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BRIA BENNETT, et al.,

Relators,

v.

OHIO REDISTRICTING COMMISSION, et al.,

Respondents.

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: **Case No. 2021-1198**
:
: **Original Action Pursuant to**
: **Ohio Const., Art. XI**
:
: **Apportionment Case**
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I. INTRODUCTION

The Commission is out of options. It is now May 9, 2022, six days after the only primary election date established by Ohio law for the 2022 election cycle. Ohio is in uncharted waters. Without a primary election, no major party candidate will appear on the legislative ballot. Millions of Ohioans' preferred candidates will be rendered ineligible for election. For those voters, the federal court's order establishing a "fall back" primary on August 2 is an electoral lifeline. But it is a lifeline that hinges on two things: (1) the federal court setting that date in stone, and (2) a general assembly plan being in place in time for that election to take place. If either of those contingencies is not met, millions of Ohioans run the risk of being denied the right to engage meaningfully in the elective process. That is an outcome the Secretary cannot accept.

Previously, on April 14, 2022, this Court invalidated the Ohio Redistricting Commission's General Assembly Plan of March 28, 2022 and ordered the Commission to submit a new general assembly plan by May 6, 2022. *League of Women Voters of Ohio v. Ohio Redistricting Commission* ("LWV"), 2022-Ohio-1235, ¶ 78-79. That ruling marked the fourth time this Court's majority sent the Commission back to the drawing board. At that time, this Court pointedly rejected the notion that, due to election-related deadlines set forth in Ohio law, a general assembly plan must be in place by April 20. *Id.* at ¶ 68. This Court declined to take an affirmative position on whether or when a plan would need to be in place in order for the 2022 election to proceed for state legislative districts. Instead, this Court generally opined, without much explanation, that the Commission had "sufficient time" to "perform its constitutional duty to adopt a valid General Assembly-district plan for use in the 2022 election cycle, including a primary election." *Id.* at ¶ 69. While this Court has correctly recognized the General Assembly's exclusive authority to set (or reset) the 2022 primary election, it has chosen to remain silent on the effect that the failure to

hold a primary election would have on Ohioans' right to vote on state legislative positions in the 2022 General Election. Thus, this Court's April 14, 2022 order left the Commission to continue working on a general assembly plan until May 6, 2022 – three days after the May 3 primary election – and with no alternatives in place for the lack of a primary election.

Meanwhile, the three-judge panel in *Gonidakis, et al. v. LaRose*, No. 2:22-cv-00773, 2022 U.S. Dist. LEXIS 72172 (S.D. Ohio April 20, 2022), held hearings and accepted evidence on the potential consequences of Ohio failing to hold a primary election or to implement a general assembly plan in time for a primary election. In that case, Amanda Grandjean, the State Elections Director for the Ohio Secretary of State, testified that August 2, 2022, would be the last and best date to hold a primary election. *See* Affidavit of Amanda Grandjean, Ex. 1, ¶ 4. She also testified that, due to Ohio's statutory mandated primary election deadlines, any new general assembly plan other than the Third Plan would need to be implemented no later than April 20, 2022, for an August 2, 2022 primary election. *Id.* at ¶ 8. Finally, Grandjean testified that the majority of the county boards of elections programmed their voter registration systems to the Third Plan. *Id.* at ¶ 9. Thus, any use of a plan other than the Third Plan would require the county boards to reprogram their entire voting systems to accommodate the new plan. *Id.*

Recognizing that, “all parties agree[d] federal law protects the right to vote in an election that is mandated by state law, and all parties agree[d] that right would be violated if Ohio didn't hold a state-legislative primary,” the *Gonidakis* panel intervened. *Gonidakis* at *5. The Panel, “based on the uncontroverted evidence that we heard across multiple hearings” made five findings of fact as follows: (1) it is too late for Ohio to include the General Assembly races on the ballot for the May 3 primary as statutorily required; (2) 80 of 88 counties in the State had implemented the [Third Plan] when the Ohio Supreme Court rejected that map; (3) August 2 is the last date that

Ohio can hold a primary election without disrupting the general election, at least without Ohio's elected officials amending the state's election laws; (4) under current state law, April 20 is the last day that Ohio can adopt a map other than the [Third Plan] to ensure a primary does take place on August 2; and (5) Ohio can adopt the [Third Plan] as late as May 28 and still meet the August 2 deadline. *Id.* at *26. Based on this *uncontroverted* evidence, the Panel ruled that it would implement the Third Plan on May 28 for the 2022 election "to safeguard the rights of Ohio's voters." *Id.* at *8.

