be added to the ballot. Once candidate petition verification and certification is complete, candidate lists will be updated.”

**V. UPDATED ABSENTEE BALLOT SUBMISSION**

Boards of elections in Fairfield, Franklin, Licking, Montgomery, and Perry County must send a copy of each updated absentee ballot style (including candidates and questions and issues) to the Secretary of State’s Office by **Friday, July 8, 2022**. Absentee ballots must be uploaded to the SharePoint site.<sup>7</sup>

**VI. EARLY IN-PERSON VOTING**

Boards must have ballots ready for early in-person absentee voting on **Wednesday, July 6, 2022**. Boards that do not have scannable ballots at the start of early in-person voting may need to print images of ballots, then remake and tabulate the ballots for the unofficial canvass.

**VII. ABSENTEE BALLOT OUTSOURCING**

Boards of elections in Fairfield, Franklin, Licking, Montgomery, and Perry County that are outsourcing the printing and mailing of absentee ballots must immediately contact their vendor and inform them that due to the Supreme Court’s order, the ballots must be updated. They must not send a ballot to a voter when the ballot is missing candidates due to the Supreme Court’s order. Boards must work with their vendor to ensure that the vendor is able to provide ballots in a timely manner to all voters, despite the late hour of the Supreme Court’s order. Each board of elections director must share this Directive with its legal counsel, the county prosecuting attorney, and its voter registration system and voting equipment 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

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<sup>7</sup> The Court Order requires a compressed timeline of the process outlined [Chapter 5, Section 5.04](#) of the Election Official Manual.