

**IN THE SUPREME COURT OF OHIO**

**STATE OF OHIO EX REL.  
PATRICK M. DUNN, ET AL.,**

Relators,

vs.

**PLAIN LOCAL SCHOOL DISTRICT  
BOARD OF EDUCATION, ET AL.,**

Respondents.

**CASE NO. 2020-0094**

**Original Action in Mandamus**

**Expedited Elections Matter  
Pursuant to S.Ct.Prac.R. 12.08**

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**RELATORS' REPLY BRIEF**

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## I. INTRODUCTION

Plain Local School District Board of Education (“Plain Local BOE”) had a clear legal duty to act beginning October 29, 2019, the date it received Relators’ petition to transfer from the Plain Local School District to the Jackson Local School District (the “Petition”). Instead, it unilaterally determined R.C. 3311.242 (the “Transfer Statute”) is unconstitutional and unenforceable and tabled the Petition indefinitely. As a result, Relators find themselves in this position.

Due to Relators’ extreme diligence and promptness, this matter is now before this Court and ripe for this Court’s decision as the Stark County Board of Elections (the “Board of Elections”) has verified and certified the Petition was signed by a sufficient number of qualified electors.

As this Court already determined, Plain Local BOE had no discretion to disregard its ripe, clear legal duty to certify the proposal for the March 17, 2020 primary election ballot. As a result, this Court has the authority to fashion Relators’ requested mandamus relief and order the Petition (now the “Proposal”) be placed on the March 17, 2020 primary election ballot. Due to their being ample time (49 days) prior to the primary election, the Stark County Board of Elections will not be prejudiced.

## II. STATEMENT OF FACTS

Based on Plain Local BOE’s refusal to follow its mandatory, ministerial duties under the Transfer Statute, this process has been anything but “fast.” Every step of the way, Plain Local BOE has caused delay and now has forced the filing of another mandamus action. Plain Local BOE’s iteration of the facts conveniently fails to mention material dates and instead focuses on its actions after this Court’s decision in *State ex rel. Dunn*, Slip Opinion No. 2020-

Ohio-40, to support its argument that it is in “strict compliance” with the Transfer Statute. However, from the day Plain Local BOE received Relators’ Petition on October 29, 2019, Plain Local BOE failed to timely and wholly comply with its mandatory, ministerial duties under the Transfer Statute. It is because of Plain Local BOE’s delay that the December 18, 2019 submission deadline has passed. It is because of Plain Local BOE’s refusal to comply with its mandatory, ministerial duties that the Village of Hills and Dales (“Hills and Dales”) and Relators have filed multiple mandamus actions with this Court against Plain Local BOE, and now also the Board of Elections. And now, Plain Local BOE seeks to have its unwarranted actions and inactions be used as an excuse for its failure to properly certify the Proposal to the March 17, 2020 primary election ballot.

For brevity and to avoid repetition, Relators hereby restate and incorporate their statement of the facts from their Merit Brief.

### III. ARGUMENT

#### A. RELATORS’ COMPLAINT IN MANDAMUS IS RIPE FOR REVIEW AS IT PERTAINS TO BOTH THE BOARD OF ELECTIONS AND PLAIN LOCAL BOE.

1. ***The Board of Elections incorrectly argues Relators’ claims are not ripe despite this Court’s decision in State ex rel. Dunn and despite the Board of Elections’ actions in the pending federal court litigation.***

The Board of Elections alleges “[t]he issue to place the transfer proposal pursuant to R.C. 3311.242 on the March 17, 2020 ballot is not ripe for this Court’s consideration” because “it is contingent upon decisions that Respondent Board of Elections has not yet made,” *i.e.*, the Board of Elections has not certified the Proposal for the November 3, 2020 general election ballot due to the filing of this action. In alleging that this matter is not ripe, the Board of Elections relies upon this Court’s decision in *State ex rel. Dunn*, at ¶ 18. However, *State ex rel.*

*Dunn* makes clear this matter is now ripe for this Court’s consideration. This Court held “[a]lthough the Plain Local school board questions both whether we have the authority to grant relief for the March 2020 election now that the December 18 deadline has passed and whether the petition itself is valid, those issues will arise only if the board of elections certifies that the transfer petition was signed by a sufficient number of qualified electors. As in *Quinn*, the issues the Plain Local school board raises are not yet ripe, because they are contingent on a decision that has not yet been made.” *Id.* at ¶ 18. The ripeness issue previously addressed by this Court in *State ex rel. Dunn* is the same issue now raised by the Board of Elections. Because this Court already determined the issues contained herein will be ripe once the signatures on the Petition are certified, and because the signatures have been certified, this matter is ripe for this Court’s determination.

Interestingly, in the pending litigation in the U.S. Federal District Court for the Southern District of Ohio, the Board of Elections filed a motion to dismiss on December 16, 2019, alleging Plain Local BOE’s claims were not ripe because this Court had not yet ordered Plain Local BOE to forward the Petition to the Board of Elections to certify the signatures. [*See* Defendants Samuel J. Ferruccio, Frank C. Braden, William S. Cline, and Dimitrios Pousoulides’ Combined Brief Regarding Standing and Ripeness and Motion to Dismiss Samuel J. Ferruccio, Frank C. Braden, William S. Cline, and Dimitrios Pousoulides, attached hereto at “Relators’ Appx.-171.”] However, after this Court issued the prior writ of mandamus, the next day, on January 10, 2020, the Board of Elections withdrew its motion to dismiss stating “[a]s a result of the decision by the Ohio Supreme Court, [the] Board of Elections has determined that withdrawal of its pending motion to dismiss, without prejudice, is appropriate and therefore

gives notice of the same.” [See Notice of Withdrawal of Motion to Dismiss Filed by Defendants Samuel J. Ferruccio, Frank C. Braden, William S. Cline, and Dimitrios Pousoulides, attached hereto at “Relators’ Appx.-181.”] Thus, the Board of Elections currently believes the federal litigation is ripe, yet now alleges that even though the signatures have been certified, *this action* is not ripe. As this Court already decided in its prior opinion, the matter would be ripe for this Court’s consideration once the signatures were certified. *State ex rel. Dunn* at ¶ 18. Because the signatures have been certified, this action is now ripe.

B. RELATORS HAVE NOT DELAYED IN BRINGING THE WITHIN ACTION.

1. ***The Board of Elections improperly alleges the doctrine of laches bars Relators’ claims but has failed to show delay by Relators and resulting prejudice to the Board of Elections.***

The Board of Elections alleges Relators engaged in “inexcusable delay” by not filing this action sooner and that it will be prejudiced. However, the delay the Board of Elections complains of is directly attributable to Plain Local BOE’s actions and inactions beginning on October 29, 2019 (the date Plain Local BOE received the Petition), not Relators’ inaction, and the Board of Elections fails to show “material prejudice.”

Laches is a defense that is applied by this Court sparingly in expedited election cases. *State ex rel. Save Your Courthouse Committee v. City of Medina*, 2019-Ohio-3737, ¶ 21. The “fundamental tenet of judicial review in Ohio” is courts should decide cases on their merits. *See State ex rel. Owens v. Brunner*, 125 Ohio St.3d 130, 2010-Ohio-1374, 926 N.E. 2d 617, ¶ 23. The elements of laches are (1) unreasonable delay or lapse of time in asserting a right, (2) absence of an excuse for the delay, (3) knowledge, actual or constructive, of the injury or wrong, and (4) prejudice to the other party. *State ex rel. Leneghan v. Husted*, 154 Ohio St.3d 60, 2018-Ohio-3361, 110 N.E.3d 1275, ¶ 18, citing *State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*,



74 Ohio St.3d 143, 145, 656 N.E.2d 1277 (1995).

In *Leneghan*, this Court denied an attempted laches defense made by the Muskingum County Board of Elections. *Id.* at ¶¶ 18-19. In *Leneghan*, the relator alleged that improprieties occurred during the recount of votes in sixteen Muskingum County precincts. *Id.* The relator sought writs of mandamus compelling respondents, including the Muskingum and Franklin County Board of Elections, to certify official election results that excluded all ballots cast in those sixteen precincts. *Id.*

In denying the Muskingum County Board of Elections' laches defense, this Court found the Muskingum Board did not suffer prejudice as a result of the alleged delay. *Id.* See also *State ex rel. Owens v. Brunner*, 125 Ohio St.3d 130, 2010-Ohio-1374, 926 N.E. 2d 617, ¶ 22 (2010) (there was no evidence the relator's delay in filing his case was intentionally engineered to obtain a strategic advantage). The analysis applied by the Court in *Leneghan* is applicable to the within matter.