On May 5, 2022, the Ohio Redistricting Commission voted 4-3 to resubmit the Third Plan as a stop-gap for the 2022 election only. The Commission also included the Ohio Secretary of State's statement regarding logistical realities of administering a 2022 Primary Election for state legislative districts. *See* Secretary LaRose's Statement. In his statement, the Secretary explains why August 2 is the only date by which Ohio can hold a primary election and why, at this point in time, the Third Plan is the only viable option to effectively administer a primary election on August 2, 2022. For the reasons set forth in the Secretary's statement, implementation of *any* general assembly plan other than the Third Plan for the 2022 general election is both a legal and practical impossibility.

There is no dispute that this Court has invalidated the Third Plan as a four-year plan under Article XI of the Ohio Constitution. The Commission's refile of the Third Plan should not be viewed as an attack on this Court's previous ruling. Rather, it should be viewed as just a stop-gap measure so that the 2022 primary and general elections for state legislative districts can proceed. The Commission's May 5 decision may not be anyone's desired outcome but it is a plan that keeps the 2022 election on track and allows the Commission to continue to work towards a constitutionally compliant plan.

Further, this Court should *again* deny Petitioners’ demands for relief. Petitioners, for the third time, go far and beyond objecting to the Third Plan, which is all this Court allowed them to do. *See LWW*, 2022-Ohio-1235 at 80 (“Petitioners shall file objections, if any, to the new plan by 9:00 a.m., three days after the new plan is filed in this court.”). In doing so, they ask this Court to adopt a plan of their choosing and to move the date for the primary election for General Assembly candidates based on their novel theory that the canons of statutory interpretation allow it to do so. But the canons are not applicable here as Article XI, Section 9(D) is clear and unambiguous – this Court lacks the authority to order a plan not approved by the Commission or that the Commission adopt a particular plan. *See Ohio Const. Art. XI, Section 9(D)(1)-(2)*. And this Court has made it clear to the Petitioners that it agrees. *See LWW* at ¶ 64 (“we lack the constitutional authority to grant that relief”). Nothing in their latest objections changes this, and their requests for relief should be denied as a result.

This Court should defer ruling on Petitioners’ objections to the Commission’s resubmission of the Third Plan for the 2022 General Election only and order the Commission to continue its work in adopting a constitutionally compliant plan starting with the 2024 election.

II. LAW AND ARGUMENT

A. Implementation of Any Plan Other Than the Third Plan for the 2022 Election is an Impossibility.

The Commission cannot do the impossible. It cannot change the past. It cannot turn back the hands of time. It cannot make the legislature change statutory deadlines, the date of the election, or the law. And it cannot will a lawfully compliant legislative primary to go forward based on hope and effort, alone. Instead, the Commission must look at the calendar and do its best to move an orderly election forward, even if that means using a one term, stop-gap plan.

This Court undoubtedly invalidated the Third Plan as a four-year plan under Article XI of the Ohio Constitution. *League of Women Voters of Ohio v. State Redistricting Commission* (“*LWV II*”), 2022-Ohio-789, ¶ 44. But, as set forth in the Secretary of State’s statement to the Ohio Redistricting Commission, Ohio has passed the point where it can implement a newly adopted general assembly plan for the 2022 election. Even if the Commission could have adopted a plan on May 5, 2022, that enjoyed the support of *every* Commission member, it still would be impossible to implement it for this year’s primary election. Thus, compliance with this Court’s April 14 order, insofar as adopting a constitutionally compliant plan under Article XI beginning with the 2022 election, is an impossibility. *See* Ex. 1; *Gonidakis*, 2022 U.S. Dist. LEXIS 72172 at *26.

Impossibility of performance is a viable defense when a governmental agency cannot fully comply with a court order. *State ex rel. Johns v. Board of County Comm’rs*, 29 Ohio St. 2d 6, 8, 278 N.E.2d 19 (1972). “Impossibility of performance occurs when an unforeseen event arises that renders a party’s performance of an obligation impossible. The performance of the obligation must have been rendered impossible without any fault of the party asserting the defense. A party who raises the defense of impossibility of performance has the burden of proving it.” *State ex rel. DeWine v. City of Wash. Court House*, 12th Dist. Fayette No. CA2013-12-030, 2014-Ohio-3557, ¶ 29 (additional citation omitted).

