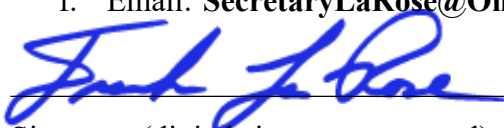


2022 Ohio Undue Hardship Waiver Request

1. State name: **Ohio**

2. Chief State Election Official (CSEO):

- a. First Name: **Frank** Last Name: **LaRose**
b. Title: **Secretary of State**
c. Address: **22 North Fourth Street**
d. Address: **16th Floor**
e. City: **Columbus** State: **Ohio** Zip: **43215**
f. Email: **SecretaryLaRose@OhioSoS.gov** Phone: **614-466-0816**



Signature (digital signature accepted)

2/26/2022

Date

3. Preferred State Election Contact:

- a. First Name: **Amanda** Last Name: **Grandjean**
b. Title: **Director of Elections and Deputy Assistant Secretary of State**
c. Address: **22 North Fourth Street**
d. Address: **15th Floor**
e. City: **Columbus** State: **Ohio** Zip: **43215**
f. Email: **agrandjean@ohiosos.gov** Phone: **614-466-3899**

4. Acknowledgement of *UOCAVA* voters' right to vote

Ohio recognizes that the purpose of 52 USC 20302(a)(8)(A) is to allow absent uniformed service voters and overseas voters sufficient time to vote in an election for Federal office.

Type initials: AMG

Date: 2/26/2022

5. Type of hardship claimed (check one):

- ☐ (g)(2)(B)(i) Undue hardship due to a late primary.
☒ (g)(2)(B)(ii) Undue hardship due to a legal challenge
☐ (g)(2)(B)(iii) Undue hardship caused by a State constitutional prohibition.

6. Please indicate the location in the package that identifies your plan to resolve the problem:

Appendix A

7. Please indicate the location in the package that contains the section in the comprehensive plan identifying the State's explanation for the necessity of the waiver request:

Appendix B

8. On what date(s) will the State require ballots to be available and sent?
At this time, the Ohio Redistricting Commission has not adopted a Congressional district map approved by the Ohio Supreme Court, and legal contests in state and federal court are ongoing. Ohio will provide the date the ballots will be available to be sent for the offices of Representative to Congress, State Senator, State Representative, and Member of State Central Committee as soon as congressional maps are established and legal contests regarding state and congressional redistricting are resolved. However, given all of this, it would be our goal to have UOCAVA ballots ready by April 5, 2022, the start of non-UOCAVA absentee voting in Ohio. If any of the circumstances outside of our Office's control change, we will let you know as soon as possible. Please note that this still permits UOCAVA voters 38 days to return their absentee ballot to their board of elections. In many states, there are only 45 days for UOCAVA voters to return their absentee ballots under the standard timeline.
9. Please indicate the location in the package that contains the section in the comprehensive plan identifying how the State plans to provide sufficient time for UOCAVA voters, who have timely submitted an absentee ballot request, to receive, mark, and return their ballots in time to have those ballots counted.

Appendix C

10. If included, indicate the location in the package that contains the section in the comprehensive plan identifying how the State plans to resolve the underlying issue prior to the next election for Federal office, including steps already taken, to be taken, timelines, and supporting documentation.
N/A
11. If requesting a (g)(2)(B)(i) and/or (g)(2)(B)(iii) waiver, explain why there has not been a resolution of this issue(s) between enactment of the MOVE Act and the date of this waiver request.

N/A

Appendix A: Comprehensive Plan Summary

As a result of a delay from the U.S. Census Bureau and state and federal litigation¹ over new legislative districts, as of the date of submission of this waiver, the Ohio Redistricting Commission has yet to adopt a congressional district map. Once adopted, the Ohio Supreme Court will determine whether the congressional district map complies with state constitutional requirements. The Ohio Redistricting Commission adopted a third set of Ohio House and Senate district maps on February 24, 2022. Petitioners will almost certainly file objections to the most recent set of district maps. The Ohio Supreme Court set a briefing schedule that requires objections to be filed no later than February 28, 2022, and responses to the objections no later than three days later.² There is additional litigation pending in federal court as well. In the event that a court invalidates the district maps again, leaving the state once again without legislative districts, there is no way to determine who may be eligible to run for those offices, who may be eligible to vote for those offices, or construct ballots accordingly. It is important to note that the Office of U.S. Senate is not impacted by redistricting. Due to pending litigation and delay in establishing the legislative districts, there are two different paths that our Office could direct boards of elections to take.