Here, the Board of Elections will not be prejudiced. The March 17, 2020, primary election is still 49 days away. In addition, the February 19, 2020, deadline to have non-military or overseas' absentee ballots printed and ready for use under R.C. 3509.01 is 22 days away. [See Ohio Secretary of State 2020 Ohio Elections Calendar, attached hereto as "Relators Appx.-184." ] The attached 2020 Ohio Elections Calendar was issued by the "chief election officer" as defined by R.C. 3501.04. As stated in *State ex rel. Willke v. Taft*, 107 Ohio St.3d 1, 2005-Ohio-5303, 836 N.E.2d 536, ¶ 18, "prejudice in expedited election cases occurs because *relators' delay* prejudices respondents by making the case an expedited election case \* \* \* " (Emphasis added.) Here, the Court has already acknowledged that even if Relators filed this matter on November

21, 2019, it would still have to be an expedited matter because of the impending March 17, 2020 primary election. *State ex rel. Dunn* at ¶ 7. Therefore, Relators have not delayed or caused this case to be expedited. Further, as stated in *State ex rel. Willke*, prejudice in expedited election matters occurs when a board of elections' ability "to prepare, print, and distribute appropriate ballots" is impaired due to the expiration of the time to provide absentee ballots. *State ex rel. Willke*. at ¶ 18. R.C. 3509.01 clearly states that non-military or overseas' absentee ballots must be prepared and printed one day after the close of voter registration. R.C. 3509.01(B)(2). The Board of Elections alleges all absentee ballots, whether military or otherwise, must be submitted to the Secretary of State by January 30, 2020, yet cites to no specific statutory support. Further, the Board of Elections does not allege the absentee ballots have to be printed and distributed by that day (which is still two days away). Further still, and most importantly, the Board of Elections *does not allege it is unable* to revise the absentee ballots.

The Board of Elections makes mention of "UOCAVA voting," which must be ready on January 31, 2020. [Relators' Appx.-184] As alleged in Relators' Complaint, there are no eligible voters within Hills and Dales that have requested a military or overseas' absentee ballot. The Board of Elections, as the only party with the information regarding requested UOCAVA absentee ballots, in its Answer failed to submit a defense or evidence to deny Relators' paragraph 54. [Complaint, ¶ 54 ("Upon information and belief, none of the registered voters within Hills and Dales have submitted applications for military or overseas' ballots for the March 17, 2020, primary election.")] Further, the Board of Elections does not provide evidence in its Merit Brief to show otherwise. When asked prior to the filing of this matter whether any eligible voters within Hills and Dales requested a military or overseas' absentee ballot, counsel

for the Board of Elections failed to respond. [See E-mail Communication, dated January 16, 2020, regarding military and overseas' absentee ballots, attached hereto as "Relators Appx.-186."]

Again, throughout its entire Merit Brief, the Board of Elections *never alleges* that it will be unable to place the Proposal on the March 17, 2020 primary election ballot; it *never alleges* it doesn't have time to place the Proposal on the March 17, 2020 primary election ballot; it *never alleges* it doesn't have the funds to place the Proposal on the March 17, 2020 primary election ballot; it *never alleges* it doesn't have the manpower or staff to place the Proposal on the March 17, 2020 primary election ballot; it *never alleges* any residents of Hills and Dales have requested military and overseas' absentee ballots; and it *never alleges* the printing of ballots has already begun. Rather, the Board of Elections alleges that it is busy and there is a possibility of error when changing election ballots. However, as acknowledged by Jeffrey A. Matthews of the Board of Elections, "[t]he Ohio Revised Code establishes a timeline of tasks that allows the Board of Elections an ample amount of time to adequately prepare for and complete the defined tasks, as well as *to allow the public to have the opportunity to review*, and at times protest, the candidates and issues to be on the ballot." (Emphasis added.) [Affidavit of Jeffrey A. Matthews, ¶ 4] Therefore, the time period after the 90-day deadline is intended for review of issues just like the within matter—the ability of Relators, members of the public, to review and request the Proposal be placed on the March 17, 2020 primary election ballot. The Board of Elections therefore fails to show material prejudice, and its laches defense fails.

**2. *Plain Local BOE implies laches as a defense to Relators' Complaint in Mandamus, however, as consistently stated, Plain Local BOE has been the constant delay in all aspects of this matter.***

While not including a laches defense in its argument portion of Plain Local BOE's Merit Brief, Plain Local BOE continues to allege throughout that Relators have caused the delay in this matter. Again, as stated in Relators' Merit Brief and Complaint, and acknowledged by Plain Local BOE, Plain Local BOE has been in possession of the Petition since October 29, 2019. If Plain Local BOE had forwarded the Petition to the Board of Elections in a timely manner, and without the need for a Court order, there would be no delay and no issue in meeting all of the Ohio Secretary of State election deadlines in order to place the Proposal on the March 17, 2020 primary election ballot, as explicitly requested in the Petition and in all correspondence.

Further, this Court expressly rejected Plain Local BOE's laches defense in *State ex rel. Dunn* by finding Plain Local BOE could not show prejudice. *State ex rel. Dunn* at ¶ 7. The same remains true here. Plain Local BOE cannot assert a laches defense because once again it is not prejudiced.

**C. RELATORS SATISFY THEIR BURDEN FOR A WRIT OF MANDAMUS.**

**1. *Relators' requested relief can be granted by this Court, and Respondents' alleged "strict compliance" with the Transfer Statute cannot be used as a reason to deny Relators' request that the Proposal be certified and placed on the March 17, 2020 primary election ballot.***

Respondents allege the Transfer Statute mandates that the Proposal appear on the November 3, 2020 general election ballot. [Bd. of Elections Merit Brief, p. 7; Plain Local BOE Merit Brief, p. 10] Once again, just as Plain Local BOE argued in the first *State ex rel. Dunn*, Plain Local BOE argues it has no clear legal duty to facilitate Relators' desire to have the

Proposal placed on the March 17, 2020 primary election ballot. This Court has already rejected this argument, finding Plain Local BOE had no discretion to ever disregard its “ripe legal duty.” *State ex rel. Dunn* at ¶ 16. To this day, Plain Local BOE has not provided any “support for its argument that the absence of such language” regarding the time by which it had to act under the Transfer Statute permitted Plain Local BOE to disregard Relators’ desire to have the Proposal placed on the March 17, 2020 primary election ballot. *Id.* Further, the Board of Elections also states Relators have not shown they have a right to place the Proposal on the March 17, 2020 primary election ballot because Plain Local BOE delivered the Proposal with a November 3, 2020 election date identified. [Bd. of Elections Merit Brief, p. 7] This assertion is the exact reason for the filing of Relators’ current mandamus action—Plain Local BOE improperly, and without the authority to alter Relators’ Petition, certified the Proposal to the wrong election ballot. As stated in Relators’ Complaint, the Board of Elections has been named due to the time constraints created by Plain Local BOE’s misconduct, delay, and refusal to follow its mandatory, ministerial requirements under the Transfer Statute. Due to Plain Local BOE’s improper actions, the Board of Elections will need to take necessary steps after the well-known December 18, 2019 submission deadline has passed. [Complaint, ¶ 12] As stated above, the Board of Elections has not alleged that it will be unable to take these necessary steps.

In essence, Plain Local BOE contends this Court lacks the authority to require placement of the Proposal on the March 17, 2020 primary election ballot. Plain Local BOE’s logic would set a dangerous precedent. It would encourage dilatory tactics such as the unlawful “indefinite tabling” of petitions when the governmental entity tasked with ministerial duties does not want to place the particular issue before the voters. Instead of simply following the Transfer

Statute when it received the Petition on October 29, 2019, Plain Local BOE continues its efforts to gain advantage by intentional and repeated delays.

In *State ex rel. Dunn*, this Court found “R.C. 3311.242(C) clearly requires [Plain Local BOE] to cause the board of elections to check the sufficiency of the signatures on [R]elators’ petition[.]” because the statute requires such “[u]pon receiving a petition[.]” (Emphasis added.) *Id.* at ¶ 9. Therefore, Plain Local BOE’s clear ministerial duty under the Transfer Statute began the day it received the Petition – i.e., October 29, 2019.

Plain Local BOE somehow claims that *State ex rel. Lavelle v. Dailey*, 177 Ohio St. 25, 201 N.E.2d 599 (1964), is “inapposite case law” after this Court has already ruled that *Lavelle* is binding and dispositive of the issues in this matter. As already discussed in Relators’ Merit Brief, in *Lavelle*, the timeline for certification of the proposal on the next ballot had to occur “not less than sixty days after the date” of the certification at a meeting of the board of education. *Id.* at 600-601. But, certification *did not occur* “not less than sixty days” before the next election because the board of education refused to certify the proposal. Thus, in *Lavelle*, certification was finally forced to occur on the date of this Court’s decision on October 14, 1964, just 20 days before the next general election on November 3, 1964, and clearly in less time than the sixty days stated in the statute.

Here, Plain Local BOE received Relators’ Petition on October 29, 2019. It was not until January 9, 2020, after being forced by this Court to forward the Petition to the Board of Elections, that Plain Local BOE finally abided by its mandatory, ministerial duty. It took the Board of Elections *only two business days* to certify the signatures on the Petition, resulting in the Proposal. [Board of Elections Answer, ¶ 32] After receiving the Proposal, Plain Local BOE

had no discretion to alter the requested transfer contained in the Proposal. Nevertheless, Plain Local BOE decided to certify the Proposal for the November 3, 2020 general election because it is more than 90 days away. However, based on the decision in *Lavelle* and the case law regarding this Court's ability to fashion relief in an expedited election matter, the Proposal must be certified for the March 17, 2020 primary election ballot, as required by the Proposal. But for Plain Local BOE's total disregard of its mandatory, ministerial duties in the Transfer Statute, Plain Local BOE and the Board of Elections would have had ample time to place the Proposal on the March 17, 2020 primary election ballot, well before the December 18, 2019 submission deadline. Therefore, Plain Local BOE has *never* been in strict compliance with the Transfer Statute.