In *State ex rel. DeWine*, the parties settled a civil complaint against a city for EPA violations by agreeing to a consent order regarding the maintenance of the city’s wastewater treatment plant and sewer system. *Id.* at ¶ 5. Some years later, the enforcement agency filed a contempt motion claiming that the city failed to comply with the deadlines in the consent order. *Id.* at ¶ 10. After a two-day hearing where the city offered evidence that it was impossible to

comply with the requirements and deadlines set out in the consent order, the court denied the agency's contempt motion. On appeal, the Twelfth District Court of Appeals affirmed. The Court found that, "While cities are not permitted to unilaterally disregard mandates set forth by the Ohio EPA, especially when such terms are agreed upon by the parties, the unique circumstances of this case demonstrate that the 2011 completion date was impossible to achieve so that the City is not in contempt." *Id.* at ¶ 49.

A party is excused from performing under a court order if performance would require the commission of an unlawful act. *See Ass'n of Cleveland Fire Fighters, Local 93 of the Int'l Ass'n of Fire Fighters v. City of Cleveland*, 8th Dist. Cuyahoga No. 94361, 2010-Ohio-5597, ¶ 13, quoting *Glickman v. Coakley*, 22 Ohio App. 3d 49, 53, 488 N.E.2d 906 (8th Dist. 1984) ("a contracting party can avoid the contract when government orders render its performance impracticable * * *." We reached this conclusion by noting that courts will not enforce an agreement to perform an illegal act...").

The sole authority to set or reset the date for a primary election is the General Assembly. *See LWV*, 2022-Ohio-1235 at ¶ 69, citing R.C. 3501.40 and 3501.01(E). When it became clear that the state legislative districts would not appear on the May 3 primary election ballots, neither this Court nor the Commission could fashion any relief. The General Assembly did not act and there is no indication that it will ever be able to secure supermajority votes in each chamber to pass emergency legislation to set a 2022 General Assembly primary election date and associated other election deadlines for the state legislative districts. Thus, the Commission found itself in an impossible situation of being ordered to adopt a constitutionally compliant four or ten-year general assembly plan under Article XI for the 2022 election by May 6. Ohio law, as it exists now, does not allow for the implementation of a new map on May 6, 2022, in conjunction with a likely

primary election date of August 2. *See* Ex. 1; *Gonidakis* at *26. Thus, compliance with this Court’s April 14 order to adopt a new plan for the 2022 election pursuant to Article XI of the Ohio Constitution is impossible. To do so would also cause the violation of Ohio’s statutory deadlines for elections. *See* LaRose’s Statement to the Ohio Redistricting Commission at 2. Implementation of a new plan for the 2022 election would require the violation of a whole host of statutory deadlines. *Id.*

Instead of adopting a new plan and thereby violating Ohio’s election related deadlines, the Ohio Redistricting Commission did the next best thing. It identified the Third Plan as a stop-gap for the 2022 election only. The *Gonidakis* Panel likewise found that to be the best option too – considering the Commission’s and this Court’s lack of authority to change statutory election deadlines. *Gonidakis* at *8. And, Petitioners cite no authority for the proposition that under these circumstances, a stop-gap, one-election map is impermissible. *See generally* Bennett Objections. Indeed, the U.S. Supreme Court has approved the use of stop-gap plans in state apportionment processes. *See Branch v. Smith*, 538 U.S. 254, 282-283 (2003) (A federal district court properly enjoined a Mississippi state court’s proposed congressional redistricting plan and properly fashioned its own congressional reapportionment plan.); *Reynolds v. Sims*, 377 U.S. 533, 586-587 (1964) (The District Court properly exercised its judicial power by ordering reapportionment of both houses of the Alabama Legislature by using the best parts of two proposed plans just as a stop gap measure so to give the state legislature an opportunity to act effectively.).

B. This Court Should, *Again*, Deny Petitioners Their Requested Relief Because it Lacks the Authority to Grant it.

The Bennett and OOC Petitioners continue to ask this Court to grant relief that this Court has *found* that it lacks the ability to do – namely, order the implementation of a specific general assembly district plan and move the primary date for General Assembly candidates. *See* Bennett

Objections at p. 10 (“this Court should order that a primary election be held under a new plan and modify election-related deadlines as necessary”); *LWV*, 2022-Ohio-1235, ¶ 64 (“we lack the constitutional authority to grant that relief”). As this Court stated, “The Ohio Constitution expressly forbids this court from ‘order[ing], in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article.’” *Id.*, quoting Ohio Const. Art. XI, Sec. 9(D)(1); *see also* Ohio Const. Art. XI, Sec. 9(D)(2) (“No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district”). The last time these petitioners made this argument, the Court found it to be “weak,” *LWV*, 2022-Ohio-1235 at ¶ 65, and their new arguments fare no better.