First Option: A Singular Ballot

Section 9(C) of Article XI of the Ohio Constitution provides that when the Ohio Redistricting Committee adopts a new district plan pursuant to an order of the Supreme Court of Ohio, as is currently the case, a candidate is allowed up to 30 days to change their residence to be eligible for election in a district in which the candidate may not currently reside. Thirty days from February 24, 2022 is Saturday, March 26, 2022. The Ohio Secretary of State's Office issued a form of the ballot directive for all races that are not impacted by redistricting litigation to the boards of elections on February 22, 2022. That directive included U.S. Senate, but did not include U.S. House of Representatives, Ohio House, Ohio Senate, and Member of State Central Committee (all of which are dependent on redistricting and resolution of legal contests). The Ohio Secretary of State's Office must issue a second form of the ballot directive following the certification and protest deadlines. The earliest that a second form of the ballot directive can be issued is on March 28, 2022 to include the remaining races. Sending one ballot makes the UOCAVA voter's experience much simpler. Additionally, an absentee ballot may be counted so long as it is received by the board of elections by the 10th day following the election (May 13, 2022), so long as their ballot is submitted for mailing not later than 12:01 a.m. at the place where the voter completes the ballot, on the date of the election.³

Second Option: Two Ballots

Ohio's delayed redistricting and unresolved legal contests may require the Ohio Secretary of State to send two ballots the May 3, 2022 Primary Election for UOCAVA voters. The offices

¹ See *Simon, et al. v. DeWine, et. al.*, N.D. Ohio No. 4:21-cv-02267-JRA, *Gonidakis, et al. v. Ohio Redistricting Commission, et al.*, S.D. Ohio No. 2:22-cv-00773, *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65, and *Adams v. DeWine*, Slip Opinion No. 2022-Ohio-89.

² <https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2022/2022-Ohio-559.pdf>.

³ R.C. 3511.09 and 3511.11.

for U.S. Senate, statewide offices, county offices, judges, and local question and issues will be available 46 days prior to the election. These ballots can be prepared and transmitted to UOCAVA voters by the statutory deadline. A separate ballot containing the races for Representative to Congress, State Senator, State Representative, and Member of State Central Committee will be ready for use after the 46th day prior to the election. The second ballots will be transmitted to Ohio's UOCAVA voters as soon as possible. The Ohio Secretary of State and boards of elections will take several steps to mitigate the risk of error and voter confusion: boards of elections will be required to send a letter accompanying each ballot explaining the situation and that the voter will be receiving two ballots with different races on them, clearly informing them of the deadlines for return, and encouraging them to mail the ballots to their boards of elections as soon as possible.

Universe of Voters Impacted

In May 2018, the last similar U.S. Senate, Congressional, and Gubernatorial Primary Election, 1,955 Ohioans requested UOCAVA ballots. The number is expected to be similar for this election. However, the current geopolitical climate suggests that additional servicemembers may be deployed, which may result in additional UOCAVA ballot requests.

Making Balloting Materials Available Quickly

The Ohio Secretary of State's Office will lead an information campaign to reduce the number of UOCAVA ballots transmitted through traditional postal carriers, eliminating significant delays in voters receiving their ballots. The Ohio Secretary of State's Office and all county boards of elections will contact known UOCAVA voters, informing them that due to the delay in ballot preparation resulting from redistricting, UOCAVA voters are encouraged to provide an email address in order to receive their ballot via email. Similar messages will be placed on the homepages for the Secretary of State and every county board of elections.

Additionally, the Ohio Secretary of State's Office, with all county boards of elections, will send similar messages through social media platforms, traditional news media, government websites, and other potential sources that may support the message. Finally, the Ohio Secretary of State's Office will seek to work with FVAP and the Overseas Vote Foundation to notify any potential Ohio voters of the delays and ask that these agencies encourage voters to request their ballot early and receive it via email whenever possible.

