

Congress of the United States
Washington, DC 20515

August 17, 2020

The Honorable Frank LaRose
Secretary Of State
22 North Fourth Street, 16th Floor
Columbus, Ohio 43215

Dear Secretary of State LaRose,

On behalf of the millions of Ohioans who wish to exercise their right to vote in a healthy and fair manner, we strongly urge you to reconsider your decision prohibiting local boards of election from providing multiple secure ballot drop boxes in each county.

Ohioans are some of the most civic minded citizens in our country. They take seriously their solemn duty to vote and decide who should be given the power to govern and make decisions that impact their lives, from the President of the United States to local school boards. This year, however, they must exercise their right to vote in the midst of an unpredictable and dangerous pandemic. Indeed, Ohio's chaotic primary season alone reminds us that steps must be taken to ensure that Ohioans are given options that permit them to vote in a safe, healthy, and predictable manner. Secure ballot drop boxes can play a key role in such efforts. Without question, however, your recently announced policy will create a barrier to voting in our state and directly threaten the health of Ohioans and their families.

Ohioans are patient people. We wait in lines for hours in order to exercise our constitutional right to vote.^{1 2} We wait in lines to see the Buckeyes play at the Shoe³, to cheer on the Reds⁴, and see another great game by the Toledo Mud Hens.⁵ But the idea that 850,000 voters in both Franklin and Cuyahoga counties or that over half a million voters in Hamilton and Lucas counties must wait for one secure box, tries even our patience.

Under your policy, Noble County – with fewer than 8000 registered voters – would have as many secure ballot boxes as Franklin and Cuyahoga Counties – each with more than 850,000 registered voters. But it is not just the most populous counties that are harmed by your order. In rural parts of Ohio, voters could be required to travel up to an hour to reach the closest ballot drop box.

In contrast, there is guidance on how you can effectively and fairly implement the use of secure ballot boxes. The Bipartisan Policy Center has suggested that multiple drop boxes be installed across each election jurisdiction.⁶ More specifically, the federal Election Assistance Commission (EAC) has encouraged jurisdictions to install “one drop box for every 15,000–20,000 registered voters.”⁷ Under your approach, only 17 of Ohio's 88 counties would meet the EAC's standard. As

¹ <https://www.hollywoodreporter.com/earshot/john-legend-sings-wake-up-everybody-ohio-386569>

² <https://www.usccr.gov/pubs/2018/06-27-OH-Voting-Rights.pdf> (see p. 41).

³ Ohio Stadium's capacity is 102,780 <https://ohiostatebuckeyes.com/sports/m-footbl/facilities/ohio-stadium/>

⁴ The Great American Ball Park's capacity is 42,271 <https://www.mlb.com/reds/ballpark/information/facts>

⁵ Fifth Third Field's capacity is more than 10,000 <https://hensvilletoledo.com/fifth-third-field>

⁶ https://bipartisanpolicy.org/wp-content/uploads/2020/01/Bipartisan_Elections-Task-Force_R01-2.pdf at 28.

⁷ https://www.eac.gov/sites/default/files/electionofficials/vbm/Ballot_Drop_Box.pdf at 5

of March 2020, Ohio had more than 7.7 million registered voters.⁸ If Ohio were to follow these suggestions, even under conservative estimates, we would need nearly 300 additional secured ballot drop boxes. Our state officials must not blindly implement a policy that ignores the diverse needs of both geographically sprawling and densely populated counties.

Contrary to your assertions, the Ohio code permits more than one secured drop box per county.⁹ ¹⁰ Nothing in the code speaks to the availability of secure drop boxes for the general election,¹¹ and the Secretary of State is clearly empowered by the Ohio code to “issue instructions.... [on] proper methods of conducting elections.”¹² Furthermore, nothing in the statute could be explicitly or contextually inferred to prohibit additional drop boxes.¹³ It is clearly within your authority to allow boards of elections to install secure drop boxes at additional locations.

Ohio’s boards of election officials are professional, well-trained and committed to ensuring access to the ballot box. You have already acknowledged that the pure volume of ballots has stretched the postal service to its limits. As we saw during the primary, the postal service delivered some ballots late,¹⁴ and in other circumstances, some ballots were not postmarked.¹⁵ There have also been reports of deliberate efforts undertaken by the recently appointed Postmaster General to impede the timely delivery of mail in the coming months.¹⁶

However, if you proceed to restrict the availability of secure drop boxes, this policy will undermine the ability of many Ohioans to vote. We urge you to reconsider your decision, and use your authority to permit local boards of elections to locate additional secure boxes in their communities. To do otherwise will greatly limit access for too many Ohio citizens, effectively suppressing their voices, when they simply want to exercise their constitutional right to vote in this year’s general election.

Thank you for your consideration, and we look forward to receiving your response.

Sincerely,



Marcy Kaptur
Member of Congress



Sherrod Brown
United States Senator

⁸ <https://www.sos.state.oh.us/globalassets/elections/2020/pri/turnoutbycounty.xlsx>

⁹ <http://innovationohio.org/wp-content/uploads/2020/07/LaRose-Report.pdf>

¹⁰ Secretary of State’s Directive 2020-16.

¹¹ H.B. 197, Section 32(E)(1).

¹² Ohio Rev. Code § 3501.05 (B-C)

¹³ See *Barnhart v. Peabody Coal Co.*, 537 U.S. 149, 168 (2003) (quoting *United States v. Vonn*, 535 U.S. 55, 65 (2002)) on the application of *expressio unius*.

¹⁴ <https://www.cincinnati.com/story/news/2020/05/12/more-than-300-butler-county-ballots-delivered-late-wont-count-ohio-primary/3119026001/>

¹⁵ <https://www.cnn.com/2020/08/11/politics/postmarks-mail-in-ballots/index.html>

¹⁶ <https://www.cnn.com/2020/07/31/politics/usps-mail-in-voting-2020-election/index.html>



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