Relators have a clear legal right to have the Proposal placed on the March 17, 2020 primary election ballot, and Plain Local BOE has a clear legal duty to certify the Proposal for the March 17, 2020 primary election ballot. Under the Transfer Statute, Plain Local BOE is the only party able to certify the Proposal after receiving it back from the Board of Elections. [R.C. 3311.242(B)(2)] It would be inequitable to allow Plain Local BOE to disregard the Transfer Statute up until January 9, 2020, then use that blatant disregard and delay as a means to block Relators' Proposal from being voted on at the next primary election, especially because the request to vote on the transfer of school districts was made by Relators on October 29, 2019.

**2. *This Court has the authority to fashion Relators' requested mandamus relief and order the Proposal be placed on the March 17, 2020 primary election ballot.***

Plain Local BOE argues this Court lacks authority to order the Proposal be placed on the March 17, 2020 primary election ballot because there must be "strict interpretation and compliance with election laws" like the Transfer Statute. [Plain Local BOE Merit Brief, pp. 13-

14]. The Board of Elections likewise seems to imply that this Court cannot order the Proposal be placed on the March 17, 2020 primary election ballot. [Bd. of Elections Merit Brief, p. 7]

Again, Plain Local BOE makes this argument while conveniently ignoring the fact it repeatedly delayed and refused to strictly follow the Transfer Statute until ordered by this Court. In making its argument attempting to disregard this Court's ability to fashion relief in an expedited election matter, Plain Local BOE cites to cases in which *relators* did not strictly follow election procedures. These cases support Relators' position that Plain Local BOE is in fact the party that has failed to strictly follow the Transfer Statute, not Relators.

In *State ex rel. McCann v. Delaware Cty. Bd. of Elections*, 155 Ohio St.3d 14, 2018-Ohio-3342, 118 N.E.3d 224, a writ of prohibition was granted removing a referendum from a ballot because the circulator of the petition for the referendum did not properly witness signatures on the petition as strictly required by R.C. 3501.38(E)(1). *Id.* at ¶ 21. As a result, this Court granted a writ of prohibition removing the referendum from the ballot. *Id.* at ¶ 25. Similarly in *State ex rel. Comm. for the Referendum of Lorain Ordinance No. 77-01 v. Lorain Cty. Bd. of Elections*, 96 Ohio St.3d 308, 2002-Ohio-4914, 774 N.E.2d 239, this Court denied a writ of mandamus attempting to place a referendum on a ballot. Just as with *McCann*, the circulator of the petition for the referendum failed to witness every signature affixed to the petition. *Id.* at ¶ 50. As a result, the relators' writ of mandamus was denied. *Id.* at ¶ 51.

In *State ex rel. Davis v. Beaver Twp. Bd. of Trustees*, 133 Ohio St.3d 170, 2012-Ohio-4177, 977 N.E.2d 578, a writ of mandamus attempting to compel a township board of trustees to adopt a resolution was denied by this Court because the relators' petition for the resolution was conditioned upon certain express language in the petition. *Id.* at ¶ 11. The



relators' petition failed to contain the language required by the statute and as a result, the relators' writ of mandamus was denied. *Id.* at ¶ 16.

As in *McCann*, *Lorain Ordinance*, and *Davis*, Plain Local BOE is in fact the party that has not strictly followed the Transfer Statute because it refused to forward the Petition to the Board of Elections until ordered by this Court. Again, this Court has already ruled that Plain Local BOE had a mandatory, ministerial duty to forward Relators' Petition to the Board of Elections the day it received the Petition, October 29, 2019. *State ex rel. Dunn*, Slip Opinion No. 2020-Ohio-40 at ¶ 9. But for Plain Local BOE's total disregard of its mandatory, ministerial duties in the Transfer Statute, Plain Local BOE and the Board of Elections would have had ample time to place the Proposal on the March 17, 2020 primary election ballot. Simply put, Plain Local BOE has never been in strict compliance with the Transfer Statute.

Plain Local BOE next disputes this Court's ability to fashion relief in an expedited election matter. [Plain Local BOE Merit Brief, pp. 14-17]. Plain Local BOE first attempts to distinguish *State ex rel. Commt. for the Charter Amendment, City Trash Collection v. City of Westlake*, 97 Ohio St.3d 100, 2002-Ohio-5302, 776 N.E.2d 1041 and *Morris v. Macedonia*, 71 Ohio St.3d 52, 641 N.E.2d 1075 (1994) on the basis that this Court was required to place the proposed charter amendments on the next regular municipal election ballots between 60 and 120 days after the municipalities' approval of ordinances putting the proposed amendment to the electorate. [*Id.* at pp. 15-16].

Plain Local BOE's attempted distinguishing of *Westlake* and *Morris* is without merit. Relators cited to both *Westlake* and *Morris* for the specific proposition that this Court can fashion relief to place the Proposal on the March 17, 2020 primary election ballot after the

December 18, 2019 submission deadline, just as it did after the submission deadlines in *Westlake* and *Morris*. In both *Westlake* and *Morris*, the submission deadlines had passed and the elections were respectively 30 days and 26 days away from the dates of this Court’s decisions. The expiration of the proposal submission deadlines and proximity in time to the elections did not preclude this Court from fashioning relief to immediately place those proposals on the ballot.

Plain Local BOE next attempts to distinguish *State ex rel. N. Main St. Coalition v. Webb*, 106 Ohio St.3d 437, 2005-Ohio-5009, 835 N.E.2d 1222 and *State ex rel. Harris v. Rubino*, 155 Ohio St.3d 123, 2018-Ohio-3609, 119 N.E.3d 1238 on the basis that both of those cases dealt with initiative petitions and a more lenient “liberal construction”. [*Id.* at pp. 16]. Again, Relators cited to *Webb* and *Harris* for the specific proposition that this Court can fashion relief to place the Proposal on the March 17, 2020 primary election ballot. Additionally, in both *Webb* and *Harris*, there was no “substantial compliance” language referenced in the statute at issue as Plain Local BOE suggests. [*See* R.C. 731.28, attached hereto as “Relators’ Appx.-189.”] Stated simply, the governmental actors in *Webb* and *Harris* had duties to certify their proposal/initiative, they failed to do so by the applicable submission deadlines, and this Court ordered placement on the next ballots, even after the submission deadlines. Additionally, if this Court were to consider Plain Local BOE’s attempted distinguishing on the basis *Webb* and *Harris* dealt with initiative petitions and an alleged lenient standard, Plain Local BOE fails to mention that this Court previously analyzed the Transfer Statute and compared it to an *initiative petition*. (Emphasis added.) *State ex rel. Dunn*, Slip Opinion No. 2020-Ohio-40 at ¶ 11.

Plain Local BOE’s argument the Proposal cannot be placed on the March 17, 2020 primary election ballot because the December 18, 2019 submission deadline has passed is

meritless. This Court issued its decision on Relators’ prior mandamus action on January 9, 2020 – 22 days after the December 18, 2019 submission deadline. This Court specifically rejected Plain Local BOE’s laches argument in its prior decision, and likewise held Relators had a “clear legal right to the relief” sought, i.e., requiring Plain Local BOE to submit the Petition to the Board of Elections. In doing so, this Court rejected Plain Local BOE’s argument that the Petition – which is expressly confined to the March 17, 2020 primary election – is moot. As this Court is aware, “a writ will be denied when a question presented by the relator becomes moot.” *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 1997-Ohio-75, 687 N.E.2d 661 (1997). This Court would not, and did not, grant a writ on an issue that had become moot. Contrary to Plain Local BOE’s suggestion, this Court does indeed have the authority to require placement of the Proposal on the March 17, 2020 primary election ballot.

D. RELATORS ARE ENTITLED TO THEIR ATTORNEY FEES AND COSTS.

Since October 29, 2019, the date Plain Local BOE received the Petition from Relators, it has refused to follow the law because Plain Local BOE does not want to allow the issue before the voters.<sup>1</sup> Rather than follow its mandatory, ministerial, and non-discretionary requirements, Plain Local BOE passed a Resolution expressly stating it would not follow the Transfer Statute. As set forth in the Resolution, Plain Local BOE refused to follow the law because it felt it was unconstitutional. Plain Local BOE is not the judge and the Transfer Statute gave it no authority to determine whether the Transfer Statute was unconstitutional. Now, after a delay of over 70 days, and only after being ordered to do so by this Court, has Plain Local BOE

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<sup>1</sup> Plain Local BOE went so far as to file a Complaint in the U.S. Federal District Court for the Southern District of Ohio on September 23, 2019, over a month before the Transfer Statute went into effect, in an attempt (once again) to not follow its mandatory, ministerial, and non-discretionary legal obligations.

attempted to comply with certifying the Proposal to the Stark County Board of Elections and to the State Board of Education. Yet, in doing so, Plain Local BOE improperly altered the Proposal by certifying it for the placement on the November 3, 2020 general election ballot, rather than the March 17, 2020 primary ballot, as expressly set forth in the Petition and as requested in all three writs of mandamus filed with this Court.

The fact of the matter remains: Relators find themselves in this position because of Plain Local BOE's brazen refusal to follow its clearly delineated, mandatory, ministerial, and non-discretionary legal obligations contained in the Transfer Statute. Any "Hobson's Choice" is of Plain Local BOE's own making. This Court must grant Relators their attorney fees based on Plain Local BOE's bad faith action and inaction since October 29, 2020. To do otherwise would only encourage other government officials and agencies to take a similar action (or inaction) when faced with an issue they do not want to put before the voters. Plain Local BOE should not be rewarded for its bad faith.