The Bennett and OOC Petitioners now claim, for the first time, that the canons of statutory interpretation empower this Court to adopt a plan of the Petitioners’ choosing. *See* Bennett Objections at p. 7-10. The canons of statutory interpretation are only applicable when the language of the constitutional provision/statute/etc. at issue is ambiguous. *See Hulsmeyer v. Hospice of Southwest Ohio, Inc.*, 142 Ohio St. 3d 236, 2014-Ohio-5511, 29 N.E.3d 903, ¶ 22, citing *Wingate v. Hordge*, 60 Ohio St.2d 55, 58, 396 N.E.2d 770 (1979). However, “[w]here the language of a statute is plain and unambiguous and conveys a clear and definite meaning there is no occasion for resorting to rules of statutory interpretation. An unambiguous statute is to be applied, not interpreted.” *Sears v. Weimer*, 143 Ohio St. 312, 55 N.E.2d 413 (1944), paragraph five of the syllabus. This rule is not discretionary. If the language is clear and unambiguous, then a court *shall not* “resort to rules of statutory interpretation; [it] must simply apply the unambiguous statute as written.” *Ohio Renal Ass’n v. Kidney Dialysis Patient Prot. Amendment Comm.*, 154 Ohio St. 3d 86, 2018-Ohio-3220, 111 N.E.3d 1139, ¶ 24, citing *Sears* at paragraph 5 of the syllabus.

Article XI, Sections 9(D)(1) and (2) are clear and unambiguous. Full stop. Under those provisions, this Court lacks the authority to order: (1) a general assembly district plan that has not been approved by the Ohio Redistricting Commission; and (2) the Ohio Redistricting Commission to adopt a particular plan or draw a district in a particular way. *See* Ohio Const. Art. XI, Sec. 9(D)(1)-(2). Notably, this Court has never questioned whether this language was ambiguous. Rather, it merely applied the provisions as written. *See LWW*, 2022-Ohio-1235 at ¶ 64. Because these provisions are clear and unambiguous, Plaintiffs are not entitled to the relief they seek.

Nor are Article XI, Sections 9(D)(1) and (2) in conflict with other provisions of the Ohio Constitution. Specifically, the Bennett Petitioners claim that these provisions are in conflict with Article XI, Section 9(A), Article IV, Section 1, Article I, Section 16, and Article XI, Sections 6 and 8 of the Ohio Constitution. They are wrong. Article XI, Section 9(A) vests original jurisdiction over all apportionment claims with this Court, nothing more, and Section 9(D) merely limits the remedies available in those actions. To be sure, Section 9(D) does not vest any other court or other entity with jurisdiction over apportionment matters, which would be in direct conflict with Section 9(A). Nor does Section 9(D) remove the judicial power of the State from Ohio's courts or strip a person's ability to be remedied in the due course of law, as provided by Article IV, Section 1 and Article I, Section 16 respectfully. Finally, Section 9(D) is not in conflict with either Article XI, Section 6 or Section 8 as alleged.

Not surprisingly, Petitioners offer no legal support for their arguments that Section 9(D) is in conflict with Article IV, Section 1, Article I, Section 16, and Article XI, Sections 6 and 8 of the Ohio Constitution. *See* Bennett Objections at p. 9-10. And as to the only claim that they purport to support with caselaw, i.e., that Section 9(D) conflicts with Article XI, Section 9(A), the facts here are easily distinguishable from those in *State ex rel. Ohio Academy of Trial Lawyers v.*

Sheward, 86 Ohio St.3d 451, 715 N.E. 1062 (1999). In *Sheward*, the General Assembly passed Am.Sub.H.B. 350 in an attempt at civil justice reform, but which “intrude[d] upon judicial power by declaring itself constitutional, by reenacting legislation struck down as unconstitutional, and by interfering with [the Supreme Court’s] power to regulate court procedure.” *Id.* at 462. That is not what happened here. Rather, the Commission resubmitted the previously rejected Third Plan only for the 2022 election cycle and only after the federal panel’s decision in *Gonidakis, et al., v. LaRose*, No. 2:22-cv-0773, 2022 U.S. Dist. LEXIS 72172, at *85 (S.D. Ohio April 20, 2022), which ordered the implementation of the Third Plan effective May 28, unless Ohio was able to establish its own plan as to legislative districts and a new date for the primary election of General Assembly candidates. Neither of those pre-conditions have occurred.