Ultimately, these efforts should result in more UOCAVA voters receiving a ballot instantaneously through email, rather than through a longer postal process, providing a longer time to vote and return their cast ballot.

Finally, based on this timeline, if Ohio must send two ballots for the May 3, 2022 Primary Election to UOCAVA voters, the first ballots with the offices for U.S. Senate, statewide offices, county offices, judges, and local question and issues can be prepared and transmitted to UOCAVA voters by the deadline of 46 days prior to Election Day. A separate ballot containing the races for Representative to Congress, State Senator, State Representative, and Member of State Central Committee will be ready for use after the 46th day prior to the election. The second ballots will be transmitted to Ohio's UOCAVA voters as soon as possible.

As a combat veteran and Army Reservist himself, and because of his unwavering commitment to supporting UOCAVA voters, the Ohio Secretary of State has employed a dedicated Military and Veteran Outreach Coordinator who focuses on all UOCAVA voting efforts. Last year alone, our Office distributed over 5,000 of what we call “Military Ready to Vote” (“MRV”) packets modeled off the MRE, which is familiar to all service members. These packets contain detailed voting assistance materials including a FPCA. We have also maintained a robust outreach effort to Voting Assistance Officers around the world. More than 400 resource packets were sent to voting assistance officers in 2021. Our coordinator has built solid relationships with USO branches and other veteran service organizations in Ohio, as well as the Ohio National Guard. In 2022, we became an active part of the Ohio National Guard’s Guard Your Future program. At pre-mobilization events organized by this program, we serve as a resource for service members preparing for mobilization. For non-military overseas voters, we have created “Ohio’s Voter Passport” program, which distributes a step-by-step guidebook for overseas voters through numerous partners.

Appendix B: Undue Hardship Necessitating Waiver Request

As a result of litigation, the Ohio Supreme Court required the new post-decennial census districts for Representative to Congress and the Ohio General Assembly to be redrawn multiple times.⁴ After the new General Assembly districts are established, the following non-exhaustive list must still occur before ballots can be transmitted to UOCAVA voters: 30 days must pass for individuals to change residence to be eligible for election as required under Article XI, Section 9 of the Ohio Constitution, potential subsequent protests must be resolved, then the ballots must be prepared, proofed, and printed. Moreover, it is unclear when final districts will be established for Representative to Congress. While candidates for Representative to Congress do not have the same 30-day provision, their candidacy is still subject to the same time constraints for potential protests and ballot preparation, proofing, and printing.

Due to this ongoing litigation, Ohio’s boards of elections cannot timely prepare ballots that include the offices of Representative to Congress, State Senator, State Representative, and Member of State Central Committee.

The Ohio Secretary of State repeatedly raised concerns with the Ohio General Assembly regarding the redistricting delay and resulting challenges in conducting the primary election on May 3, 2022. Ohio law prohibits the Secretary of State from moving the date of an election.⁵ Unfortunately, state legislative leaders have shown no interest in moving the primary election date or bifurcating the election for legislative offices from the election for other statewide and local offices.

Appendix C: Providing sufficient time for UOCAVA voters

Secretary of State Frank LaRose is a combat veteran and a member of the U.S. Army Reserve. He has been deployed overseas and was a UOCAVA voter himself. As such, he is

⁴ *Adams, et al. v. DeWine, et al.*, Case No. 2021-1428; *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1449

⁵ R.C. 3501.40.

absolutely committed to providing as much time as possible for UOCAVA voters to receive, cast, and return their ballots. However, Ohio law prohibits the Secretary of State from moving the date of an election,⁶ receiving a voted UOCAVA ballot electronically,⁷ or receiving a voted UOCAVA ballot beyond the tenth day after Election Day.⁸ The Secretary of State will continue to advocate for legislative changes to expand and protect the voting rights of every one of Ohio's UOCAVA voters for the May 3, 2022 Primary Election.

⁶ R.C. 3501.40.

⁷ R.C. 3511.021(A)(4).

⁸ R.C. 3511.11(C).