#### IV. **CONCLUSION**

For the reasons stated herein, and as requested in Relators' Merit Brief, Relators respectfully request the Court issue a writ of mandamus directing Plain Local BOE to immediately certify the Proposal to the Board of Elections for the March 17, 2020 primary election. Due to Plain Local BOE's bad faith, Relators request their attorney fees and costs associated. Relators further request the Court order the Board of Elections to place the Proposal on the March 17, 2020 primary election ballot for the eligible electors of Hills and Dales, including Relators, to exercise their right to vote on the Proposal.

*/s/ Scott M. Zurakowski*

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**PROOF OF SERVICE**

I hereby certify that on the 28 day of January, 2020, a copy of the foregoing *Relators' Reply Brief* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. A copy of the foregoing was also served via email upon the below:

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.  
PATRICK M. DUNN, ET AL.,

Relators,

vs.

PLAIN LOCAL SCHOOL DISTRICT  
BOARD OF EDUCATION, ET AL.,

Respondents.

CASE NO. 2020-0094

Original Action in Mandamus

Expedited Elections Matter  
Pursuant to S.Ct.Prac.R. 12.08

RELATORS' APPENDIX

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

PLAIN LOCAL SCHOOL	)	CASE NO. 2:19-cv-05086
DISTRICT BOARD OF	)	
EDUCATION,	)	JUDGE MICHAEL H. WATSON
	)	
Plaintiff,	)	MAGISTRATE JUDGE CHELSEY M.
	)	VASCURA
v.	)	
	)	<b>DEFENDANTS SAMUEL J. FERRUCCIO,</b>
MIKE DeWINE, in his official	)	<b>FRANK C. BRADEN, WILLIAM S. CLINE,</b>
capacity as Governor of the State of	)	<b>AND DIMITRIOS POUSOULIDES'</b>
Ohio, et al.,	)	<b>COMBINED BRIEF REGARDING STANDING</b>
	)	<b>AND RIPENESS</b>
Defendants.	)	
	)	<b>AND MOTION TO DISMISS SAMUEL J.</b>
	)	<b>FERRUCCIO, FRANK C. BRADEN, WILLIAM</b>
	)	<b>S. CLINE, AND DIMITRIOS POUSOULIDES</b>

Defendants Samuel J. Ferruccio, Frank C. Braden, William S. Cline, and Dimitrios Pousoulides (“Stark County Board of Elections”), by and through counsel, the Stark County Prosecuting Attorney, submits their brief regarding standing and ripeness. Because Plain Local School District Board of Education (“Plain Local”) does not have standing to bring its claims against Stark County Board of Elections and due to the fact that the claims against Stark County Board of Elections are not yet ripe, Stark County Board of Elections respectfully requests an order dismissing Stark County Board of Elections as a Defendant to this action. The basis for this opposition and motion is more fully set forth in the accompanying memorandum, incorporated herein by reference.





STARK COUNTY BOARD OF ELECTIONS' BRIEF ON STANDING AND RIPENESS  
AND MEMORANDUM IN SUPPORT OF STARK COUNTY BOARD OF ELECTIONS'  
MOTION TO DISMISS

**I. Introduction**

At the outset and at the present time, Stark County Board of Elections takes no position as to the constitutionality of Ohio Rev. Code § 3311.242 or any other aspect of Plain Local's amended complaint and motion for preliminary injunction other than what is set forth herein. Stark County Board of Elections also recognizes that the Court requested briefing on the issues of standing and ripeness, however, for Stark County Board of Elections to properly frame its brief, it must distinguish itself from other Defendants in this matter and therefore has combined its brief with the instant motion to dismiss.

Stark County Board of Elections has no statutory duty or authority to act at this stage and only upon Plain Local's submission of the petitions at issue to Stark County Board of Elections would Stark County Board of Elections be required to "check the sufficiency of the signatures on a petition" before certifying the Ohio Rev. Code § 3311.242 petition to the "board of education." Ohio Rev. Code § 3311.242(C). Stark County Board of Elections does not have before it any Ohio Rev. Code § 3311.242 petition, whether concerning Plain Local or otherwise, and Stark County Board of Elections is entitled to an Order dismissing its members from this action due to Plain Local's lack of standing and assertion of claims against Stark County Board of Elections that are not yet ripe.

**II. Facts and Procedural History Relevant to Stark County Board of Elections**

Plain Local's amended complaint and motion for preliminary injunction make clear that Plain Local received a petition from the Village of Hills & Dales ("Hills & Dales") to effectuate

a transfer pursuant to Ohio Rev. Code § 3311.242 on or about October 29, 2019. Dkt. No. 10 at p. 19; Dkt. No. 18 at ¶ 82. Plain Local also makes clear that on November 6, 2019, it received a second Ohio Rev. Code § 3311.242 petition from eight property owners whose property is presently within the Plain Local School District. Dkt. No. 10 at p. 20; Dkt. No. 18 at ¶ 85.

Plain Local believes Ohio Rev. Code § 3311.242 to be unconstitutional and did not take action on either petition and instead filed this action and sought a preliminary injunction from this Court such that Ohio Rev. Code § 3311.242 would ultimately be found unconstitutional and it would not ever have to take action. Essentially, Plain Local is asking this Court to ratify its own decision to refuse to act on the two Ohio Rev. Code § 3311.242 petitions and seeks an Order from this Court enjoining Stark County Board of Elections from acting despite the fact that Stark County Board of Elections cannot act until after Plain Local has completed the prerequisites set forth in Ohio Rev. Code § 3311.242.

Because Stark County Board of Elections cannot act pursuant to Ohio Rev. Code § 3311.242 until after Plain Local has acted and Plain Local alone has decided not to act, Plain Local lacks Article III standing to maintain its action against Stark County Board of Elections. Because the likelihood of Plain Local's harm ever coming to pass is nonexistent while Plain Local refuses to act pursuant to Ohio Rev. Code § 3311.242, Plain Local's claims against Stark County Board of Elections are not yet ripe. For these reasons, Stark County Board of Elections is entitled to an order dismissing it from this lawsuit.

### **III. Law and Argument**

#### **A. STANDARD OF REVIEW ON A MOTION TO DISMISS.**

“A motion filed pursuant to Fed.R.Civ.P. 12(b)(6) is utilized to test the legal sufficiency

of a claim and dismissal is appropriate where, as is the case here, the pleading clearly establishes that, as a matter of law, no relief may be granted. Courts must presume well-pleaded allegations are true and draw any reasonable inference in favor of the non-moving party.” *DirectTV, Inc. v. Thresh*, 487 F.3d 471, 476 (6<sup>th</sup> Cir. 2007). “[A] civil complaint only survives a motion to dismiss if it ‘contain[s] sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.’” *Courie v. Alcoa Wheel & Forged Products*, 577 F.3d 625, 629 (6th Cir. 2009), quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (2009).

Stark County Board of Elections further brings the instant motion pursuant to Fed.R.Civ.P. 12(b)(1). “[W]hen jurisdictional facts are challenged, the party claiming jurisdiction bears the burden of demonstrating that the court has jurisdiction over the subject matter.” *Ohio Nat. Life Ins. Co. v. United States*, 922 F.2d 320, 324 (6th Cir.1990). In reviewing a motion filed pursuant to Fed.R.Civ.P. 12(b)(1), a court employs an analysis similar to that of a motion premised upon Fed.R.Civ.P. 12(b)(6). *Id.* at 325.

**B. PLAIN LOCAL CANNOT DEMONSTRATE A CAUSAL CONNECTION BETWEEN ANY INJURY AND ANY CONDUCT ON THE PART OF STARK COUNTY BOARD OF ELECTIONS AND PLAIN LOCAL THEREFORE LACKS STANDING AS IT RELATES TO STARK COUNTY BOARD OF ELECTIONS.**

In the instant case, Plain Local’s amended complaint as it relates to Stark County Board of Elections fails because Plain Local cannot demonstrate any injury caused by any action or inaction on the part of Stark County Board of Elections that can be redressed by this Court.

“[B]efore engaging in the temporary restraining order and/or preliminary injunction analysis, the Court must first address whether Plaintiffs have standing to present their constitutional challenges.” *Mason v. City of Loveland, Ohio*, No. 1:05CV715, 2005 WL 8161957, at \*4 (S.D. Ohio Dec. 1, 2005). A demonstration of a “constitutional minimum of

standing” requires three elements: 1. “[I]njury in fact”; 2. “[A] causal connection between the injury and the conduct complained of”; and 3. “[I]t must be ‘likely,’ as opposed to merely ‘speculative,’ that the injury will be ‘redressed by a favorable decision.’” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61, 112 S. Ct. 2130, 2136, 119 L. Ed. 2d 351 (1992).

“[W]hen the plaintiff is not himself the object of the government action or inaction he challenges, standing is not precluded, but it is ordinarily ‘substantially more difficult’ to establish.” *Id.* at 562. For a complaint to properly invoke standing, a plaintiff must set forth “general factual allegations of injury resulting from defendant’s conduct ....” *Id.* A plaintiff may not “manufacture standing by ‘inflicting harm on themselves based on their fear of hypothetical future harm that is not certainly impending.’” *Schickel v. Dilger*, 925 F.3d 858, 868 (6th Cir. 2019), cert. denied sub nom. *Schickel v. Troutman*, No. 19-458, 2019 WL 6689686 (U.S. Dec. 9, 2019) citing *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 416, 133 S. Ct. 1138, 1151, 185 L. Ed. 2d 264 (2013); *M.L. Johnson Family Properties, LLC v. Bernhardt*, No. 7:14-CV-78-KKC, 2019 WL 3841905, at \*4 (E.D. Ky. Aug. 14, 2019) (likelihood of redress of future injury is insufficient to establish the third prong in standing analysis).