Similarly, R.C. 3501.40 is also clear and unambiguous – only the General Assembly may change the date of an election. R.C. 3501.40 (“no public official shall cause an election to be conducted other than in the time, place, and manner prescribed by the Revised Code”). And in this litigation, the Court has said this explicitly. *See LWW*, 2022-Ohio-1235 at ¶ 69 (“The authority for setting the date for a primary election belongs to the General Assembly, not to the Ohio Supreme Court [or] the secretary of state”). Yet, the Bennett Petitioners suggest that the General Assembly has not acted upon its duty to provide a primary election for its members. Bennett Objections at p. 11 (“The May 3, 2022 primary has occurred without General Assembly seats on the ballot, and the General Assembly has taken no action to set a new primary despite their clear constitutional duty to provide for the nomination of General Assembly candidates.”). Like with their prior requests, this request to essentially order the General Assembly to move the primary election date for General Assembly candidates runs afar from what the Supreme Court allowed the Petitioners to do in the three redistricting cases, which was to file any objections to the Ohio

Redistricting Commission’s plan. *See LWW*, 2022-Ohio-1235 at ¶ 80. And R.C. 3501.40 certainly does not conflict with any part of Article XI of the Constitution.

Finally, the Bennett Petitioners’ request that the Court order the Ohio Redistricting Commission to file a new plan under threat of sanction is improper as the only issue before this Court is the objection to the resubmission of the Third Plan for the 2022 election cycle. Moreover, it is simply impossible to conduct an August 2 General Assembly primary election using a new map adopted from here forward, which is what the Bennett Petitioners are requesting. *See supra* at p. (). Additionally, attorney’s fees under R.C. 2323.51 are only available upon a *motion*. *See* R.C. 2323.51(B)(1) (“any party adversely affected by frivolous conduct *may file a motion* for an award of court costs, reasonable attorney’s fees, and other reasonable expenses incurred in connection with the civil action or appeal”) (emphasis added). To date, the Bennett Petitioners have not so moved. Accordingly, they are not entitled to fees at this moment, under R.C. 2323.51. For all of these reasons, Petitioners’ request for additional relief should be denied.

III. CONCLUSION

For the forgoing reasons, this Court should defer ruling on Petitioners’ objections to the Commission’s resubmission of the Third Plan for the 2022 General Election only and order the Commission to continue its work in adopting a constitutionally compliant plan starting with the 2024 election.

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2022, the *foregoing* was filed electronically. I further certify that a copy of the foregoing has been served via the electronic mail upon the following counsel for Relators.

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Exhibit 1

Affidavit of Amanda M. Grandjean, April 6, 2022



2022-04-06 Grandjean Affidavit.pdf

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E-Signature Summary

E-Signature 1: Amanda M. Grandjean (AMG)

April 06, 2022 17:19:59 -8:00 [1E25E1663B4B] [75.187.54.228]
 agrandjean@ohiosos.gov (Principal) (Personally Known)

E-Signature Notary: MacKenzie S. Clayton (msc)

April 06, 2022 17:19:59 -8:00 [794A6E48591E] [107.11.84.255]
 MacKenzie.Clayton@OhioAGO.gov
 I, MacKenzie S. Clayton, did witness the participants named above electronically sign this document.



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

MICHAEL GONIDAKIS, et al.,	:	
	:	Case No. 2:22-CV-773
Plaintiffs,	:	
	:	
v.	:	
	:	Chief Judge Algenon Marbley
FRANK LAROSE,	:	
	:	
Defendant.	:	

AFFIDAVIT OF AMANDA M. GRANDJEAN

STATE OF OHIO :
 : SS
COUNTY OF PERRY :

Now comes Amanda M. Grandjean, having been first duly cautioned and sworn, states and affirms as follows:

1. I have personal knowledge of the information set forth in this Affidavit, and I am competent to testify to the matters stated herein.

2. My experience and credentials remain the same as set forth in my March 28, 2022 Affidavit in this matter.

3. On April 1, 2022, the Secretary of State issued Directive 2022-32. This Directive instructed the 88 county boards of elections to immediately, but no later than April 5, 2022, begin issuing Uniformed Services and Overseas Citizens' Absentee Voting Act ("UOCAVA") ballots for all May 3, 2022 primary races except for the Ohio House, Ohio Senate, and State Central Committee races to UOCAVA voters. In addition, on April 5, 2022, early, in-person voting began across the state at each of the 88 county boards of elections' offices and the county boards of elections began transmitting domestic absentee ballots to voters who requested them. Thus, the May 3, 2022 Primary Election is underway without Ohio House, Ohio Senate, and State Central Committee races on the ballot.