Ohio Rev. Code § 3311.242(C) requires:

Upon receiving a petition of transfer signed by at least ten per cent of qualified electors voting at the last general election, the board of education shall cause the board of elections to check the sufficiency of signatures on the petition. If the board of elections determines the petition has been signed by at least ten per cent of qualified electors voting at the last general election, the board of elections shall certify the petition to the board of education for the purposes of division (B) of this section.

Plain Local believes Ohio Rev. Code § 3311.242 to be unconstitutional and violative of certain enumerated constitutional rights. To confront this belief, Plain Local has refused to act on the

petitions it received and, instead, brought the instant lawsuit against Hills & Dales, as well as other state and local officials, including Stark County Board of Elections. The simple fact is that, while Plain Local may ultimately prove to be accurate in its view of Ohio Rev. Code § 3311.242, Plain Local is not the object of any governmental action by Stark County Board of Elections. Where, as here, a plaintiff's alleged injuries are not caused by a particular named defendant, dismissal is appropriate. *See Binno v. Am. Bar Ass'n*, 826 F.3d 338, 345 (6th Cir. 2016) ("The district court found that Binno did not establish causation because the 'facts set forth in the Amended Complaint allege that Binno's injuries are from the questions posed on the LSAT, not [from] the ABA Standard 503.' We agree with this assessment.")

Plain Local has acknowledged that for it to have standing against Stark County Board of Elections it would have to demonstrate that the alleged injuries are "fairly traceable" to Stark County Board of Elections' conduct. Plain Local's amended complaint fails in this regard and Stark County Board of Elections should be properly dismissed from this action. Dkt. No. 19 at p. 16; *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547, 194 L. Ed. 2d 635 (2016), as revised (May 24, 2016).

#### C. PLAIN LOCAL'S CLAIMS AGAINST STARK COUNTY BOARD OF ELECTIONS ARE NOT RIPE.

Similar to Plain Local's lack of standing as it relates to Stark County Board of Elections, Plain Local's amended complaint also fails in terms of ripeness. "Ripeness is more than a mere procedural question; it is determinative of jurisdiction. If a claim is unripe, federal courts lack subject matter jurisdiction and the complaint must be dismissed." *River City Capital, L.P. v. Bd. of Cty. Comm'rs, Clermont Cty.*, Ohio, 491 F.3d 301, 309 (6th Cir. 2007) citing *Bigelow v. Michigan Dep't of Nat. Res.*, 970 F.2d 154, 156 (6th Cir. 1992). Ripeness is a matter of timing

and the doctrine “separates those matters that are premature because the injury is speculative and may never occur from those that are appropriate for the court's review.” *Nat'l Rifle Ass'n of Am. v. Magaw*, 132 F.3d 272, 280 (6th Cir. 1997). “Ripeness becomes an issue when a case is anchored in future events that may not occur as anticipated, or not at all.” *Tri-Cities Holdings LLC v. City of Johnson City, Tenn.*, No. 2:13-CV-108, 2013 WL 2635337, at \*1 (E.D. Tenn. June 12, 2013) citing *Kentucky Press Ass'n, Inc. v. Kentucky*, 454 F.3d 505 (6th Cir. 2006).

In the instant case, Plain Local decided to “table” the petition based on its belief that the subject statute is unconstitutional and violates constitutional rights of students within Plain Local School District. In response (and while this litigation was pending), Hills & Dales filed a complaint for mandamus against Plain Local in the Ohio Supreme Court seeking an order compelling Plain Local to comply with Ohio Rev. Code § 3311.242. On December 13, 2019, the Ohio Supreme Court dismissed Hills & Dales’ complaint and there is presently no other litigation pending outside of this case that could conceivably compel Plain Local to process the petition in accordance with Ohio Rev. Code § 3311.242. *State ex rel. Hills & Dales v. Plain Local School Dist. Bd. of Edn.*, Slip Opinion No. 2019-Ohio-5160. Thus, as the facts are presently situated, outside of this Court ruling on the merits of Plain Local’s amended complaint here, there is no situation where Stark County Board of Elections will be compelled to comply with its function pursuant to Ohio Rev. Code § 3311.242. The relief sought by Plain Local in its amended complaint and motion for preliminary injunction is therefore speculative at this phase relative to Stark County Board of Elections and anchored only in future events. Stark County Board of Elections should therefore properly be dismissed from this litigation.

**IV. Conclusion**

For all of the foregoing reasons, Stark County Board of Elections respectfully requests an order dismissing it from the instant litigation.

Respectfully submitted,

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Counsel for Stark County Board of Elections



Certificate of Service

I hereby certify that on the 16th day of December, 2019, a copy of the foregoing Combined Brief & Motion was filed electronically with the clerk of this Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

The following parties have been served by regular U.S. mail:

None.

s/ Stephan P. Babik  
Stephan P. Babik  
Assistant Prosecuting Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

PLAIN LOCAL SCHOOL	)	CASE NO. 2:19-cv-05086
DISTRICT BOARD OF	)	
EDUCATION,	)	JUDGE MICHAEL H. WATSON
	)	
Plaintiff,	)	MAGISTRATE JUDGE CHELSEY M.
	)	VASCURA
v.	)	
	)	<b>NOTICE OF WITHDRAWAL OF MOTION TO</b>
MIKE DeWINE, in his official	)	<b>DISMISS FILED BY DEFENDANTS SAMUEL</b>
capacity as Governor of the State of	)	<b>J. FERRUCCIO, FRANK C. BRADEN,</b>
Ohio, et al.,	)	<b>WILLIAM S. CLINE, AND DIMITRIOS</b>
	)	<b>POUSOULIDES</b>
Defendants.	)	

Defendants Samuel J. Ferruccio, Frank C. Braden, William S. Cline, and Dimitrios Pousoulides (“Stark County Board of Elections”), by and through counsel, the Stark County Prosecuting Attorney, hereby withdraw their motion to dismiss, filed on December 16, 2019, without prejudice. Dkt. No. 20. The basis for this notice of withdrawal is the Ohio Supreme Court’s opinion, entered January 9, 2020, in the matter of *State ex rel. Dunn v. Plain Local School Dist. Bd. of Edn.*, Slip Opinion No. 2020-Ohio-40. A copy of that decision is attached to this Notice as Exhibit A.

In that case, relating to the same underlying subject matter as the present litigation, the Ohio Supreme Court held: “We therefore grant a writ of mandamus on the sole issue that is ripe for our determination and order the Plain Local school board to cause the Stark County Board of Elections to check the sufficiency of the signatures on the petition.” *Id.* at ¶ 19. As a result of the decision by the Ohio Supreme Court, Stark County Board of Elections has determined that

withdrawal of its pending motion to dismiss, without prejudice, is appropriate and therefore gives notice of the same.

Respectfully submitted,

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Counsel for Stark County Board of Elections

Certificate of Service

I hereby certify that on the 10th day of January, 2020, a copy of the foregoing Notice of Withdrawal was filed electronically with the clerk of this Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

The following parties have been served by regular U.S. mail:

None.