4. If this Court is going to set a new date for the remaining 2022 primary races for Ohio House, Ohio Senate, and State Central Committee, then as I testified on March 30, 2022, the best date going forward from an elections administration standpoint is August 2, 2022. The first

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Tuesday after the first Monday in August is already specified in Ohio law as a possible election day, R.C. 3501.01(D), and some county boards will be holding elections on that day anyway. Holding the primary election for these races on August 2, 2022 allows time for the county boards of elections to complete all processes related to the May 3, 2022 Primary Election, including receiving absentee ballots, conducting the official canvass, and certifying the results. An August 2, 2022 Primary Election date for the General Assembly races also provides enough time to properly and accurately administer the primary election for the remaining races.

5. In addition, for the reasons set forth in my March 28, 2022 Affidavit, August 2, 2022 is the latest date a primary election can be held while allowing the November 8, 2022 General Election to proceed in regular order.

6. If this Court orders an August 2, 2022 Primary Election, the 90-day statutory elections deadlines that are tied to the date of a primary election will reset by operation of law, as set forth in the draft elections calendar attached as **Exhibit A**.

7. As I testified on March 30, 2022, the standard 90-day primary elections calendar does not include the time needed by the county boards of elections to reprogram their voter registration and their voting and tabulation systems to a new General Assembly district plan, or the time for candidates to change their residence due to the adoption of a new plan in accordance with Ohio Const. Art. XI, Section 9(C), if applicable.

8. In my professional judgment it is possible to complete these primary election processes without altering the standard, 90-day primary elections calendar so long as the following conditions are met:

- This Court issues an order not later than April 20, 2022 that: (a) adopts a General Assembly district plan for use in 2022, if there is not a final district plan by that date, and (b) specifies that August 2, 2022 is the Primary Election date for the General Assembly and State Central Committee races.
- If the Court orders the use of any plan other than the four plans adopted by the Ohio Redistricting Commission,¹ the underlying electronic data for that plan – including shape files, legal descriptions, most populous county list, and U.S. Census Bureau block assignment files (“BAFs”) – must be transmitted to the Secretary of State no later than April 20, 2022. The immediate transmission of this data is essential, as county boards of elections and their IT vendors require it to begin reprogramming their systems to ensure that all voters are assigned to the proper district and that all ballots contain the correct candidates and issues.
- If this Court determines that the time for candidates to change their residence under Ohio Const. Art. XI, Section 9(C), based upon the plan the Court may adopt, has not expired prior to the May 4, 2022 candidate filing deadline, then the Court must establish processes similar to those contained in Section 4 of Sub. H.B. 93 of the 134th General Assembly that require candidates to become a resident of the district the filer seeks to represent, submit an addendum to their declaration of candidacy,

¹ The shape files and U.S. Census Bureau block assignment files for the Redistricting Commission’s First, Second, Third, and Fourth Plans have already been filed with the Secretary of State’s Office.



declaration of candidacy and petition, nominating petition or declaration of intent to be a write-in candidate that indicates the filer's new residence address, update their voter registration, and similar provisions related to signature verification, and transfer of filings between the appropriate county boards of elections.

9. Upon the Court's request, my staff conducted a survey of the county boards of elections regarding which General Assembly district plan is programmed into their voter registration and election management systems. The full results of that survey are attached as **Exhibit B**. As anticipated, the majority of the county boards of elections programmed their voter registration systems to the Redistricting Commission's February 24, 2022 plan (or "Third Plan"). If this Court orders the adoption of the Commission's March 28, 2022 plan (the "Fourth Plan"), then the county boards will need to reprogram their systems to the Fourth Plan.

10. While the "current" General Assembly districts are those that were adopted in the 2011 redistricting process, since September 16, 2021, the Secretary has instructed the county boards of elections to reprogram their voter registration and voting and tabulating systems three times. Not all counties can reinstate the 2011 map in their systems because of the number of times these systems were reprogrammed as a result of the 2021-22 redistricting process and litigation. As a result, if this Court orders the use of that 2011 map, the county boards of elections will need to be provided the original 2011 electronic redistricting files, including shape files, legal descriptions, most populous county list, and BAFs. The Secretary does not know the location of those original files and it would be incredibly time-consuming to try and recreate them even if those files are located.

11. Similarly, if the Court orders the reapportionment of that 2011 map using the 2020 census data, the county boards of elections will need the shape files, legal descriptions, most populous county list, and BAFs for the reapportioned map from whomever performs that work.

Further affiant sayeth naught.

Amanda M. Grandjean

Amanda M. Grandjean

Sworn to in my presence and subscribed before me this 6th day of April 2022.