s/ Stephan P. Babik  
Stephan P. Babik  
Assistant Prosecuting Attorney

# 2020 OHIO ELECTIONS CALENDAR

		Reference
<b>2019</b>		
Dec. 08	Boards of elections must prepare and publish notices of the March 17, 2020 presidential primary election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before the presidential primary election)	<a href="#">R.C. 3511.16</a>
Dec. 18	Constitutional amendments proposed by joint resolution of the General Assembly must be filed with Secretary of State (90 days before presidential primary election) Declarations of candidacy for partisan candidates must be filed by 4 p.m. (90 days before presidential primary election) Declarations of candidacy for presidential delegates and alternates to a party's national nominating committee must be filed by 4 p.m. (90 days before presidential primary election) Local questions and issues for the March 17, 2020 presidential primary election, including local option petitions, must be certified to or filed with boards of elections by 4 p.m. (90 days before presidential primary election) Applications for absentee ballots for the March 17, 2020 presidential primary election may be accepted (90 days before presidential primary election)	<a href="#">OH Const. XVI, §1</a> <a href="#">R.C. 3513.05</a> <a href="#">R.C. 3513.121</a> <a href="#">R.C. 731.28, .29, 3501.02, 4301.33, .331, .332, .333, .334, 4305.14</a> <a href="#">R.C. 3509.03, 3511.02</a>
Dec. 30	Boards of elections must certify the validity and sufficiency of partisan candidates' petitions (78 days before presidential primary election) Boards of election must certify the validity and sufficiency of local option petitions (78 days before presidential primary election)	<a href="#">R.C. 3513.05</a> <a href="#">R.C. 4301.33, .331, .332, .333, .334, 4305.14</a>
<b>2020</b>		
Jan. 01	Applications for absentee ballots for all 2020 elections may be accepted (first day of the year; presidential primary election applications for absentee ballots accepted starting Dec. 18, 2019)	<a href="#">R.C. 3509.03, 3511.02</a>
Jan. 03	Protests against partisan candidates' petitions must be filed by 4 p.m. (74 days before presidential primary election) Protests against local option petitions must be filed by 4 p.m. (74 days before presidential primary election)	<a href="#">R.C. 3513.05</a> <a href="#">R.C. 4301.33, .331, .332, .333, .334, 4305.14</a>
Jan. 06*	Write-in candidates for the March 17, 2020 presidential primary election must file declarations of intent by 4 p.m. (72 days before presidential primary election) Nov. 5, 2019 general election ballots may be discarded, except for federal office, unless ordered held by a court or the Secretary of State (61 days after general election)	<a href="#">R.C. 3513.041</a> <a href="#">R.C. 3505.31, 52 USC 20701</a>
Jan. 07	Form of official ballots for the March 17, 2020 presidential primary election must be certified by Secretary of State to boards of elections (70 days before presidential primary election) Boards of elections of most populous county in a multi-county district must certify the names of all candidates to other boards of elections (70 days before presidential primary election)	<a href="#">R.C. 3513.05</a>
Jan. 10	Protests against write-in candidates must be filed by 4 p.m. (67 days before presidential primary election)	<a href="#">R.C. 3513.041</a>
Jan. 17	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before presidential primary election) Election Administration Plans for the March 17, 2020 presidential primary election must be submitted to Secretary of State's Office (60 days before presidential primary election)	<a href="#">R.C. 3501.27</a>
Jan. 21	Secretary of State and boards of elections must send notice to candidates required to file annual campaign finance reports (10 days before annual campaign finance report deadline)	<a href="#">R.C. 3517.11</a>
Jan. 31	Annual campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (last business day of Jan. detailing contributions and expenditures through Dec. 31, 2019) UOCAVA absentee ballots for the March 17, 2020 presidential primary election must be ready (46 days before presidential primary election) Boards of elections must update and publish notices of the March 17, 2020 presidential primary election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before presidential primary election)	<a href="#">R.C. 3517.10</a> <a href="#">R.C. 3501.27</a> <a href="#">R.C. 3511.16</a>
Feb. 04	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (6 weeks before presidential primary election)	<a href="#">R.C. 3503.12</a>
Feb. 06	Presidential candidates may withdraw from the March 17, 2020 presidential primary election by 4 p.m. (40 days before presidential primary election)	<a href="#">R.C. 3513.30</a>
Feb. 18*	<b>Deadline for voter registration for the March 17, 2020 presidential primary election (30 days before presidential primary election)</b> Deadline to file corrections and challenges to precinct voter registration lists (30 days before presidential primary election)	<a href="#">R.C. 3503.19</a> <a href="#">R.C. 3503.24</a>
Feb. 19*	Non-UOCAVA absentee ballots for the March 17, 2020 presidential primary election must be ready (first day after close of voter registration)	<a href="#">R.C. 3509.01</a>
Feb. 24	Secretary of State and boards of elections must send notice to candidates required to file pre-primary campaign finance reports (10 days before pre-primary campaign finance report deadline)	<a href="#">R.C. 3517.11</a>
Feb. 26	Committees advocating or opposing issues on the March 17, 2020 presidential primary election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before presidential primary election)	<a href="#">R.C. 3505.21</a>
Mar. 03	Boards of elections must prepare precinct voter registration lists (14 days before presidential primary election)	<a href="#">R.C. 3503.23</a>
Mar. 05	Pre-primary election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before primary election) detailing contributions and expenditures through Feb. 26, 2020 (20 days before primary election)	<a href="#">R.C. 3517.10</a>
Mar. 06	Deadline for political parties, groups of candidates and recognized issue committees to file notice of observer appointments (11 days before presidential primary election)	<a href="#">R.C. 3505.21</a>
Mar. 07	Boards of elections must give public notice of the March 17, 2020 presidential primary election (10 days before presidential primary election)	<a href="#">R.C. 3501.03</a>
Mar. 09*	Certificate to fill vacancy on ballot caused by death of candidate whose name is on the March 17, 2020 presidential primary ballot in more than one county must be filed by 4 p.m. (10 days before presidential primary election)	<a href="#">R.C. 3513.30</a>
Mar. 12	Certification to fill vacancy on ballot caused by death of candidate whose name is on the March 17, 2020 presidential primary ballot in only one county must be filed by 4 p.m. (5 days before presidential primary election)	<a href="#">R.C. 3513.30</a>
Mar. 14	Applications for absentee ballots to be mailed for the March 17, 2020 presidential primary election must be received by boards of elections by noon (3 days before presidential primary election)	<a href="#">R.C. 3509.03, .08, 3511.02</a>
Mar. 16	Nominating petitions of independent candidates, other than joint candidates for president and vice president, for offices for which a primary election may be held must be filed by 4 p.m. (day before presidential primary election) Amendments to observer appointments must be filed by 4 p.m. (day before presidential primary election) Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the presidential primary election)	<a href="#">R.C. 3513.257</a> <a href="#">R.C. 3505.21</a> <a href="#">R.C. 3501.29</a>
Mar. 17	<b>Primary Election Day. Polls open from 6:30 a.m. to 7:30 p.m.</b> If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m. Absentee ballots, returned in person or via a method other than U.S. Mail must be received by the boards of elections by close of polls	<a href="#">R.C. 3501.01, .32</a> <a href="#">R.C. 3509.08</a> <a href="#">R.C. 3509.05, 3511.11</a>
Mar. 27	Absentee ballots returned by U.S. Mail must be postmarked no later than March 16 and received by boards of elections by this date to be counted (10 days after presidential primary election) UOCAVA absentee ballots must be received by boards of elections by this date to be counted (10 days after presidential primary election)	<a href="#">R.C. 3509.05</a> <a href="#">R.C. 3511.11</a>
Mar. 28	Boards of elections may begin official canvass of the March 17, 2020 presidential primary election ballots (11 days after presidential primary election)	<a href="#">R.C. 3513.22</a>
Apr. 01	Boards of elections must begin official canvass of the March 17, 2020 presidential primary election ballots no later than this date (15 days after presidential primary election)	<a href="#">R.C. 3513.22</a>
Apr. 07	Boards of elections must complete canvass of the March 17, 2020 presidential primary election ballots no later than this date (21 days after presidential primary election)	<a href="#">R.C. 3513.22</a>
Apr. 14	Secretary of State and boards of elections must send notice to candidates required to file post-primary campaign finance reports (10 days before post-primary campaign finance report deadline)	<a href="#">R.C. 3517.11</a>
Apr. 24	Post-primary election campaign finance reports must be filed by candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after primary election) detailing contributions and expenditures through April 17, 2020 (the 7th day before the report is filed)	<a href="#">R.C. 3517.10</a>
Apr. 26	Boards of elections must prepare and publish notices of the Aug. 4, 2020 special election by this date, and provide the notices to federal write-in absentee voters upon request (no later than 100 days before special election)	<a href="#">R.C. 3511.16</a>
May. 01	Board of elections of most populous county of a multi-county district must transmit petitions of independent candidates to other boards of elections (no later than the end of the 6th week after presidential primary election)	<a href="#">R.C. 3513.262</a>
May. 06	Local questions and issues for the Aug. 4, 2020 special election must be certified to boards of elections by 4 p.m. (90 days before special election).	<a href="#">R.C. 3501.01, .02</a>
May. 17	March 17, 2020 presidential primary election ballots may be discarded, except for federal office unless ordered held by a court or the Secretary of State (61 days after presidential primary election)	<a href="#">R.C. 3505.31, 52 USC 20701</a>
May. 29	Boards of elections must certify independent candidate petitions by this date (no later than the end of the 10th week after presidential primary election)	<a href="#">R.C. 3513.262</a>
Jun. 11	Last day for local option petitioners to send street listing to Division of Liquor Control (55 days before Aug. 5 deadline for filing petitions for the Nov. 3, 2020, general election)	<a href="#">R.C. 4301.33, 4305.14</a>
Jun. 12	Protests against independent candidates nominated by petition must be filed by 4 p.m. (end of the 12th week after presidential primary election)	<a href="#">R.C. 3513.262</a>
Jun. 19	UOCAVA absentee ballots for the Aug. 4, 2020 special election must be ready (46 days before special election) Boards of elections must update and publish notices of the Aug. 4, 2020 special election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before special election)	<a href="#">R.C. 3511.04</a> <a href="#">R.C. 3511.16</a>
Jun. 23	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (6 weeks before special election)	<a href="#">R.C. 3503.12</a>
Jun. 30	Deadline for prospective minor political parties to file party formation petitions with the Secretary of State (126 days before general election)	<a href="#">R.C. 3517.012</a>
Jul. 01	Constitutional amendments or statutes proposed by initiative petitions to be submitted directly to the voters must be filed with Secretary of State (125 days before general election)	<a href="#">OH Const. II, §§1a-1b</a>
Jul. 06*	<b>Deadline for voter registration for the Aug. 4, 2020 special election (30 days before special election)</b> Deadline to file corrections and challenges to precinct voter registration lists (30 days before special election) Election Administration Plans for the Nov. 3, 2020 general election must be submitted to Secretary of State's Office (120 days before general election)	<a href="#">R.C. 3503.19</a> <a href="#">R.C. 3503.24</a>
Jul. 07	Non-UOCAVA absentee ballots for the Aug. 4, 2020 special election must be ready (first day after close of voter registration)	<a href="#">R.C. 3509.01</a>
Jul. 15	Committees advocating or opposing issues on the Aug. 4, 2020 special election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before special election)	<a href="#">R.C. 3505.21</a>
Jul. 16	Nominating petitions of minor political party candidates (for minor party that submitted party formation petition) must be filed (110 days before general election)	<a href="#">R.C. 3517.012</a>
Jul. 21	Boards of elections must prepare precinct voter registration lists for special election (14 days before special election) Secretary of State and boards of elections must send notice to candidates required to file semiannual campaign finance reports (10 days before semiannual campaign finance report deadline)	<a href="#">R.C. 3503.23</a> <a href="#">R.C. 3517.11</a>
Jul. 24	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before special election)	<a href="#">R.C. 3505.21</a>
Jul. 25	Boards of elections must give public notice of the Aug. 4, 2020 special election (10 days before special election)	<a href="#">R.C. 3501.03</a>
Jul. 26	Boards of elections must prepare and publish notices of the Nov. 3, 2020, general election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before the general election)	<a href="#">R.C. 3511.16</a>

\*Note: In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended, pursuant to R.C. 1.14, to the next succeeding day when the appropriate office is open for regular business hours. The preceding dates reflect the extended deadline.