MacKenzie S. Clayton

Notary Public



Affidavit of Amanda M. Grandjean

Exhibit A

2022 Ohio Elections Calendar- August 2022
(GA and State Central Committee)

Statutory Deadlines Possible August 2, 2022 Statewide Primary Election

2022		Reference
Apr. 24	Boards of elections must prepare and publish notices of the August 2 primary election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before primary election)	R.C. 3511.16
May 04	Local questions and issues, including local options, must be certified or filed with the boards of elections by 4 p.m. (90 days before the primary election)	R.C. 731.28, .29, 3501.02, 4301.33, .331, .332, .333, .334, 4305.14
	Declarations of candidacy for partisan candidates for the offices of State Senator, State Representative, and Member of State Central Committee must be filed by 4 p.m. (90 days before primary election)	R.C. 3513.05
May 16	Boards of elections must certify the validity and sufficiency of partisan candidates' petitions for the offices of State Senator, State Representative, and Member of State Central Committee (78 days before primary election)	R.C. 3513.05
	Boards of elections must certify the validity and sufficiency of local option petitions (78 days before primary election)	R.C. 4301.33, .331, .332, .333, .334, 4305.14
May 20	Protests against partisan candidates' petitions must be filed by 4 p.m. for the offices of State Senator, State Representative, and Member of State Central Committee (74 days before primary election)	R.C. 3513.05
	Protests against local option petitions must be filed by 4 p.m. (74 days before primary election)	R.C. 4301.33, .331, .332, .333, .334, 4305.14
May 23*	Write-in candidates for August 2 primary election for the offices of State Senator, State Representative, and Member of State Central Committee must file declarations of intent by 4 p.m. (72 days before primary election)	R.C. 3513.041
May 24	Secretary of State must certify to boards of elections the form of official ballots for August 2 primary election for the offices of State Senator, State Representative, and Member of State Central Committee (70 days before primary election)	R.C. 3513.05
	Board of elections of most populous county in a multi-county subdivision must certify names of all candidates for the offices of State Senator, State Representative, and Member of State Central Committee to other boards of elections (70 days before primary election)	R.C. 3513.05
May 27	Protests against write-in candidates for the offices of State Senator, State Representative, and Member of State Central Committee must be filed by 4 p.m. (67 days before primary election)	R.C. 3513.041
Jun. 03	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before primary election)	R.C. 3501.27
Jun. 17	UOCAVA absentee ballots for August 2 primary election must be ready for use (46 days before primary election)	R.C. 3511.04
	Boards of elections must update and publish notices of August 2 primary election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before primary election)	R.C. 3511.16
Jun. 21	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (six weeks before primary election)	R.C. 3503.12
Jul. 05*	Deadline for voter registration for August 2 primary election (30 days before primary election)	R.C. 3503.19
	Deadline to file corrections and challenges to precinct voter registration lists (30 days before primary election)	R.C. 3503.24
Jul. 06	Non-UOCAVA absentee ballots for August 2 primary election must be ready for use (first day after close of voter registration)	R.C. 3509.01
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
Jul. 11	Secretary of State and boards of elections must send notice to candidates required to file pre-primary campaign finance reports (10 days before the pre-primary campaign finance report deadline)	R.C. 3517.11
Jul. 13	Committees advocating or opposing issues on August 2 primary election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before primary election)	R.C. 3505.21
Jul. 15	Boards of elections must certify independent candidate petitions by this date	R.C. 3513.262
Jul. 19	Boards of elections must prepare precinct voter registration lists for primary election (14 days before primary election)	R.C. 3503.23
	Secretary of State and boards of elections must send notice to candidates required to file semiannual campaign finance reports (10 days before the semiannual campaign finance report deadline)	R.C. 3517.11
Jul. 21	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 July 13, 2022 (20 days before primary election)	R.C. 3517.10
Jul. 22	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before primary election)	R.C. 3505.21
Jul. 23	Boards of elections must give public notice of August 2 primary election (10 days before primary election)	R.C. 3501.03

*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.

"UOCAVA" is an acronym for Uniformed & Overseas Citizens Absentee Voting Act to refer to those voters who are uniformed and/or overseas. "Non-UOCAVA" refers to voters who are not uniformed or overseas voters.