# 2020 OHIO ELECTIONS CALENDAR

2020	Reference	
Jul. 31	Boards of elections must notify the appropriate minor political party of the validity and sufficiency of any nominating petitions filed by that minor political party's candidates (for minor party that submitted party formation petition) (95 days before general election) Semiannual campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (last business day of Jul. detailing contributions and expenditures through Jun. 30, 2020)	<a href="#">R.C. 3517.012</a> <a href="#">R.C. 3517.10</a>
Aug. 01	Applications for absentee ballots to be mailed for the Aug. 4, 2020 special election must be received by noon (3 days before special election)	<a href="#">R.C. 3509.03, .08, 3511.02</a>
Aug. 03	Amendments to observer appointments must be filed by 4 p.m. (day before special election) Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the special election)	<a href="#">R.C. 3505.21</a> <a href="#">R.C. 3501.29</a>
Aug. 04	<b>Special Election may be held. Polls open from 6:30 a.m. to 7:30 p.m.</b> If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m. Absentee ballots, returned in person or via a method other than U.S. Mail, must be received by the boards of elections by close of polls	<a href="#">R.C. 3501.01, .32</a> <a href="#">R.C. 3509.08</a> <a href="#">R.C. 3509.05, 3511.11</a>
Aug. 05	Constitutional amendments proposed by joint resolution of General Assembly must be filed with Secretary of State (90 days before general election) Deadline for minor political parties to certify candidates (and list of electors) for the office of president and vice president to Secretary of State (90 days before general election) Nominating petitions of independent joint candidates for president and vice president must be filed with the Secretary of State by 4 p.m. (90 days before general election) Nominating petitions of candidates in nonpartisan races must be filed by 4 p.m. (90 days before general election) Local questions and issues for the Nov. 3, 2020 general election, including local option petitions, must be certified to or filed with boards of elections by 4 p.m. (90 days before general election)	<a href="#">OH Const. XVI, §1</a> <a href="#">R.C. 3505.10</a> <a href="#">R.C. 3513.257</a> <a href="#">R.C. 1907.13, 3513.259, .263</a> <a href="#">R.C. 731.28, .29, 3501.02, 4301.33, .331, .332, .333, .334, 4305.14</a> <a href="#">R.C. 3513.31</a>
Aug. 10*	Political party or independent candidate nominating committees must certify name of person to fill vacancy on the Nov. 3, 2020 general election ballot caused by withdrawal or disqualification of candidate by 4 p.m. (86 days before general election)	<a href="#">R.C. 3509.05, 3511.11</a>
Aug. 14	Absentee ballots for the Aug. 4, 2020 special election returned by U.S. Mail must be postmarked no later than Aug. 3 and received by boards of elections by this date to be counted (10 days after special election) UOCAVA absentee ballots for the Aug. 4, 2020 special election must be received by boards of elections by this date to be counted (10 days after special election)	<a href="#">R.C. 3511.11</a>
Aug. 15	Boards of elections may begin official canvass of the Aug. 4, 2020 special election ballots (11 days after special election)	<a href="#">R.C. 3505.32</a>
Aug. 17	Boards of elections must certify the validity and sufficiency of candidates' petitions in nonpartisan races (78 days before general election) Boards of elections must certify the validity and sufficiency of nominating petition papers of independent joint candidates for president and vice president (78 days before general election) Boards of elections must certify the validity and sufficiency of local option petitions (78 days before general election)	<a href="#">R.C. 3513.263</a> <a href="#">R.C. 3513.263</a> <a href="#">R.C. 4301.33, .331, .332, .333, .334, 4305.14</a>
Aug. 19	Boards of elections must begin official canvass of the Aug. 4, 2020 special election ballots no later than this date (15 days after special election)	<a href="#">R.C. 3505.32</a>
Aug. 20	Deadline for minor political parties (that submitted party formation petition) to certify slate of candidates to Secretary of State (75 days before general election)	<a href="#">R.C. 3517.012</a>
Aug. 21	Protests against candidates for nonpartisan office must be filed by this date (74 days before general election) Protests against independent joint candidates for president and vice president must be filed by this date (74 days before general election) Protests against local option petitions must be filed by 4 p.m. (74 days before general election)	<a href="#">R.C. 3513.263</a> <a href="#">R.C. 3513.263</a> <a href="#">R.C. 4301.33, .331, .332, .333, .334, 4305.14</a>
Aug. 24*	Write-in candidates must file declarations of intent by 4 p.m. (72 days before general election)	<a href="#">R.C. 3513.041</a>
Aug. 25	Board of elections of most populous county of a multi-county district must certify names of all candidates to other boards of elections (70 days before general election) Boards of elections must complete canvass of Aug. 4 special election ballots no later than this date (21 days after special election)	<a href="#">R.C. 3505.01</a> <a href="#">R.C. 3505.32</a>
Aug. 28	Protests against write-in candidates for general election must be filed by 4 p.m. (67 days before general election)	<a href="#">R.C. 3513.041</a>
Sep. 04	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before general election) Major political parties must certify the names of their joint candidates for president and vice president to the Secretary of State by this date (60 days before general election)	<a href="#">R.C. 3501.27</a> <a href="#">Section 735.11 of H.B. 166 (133rd G.A.)</a>
Sep. 14	Form of official ballots for the Nov. 3, 2020 general election must be certified by Secretary of State to boards of elections (50 days before general election)	<a href="#">Section 735.11 of H.B. 166 (133rd G.A.)</a>
Sep. 18	UOCAVA absentee ballots for the Nov. 3, 2020 general election must be ready (46 days before general election) Boards of elections must update and publish notices of the Nov. 3, 2020 general election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before general election)	<a href="#">R.C. 3511.04</a> <a href="#">R.C. 3511.16</a>
Sep. 22	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (6 weeks before general election)	<a href="#">R.C. 3503.12</a>
Oct. 04	Aug. 4 special election ballots may be discarded unless ordered held by a court or the Secretary of State (61 days after special election)	<a href="#">R.C. 3505.31</a>
Oct. 05*	<b>Deadline for voter registration for the Nov. 3, 2020 general election (30 days before general election)</b> Deadline to file corrections and challenges to precinct voter registration lists (30 days before general election)	<a href="#">R.C. 3503.19</a> <a href="#">R.C. 3503.24</a>
Oct. 06	Non-UOCAVA absentee ballots for the Nov. 3, 2020 general election must be ready (first day after close of voter registration)	<a href="#">R.C. 3509.01</a>
Oct. 12	Secretary of State and boards of elections must send notice to candidates required to file pre-general campaign finance reports (10 days before pre-general campaign finance report deadline)	<a href="#">R.C. 3517.11</a>
Oct. 14	Committees advocating or opposing issues on the Nov. 3, 2020 general election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before general election)	<a href="#">R.C. 3505.21</a>
Oct. 20	Boards of elections must prepare precinct voter registration lists for general election (14 days before general election)	<a href="#">R.C. 3503.23</a>
Oct. 22	Pre-general election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before general election) detailing contributions and expenditures from the last day reflected in the previous report through Oct. 14, 2020 (20 days before general election)	<a href="#">R.C. 3517.10</a>
Oct. 23	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before general election)	<a href="#">R.C. 3505.21</a>
Oct. 24	Boards of elections must give public notice of the Nov. 3, 2020 general election (10 days before general election)	<a href="#">R.C. 3501.03</a>
Oct. 26*	Certificate to fill vacancy on the Nov. 3, 2020 general election ballot caused by death of candidate nominated at primary election whose name is on ballot in more than one county (10 days before general election)	<a href="#">R.C. 3513.31</a>
Oct. 29	Certificate to fill vacancy on the Nov. 3, 2020 general election ballot caused by death of independent or nonpartisan candidate prior to Oct. 24 (10 days before general election) must be filed by 4 p.m. (5 days before general election) Certificate to fill vacancy on the Nov. 3, 2020 general election ballot caused by death of candidate nominated at primary election whose name is on ballot in only one county must be filed by 4 p.m. (5 days before general election)	<a href="#">R.C. 3513.31</a> <a href="#">R.C. 3513.31</a>
Oct. 31	Applications for absentee ballots to be mailed for the Nov. 3, 2020 general election must be received by boards of elections by noon (3 days before general election)	<a href="#">R.C. 3509.03, .08, 3511.02</a>
Nov. 02	Amendments to observer appointments must be filed by 4 p.m. (day before general election) Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than day before general election)	<a href="#">R.C. 3505.21</a> <a href="#">R.C. 3501.29</a>
Nov. 03	<b>General Election Day. Polls open from 6:30 a.m. to 7:30 p.m.</b> If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m. Absentee ballots, returned in person or via a method other than U.S. Mail, must be received by the boards of elections by close of polls	<a href="#">R.C. 3501.01, .32</a> <a href="#">R.C. 3509.08</a> <a href="#">R.C. 3509.05, 3511.11</a>
Nov. 13	Absentee ballots returned by U.S. Mail must be postmarked no later than Nov. 2 and received by boards of elections by this date to be counted (10 days after general election) UOCAVA absentee ballots must be received by boards of elections by this date to be counted (10 days after general election)	<a href="#">R.C. 3509.05, 3511.11</a> <a href="#">R.C. 3511.11</a>
Nov. 14	Boards of elections may begin official canvass of the Nov. 3, 2020 general election ballots (11 days after general election)	<a href="#">R.C. 3505.32</a>
Nov. 18	Boards of elections must begin official canvass of the Nov. 3, 2020 general election ballots no later than this date (15 days after general election)	<a href="#">R.C. 3505.32</a>
Nov. 24	Boards of elections must complete canvass of the Nov. 3, 2020 general election ballots no later than this date (21 days after general election)	<a href="#">R.C. 3505.32</a>
Dec. 01	Secretary of State and boards of elections must send notice to candidates required to file post-general campaign finance reports (10 days before post-general campaign finance report deadline)	<a href="#">R.C. 3517.11</a>
Dec. 10	Last day for certain local option petitioners to send street listings to Division of Liquor Control (55 days before Feb. 3, 2021 petition filing deadline for May 4, 2021 primary election)	<a href="#">R.C. 4301.33, 4305.14</a>
Dec. 11	Post-general election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after general election) detailing contributions and expenditures through Dec. 4, 2020 (the 7th day before the report is filed)	<a href="#">R.C. 3517.10</a>
2021	Reference	
Jan. 01	Applications for absentee ballots for all elections held in 2021 may be accepted (first day of the year)	<a href="#">R.C. 3509.03, 3511.02</a>
Jan. 03	November 3, 2020 general election ballots, except for federal office may be discarded unless ordered held by a court or the Secretary of State (61 days after general election)	<a href="#">R.C. 3505.31</a> <a href="#">52 USC 20701</a>
Jan. 04	Last day for local option petitioners contesting community facility to send street listings to Division of Liquor Control (30 days before Feb. 3 petition filing deadline for May 4 primary election)	<a href="#">R.C. 4301.334</a>
Jan. 24	Boards of elections must prepare and publish notices of the May 4 primary/special election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before primary/special election)	<a href="#">R.C. 3511.16</a>
<b>Recounts and Election Contests</b>		
	Application for a recount must be filed not later than 5 days after official results are declared	<a href="#">R.C. 3515.02</a>
	A petition contesting an election must be filed in the appropriate court within 15 days after the official results are declared or, if a recount of the election is conducted, within 10 days after the official results of a recount are declared	<a href="#">R.C. 3515.09</a>