Statutory Deadlines Possible August 2, 2022 Statewide Primary Election

2022		Reference
Jul. 29	Semiannual 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. (last business day of July) detailing contributions and expenditures through June 30, 2022 (last day of June)	R.C. 3517.10
Jul. 30	Applications for absentee ballots to be mailed for August 2 primary election must be received by noon (3 days before primary election)	R.C. 3509.03, .08, 3511.02
Aug. 01	Amendments to observer appointments must be filed by 4 p.m. (day before primary election)	R.C. 3505.21
	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 primary election)	R.C. 3501.29
	Nominating petitions of independent candidates for offices for which a primary election may be held must be filed by 4 p.m. (one day before primary election)	R.C. 3513.257
Aug. 02	Primary Election held. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, .32
	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.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
Aug. 12	Absentee ballots for August 2 primary election returned by U.S. Mail must be postmarked no later than August 1 and received by boards of elections by this date to be counted (10 days after primary election)	R.C. 3509.05, 3511.11
	UOCAVA absentee ballots for August 2 primary election must be received by boards of elections by this date to be counted (10 days after primary election)	R.C. 3511.11
Aug. 13	Boards of elections may begin official canvass of August 2 primary election ballots (11 days after primary election)	R.C. 3505.32
Aug. 17	Boards of elections must begin official canvass of August 2 primary election ballots no later than this date (15 days after primary election)	R.C. 3505.32
Aug. 23	Boards of elections must complete official canvass of August 2 primary election ballots no later than this date (21 days after primary election)	R.C. 3505.32
Aug. 30	Secretary of State and boards of elections must send notice to candidates required to file post-primary campaign finance reports (10 days before the post-primary campaign finance report deadline)	R.C. 3517.11
Sep. 9	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 September 2, 2022 (seven days before the report is filed)	R.C. 3517.10

*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.

"UOCAVA" is an acronym for Uniformed & Overseas Citizens Absentee Voting Act to refer to those voters who are uniformed and/or overseas. "Non-UOCAVA" refers to voters who are not uniformed or overseas voters.

Affidavit of Amanda M. Grandjean

Exhibit B

2022-04-04 BOE Redistricting Plan Programming Status

2022-04-04 BOE Redistricting Plan Programming Status

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Adams	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Allen	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ashland	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ashtabula	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Athens	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Auglaize	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Belmont	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Brown	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Butler	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Carroll	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Champaign	Districts established prior to September 15, 2021	Our districts did not change on any of the proposed maps	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Clark	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Clermont	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Clinton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Columbiana	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Coshocton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Crawford	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Cuyahoga	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Darke	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Defiance	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Delaware	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Erie	Districts established prior to September 15, 2021	It will probably take one week. We already reprogrammed much of our VR system to match the third set of maps; we just had one precinct to go. This particular precinct was difficult because half of it was in one district and half of it was in another. We were in the process of updating when the third set of maps was ruled not valid, so we stopped.	Districts established prior to September 15, 2021	No	
Fairfield	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

2022-04-04 BOE Redistricting Plan Programming Status

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Fayette	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Franklin	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Fulton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Gallia	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Geauga	February 24, 2022 (Third Map)		Districts established prior to September 15, 2021	Yes	February 24, 2022 (Third Map)
Greene	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Guernsey	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Hamilton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Hancock	Districts established prior to September 15, 2021	Our districts did not change.	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Hardin	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Harrison	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Henry	Districts established prior to September 15, 2021	N/A	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Highland	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Hocking	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Holmes	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Huron	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Jackson	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Jefferson	Districts established prior to September 15, 2021	None It didn't change.	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Knox	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lake	Districts established prior to September 15, 2021	Not sure.	February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lawrence	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Licking	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Logan	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lorain	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lucas	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

2022-04-04 BOE Redistricting Plan Programming Status

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Madison	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Mahoning	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Marion	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Medina	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Meigs	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Mercer	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Miami	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Monroe	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Montgomery	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Morgan	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Morrow	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Muskingum	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Noble	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ottawa	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Paulding	Districts established prior to September 15, 2021	1 day if needed	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Perry	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Pickaway	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Pike	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Portage	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Preble	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Putnam	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Richland	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ross	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Sandusky	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	Districts established prior to September 15, 2021
Scioto	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

2022-04-04 BOE Redistricting Plan Programming Status

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Seneca	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Shelby	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Stark	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Summit	February 24, 2022 (Third Map)		Districts established prior to September 15, 2021	Yes	February 24, 2022 (Third Map)
Trumbull	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Tuscarawas	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Union	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Van Wert	Districts established prior to September 15, 2021	our districts did not change	Districts established prior to September 15, 2021	No	
Vinton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Warren	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Washington	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Wayne	February 24, 2022 (Third Map)		Districts established prior to September 15, 2021	Yes	February 24, 2022 (Third Map)
Williams	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Wood	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Wyandot	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)