**From:** Zurakowski, Scott  
**Sent:** Thursday, January 16, 2020 4:14 PM  
**To:** 'Stephan P. Babik'  
**Cc:** Pasquarella, Joseph; Connelly, Amanda; Gue, Rachel; Rarric, Owen; 'amartinsek@ulmer.com'; 'Edwards, William D. (wdedwards@ulmer.com)'; 'mgupta@ulmer.com'; 'Paez, Daniela (dpaez@ulmer.com)'; 'rlittrell@ulmer.com'; 'rrodman@ulmer.com'  
**Subject:** RE: Request for Information from Stark County Board of Elections

Thanks Stephan. Were any of the military or overseas ballot Requests from registered voters residing in Hills and Dales?



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**From:** Stephan P. Babik [<mailto:spbabik@starkcountyohio.gov>]  
**Sent:** Thursday, January 16, 2020 3:43 PM  
**To:** Zurakowski, Scott  
**Cc:** Pasquarella, Joseph; Connelly, Amanda; Gue, Rachel; Rarric, Owen; 'amartinsek@ulmer.com'; 'Edwards, William D. ([wdedwards@ulmer.com](mailto:wdedwards@ulmer.com))'; 'mgupta@ulmer.com'; 'Paez, Daniela ([dpaez@ulmer.com](mailto:dpaez@ulmer.com))'; 'rlittrell@ulmer.com'; 'rrodman@ulmer.com'  
**Subject:** RE: Request for Information from Stark County Board of Elections

1. The number of registered voters that reside within Hills and Dales; and  
207 registered voters in Hills and Dales Village
2. Whether the Stark County Board of Elections has received any applications for military or overseas ballots for the March 17, 2020 primary election.  
11 military and overseas applications as of today (1/20/2020)

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Stephan P. Babik  
Chief Assistant Prosecuting Attorney ~ Civil Division

Office of the Stark County Prosecutor ~ John D. Ferrero  
110 Central Plaza South, Suite 510  
Canton, OH 44702  
330.451.7882 telephone

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**From:** Zurakowski, Scott [<mailto:szurakowski@kwgd.com>]  
**Sent:** Wednesday, January 15, 2020 9:44 AM  
**To:** Stephan P. Babik <[spbabik@starkcountyohio.gov](mailto:spbabik@starkcountyohio.gov)>  
**Cc:** Pasquarella, Joseph <[jpasquarella@kwgd.com](mailto:jpasquarella@kwgd.com)>; Connelly, Amanda <[aconnelly@kwgd.com](mailto:aconnelly@kwgd.com)>; Gue, Rachel <[rgue@kwgd.com](mailto:rgue@kwgd.com)>; Rarric, Owen <[orarric@kwgd.com](mailto:orarric@kwgd.com)>; 'amartinsek@ulmer.com' <[amartinsek@ulmer.com](mailto:amartinsek@ulmer.com)>; 'Edwards, William D. ([wdedwards@ulmer.com](mailto:wdedwards@ulmer.com))' <[wdedwards@ulmer.com](mailto:wdedwards@ulmer.com)>; 'mgupta@ulmer.com' <[mgupta@ulmer.com](mailto:mgupta@ulmer.com)>; 'Paez, Daniela ([dpaez@ulmer.com](mailto:dpaez@ulmer.com))' <[dpaez@ulmer.com](mailto:dpaez@ulmer.com)>; 'rlittrell@ulmer.com' <[rlittrell@ulmer.com](mailto:rlittrell@ulmer.com)>; 'rrodman@ulmer.com' <[rrodman@ulmer.com](mailto:rrodman@ulmer.com)>  
**Subject:** Request for Information from Stark County Board of Elections

Stephan:

Thank you for taking my call this morning. Per our discussion, on behalf of the Relators in the previously filed Complaint for Writ of Mandamus, we are requesting the following information from the Stark County Board of Elections:

1. The number of registered voters that reside within Hills and Dales; and
2. Whether the Stark County Board of Elections has received any applications for military or oversea's ballots for the March 17, 2020 primary election.

Please let me know if you have any questions concerning my request. Thank you.

Scott





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**[Stark County Website](#)**

Baldwin's Ohio Revised Code Annotated Title VII. Municipal Corporations Chapter 731. Organization (Refs & Annos) Initiative and Referendum

R.C. § 731.28

731.28 Ordinances and measures proposed by initiative petition

Effective: July 2, 2010

[Currentness](#)

Ordinances and other measures providing for the exercise of any powers of government granted by the constitution or delegated to any municipal corporation by the general assembly may be proposed by initiative petition. Such initiative petition must contain the signatures of not less than ten per cent of the number of electors who voted for governor at the most recent general election for the office of governor in the municipal corporation.

When a petition is filed with the city auditor or village clerk, signed by the required number of electors proposing an ordinance or other measure, such auditor or clerk shall, after ten days, transmit a certified copy of the text of the proposed ordinance or measure to the board of elections. The auditor or clerk shall transmit the petition to the board together with the certified copy of the proposed ordinance or other measure. The board shall examine all signatures on the petition to determine the number of electors of the municipal corporation who signed the petition. The board shall return the petition to the auditor or clerk within ten days after receiving it, together with a statement attesting to the number of such electors who signed the petition.

The board shall submit such proposed ordinance or measure for the approval or rejection of the electors of the municipal corporation at the next general election occurring subsequent to ninety days after the auditor or clerk certifies the sufficiency and validity of the initiative petition to the board of elections. No ordinance or other measure proposed by initiative petition and approved by a majority of the electors voting upon the measure in such municipal corporation shall be subject to the veto of the mayor.

As used in this section, “certified copy” means a copy containing a written statement attesting it is a true and exact reproduction of the original proposed ordinance or other measure.

**CREDIT(S)**

(2010 H 48, eff. 7-2-10; 1995 H 99, eff. 8-22-95; 1991 H 192, eff. 10-10-91; 1980 H 1062; 126 v 205; 125 v 713; 1953 H 1; GC 4227-1)

[Notes of Decisions \(79\)](#)

R.C. § 731.28, OH ST § 731.28

Current through File 23 of the 133rd General Assembly (2019-2020).