IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RED WINE & BLUE, and OHIO ALLIANCE FOR RETIRED AMERICANS,

Plaintiffs,

v.

FRANK LAROSE, in his official capacity as Ohio Secretary of State, CHARLES L. NORMAN, in his official capacity as Ohio's Registrar of Motor Vehicles,

Defendants.

Case No.: 1:25-cv-01760

Judge Solomon Oliver, Jr.

Mag. Judge James E. Grimes, Jr.

ORAL ARGUMENT REQUESTED

PLAINTIFFS' OPPOSITION TO DEFENDANTS' COMBINED MOTION TO DISMISS AND PARTIAL MOTION FOR JUDGMENT ON THE PLEADINGS

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STATEMENT OF ISSUES

1. Whether Plaintiffs have adequately alleged standing to challenge HB 54.

2. Whether Plaintiffs have adequately pleaded claims asserting that HB 54 is unconstitutionally vague and violates 52 U.S.C. § 20507(b)(1).

SUMMARY OF ARGUMENT

1. Plaintiffs have adequately alleged both associational standing to sue on behalf of their members, as well as organizational standing to sue on their own behalf. With respect to associational standing, Defendants' motion should be denied because Red Wine & Blue has identified two members with standing to sue. Those members are directly injured by HB 54's proof-of-citizenship requirements because the law requires them to take an unwanted action: to produce citizenship documents in order to register to vote. Multiple federal courts have squarely held that similar laws cause a cognizable Article III injury in fact in that circumstance. Their injuries are traceable to Defendants because Defendants are charged with overseeing the enforcement of HB 54. The injuries are redressable because, if the Court enjoins HB 54, the identified members would be able to register to vote at the Bureau of Motor Vehicles without producing citizenship documents. Plaintiffs also are directly injured by HB 54 because that law hinders their core organizational mission of ensuring that their members are able to vote. The Court need go no further to find that Plaintiffs have adequately alleged standing at this threshold stage.

2. Plaintiffs have adequately pleaded their claims asserting that HB 54 is unconstitutionally vague and violates 52 U.S.C. § 20507(b)(1). HB 54 requires "proof of United States citizenship," which the statute does not define. Multiple states have enacted similar regimes and no two have settled on the same set of acceptable "proof of citizenship." Accordingly, a person of ordinary intelligence would not know what the State of Ohio considers to be sufficient "proof of United States citizenship." Moreover, Defendants' suggestion that HB 54's use of "proof of United States citizenship" refers to a different regulation governing identification documents to establish "legal presence" should be rejected, as those are different legal terms with different legal meanings. For similar reasons, Plaintiffs have adequately pleaded a claim under 52 U.S.C. § 20507(b)(1), which

applies to statutes governing the voter registration process, because HB 54 will lead to nonuniform and discriminatory effects in voter registration.

INTRODUCTION

The National Voter Registration Act ("NVRA") requires states to offer voter registration at their motor vehicle offices, and to require generally no more than a sworn attestation as proof of citizenship. In enacting House Bill 54 ("HB 54"), the Ohio legislature imposed a requirement that prospective voters must present further, unspecified documentation constituting "proof of United States citizenship" before they are allowed to register to vote at an office of the Ohio Bureau of Moter Vehicles ("BMV"). This is flatly in conflict with the NVRA. Numerous courts have considered and enjoined similar proof-of-citizenship requirements in other states as preempted by the NVRA, and there is no reason to reach any different conclusion for HB 54. The NVRA prohibits states from requiring anything more than "the minimum amount of information necessary" to assess an applicant's eligibility to vote. By requiring voters to present "proof of United States citizenship" beyond a sworn attestation, HB 54 (like similar laws that came before it) conflicts with the NVRA and is preempted.

In their motion, Defendants do not even attempt to dispute that HB 54 is in clear conflict with the NVRA. Rather than defending HB 54 on its merits, Defendants instead argue that Plaintiffs lack standing to challenge this plainly unlawful statute. Defendants are wrong. But for HB 54, Plaintiffs' members could register to vote at the BMV without locating and producing documents proving their citizenship. Multiple courts have squarely held that such requirements are cognizable Article III injuries. Those injuries are traceable to Defendants (who are responsible for overseeing enforcement of HB 54), and an order enjoining HB 54's proof-of-citizenship requirement would redress Plaintiffs' injuries, since their members would no longer be required to produce citizenship documents before being allowed to register to vote at the BMV. Consequently,

Plaintiffs have standing to challenge HB 54 on behalf of their members. Plaintiffs also have standing to bring the lawsuit on their own behalf because they are directly harmed by HB 54.

Plaintiffs' partial motion for judgment on the pleadings is likewise deficient. Plaintiffs have adequately pleaded claims showing that HB 54's undefined use of "proof of United States citizenship" is impermissibly vague. This is the key term in the statute—a person cannot register to vote without producing a document the State of Ohio considers to be adequate "proof." But the statute does not define the term. A person of ordinary intelligence cannot be expected to divine what the term means, as most directly illustrated by the fact that multiple states have enacted similar "proof of citizenship" regimes, but none define this key statutory term in the same way.

BACKGROUND

I. The National Voter Registration Act

Congress enacted the NVRA in 1993 with the express purpose of establishing "procedures that will increase the number of eligible citizens who register to vote in elections for Federal office." 52 U.S.C. § 20501(b)(1). To that end, the NVRA streamlines the voter registration process and requires states to provide simplified, voter-friendly systems for registering to vote. *See* National Voter Registration Act of 1993, Pub. L. No. 103-31, 107 Stat. 77. One of the principal ways in which the NVRA encourages voter registration is to require states to offer citizens the opportunity to register to vote when they apply for a driver's license. 52 U.S.C. § 20504.

The NVRA specifies that voter registration applications made in conjunction with an application for a driver's license "may require only the minimum amount of information necessary to . . . enable state election officials to assess the eligibility of the applicant." *Id.* § 20504(c)(2)(B). The NVRA also requires that voter registration applications must "include a statement" that "states each eligibility requirement (including citizenship)" and require the applicant to attest, under

penalty of perjury, that he or she "meets each such requirement." *Id.* § 20504(c)(2)(C). Those two provisions work in tandem to make the attestation requirement "the presumptive minimum amount of information necessary for state election officials to carry out their eligibility-assessment and registration duties." *Fish v. Kobach*, 840 F.3d 710, 716-17 (10th Cir. 2016) ("*Fish I*") (emphasis deleted). Consequently, state statutes that require citizens to provide additional information to prove citizenship beyond an attestation under penalty of perjury have been enjoined as preempted by the NVRA. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 15, 20 (2013); *Fish v. Schwab*, 957 F.3d 1105, 1144 (10th Cir. 2020) ("*Fish II*"); *Mi Familia Vota v. Fontes*, 129 F.4th 691, 710 (9th Cir. 2025); *see also League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 195-96 (D.D.C. 2025) ("*LULAC*") (enjoined executive order).

II. Ohio's Voter Registration Procedures at the BMV

For decades, Ohio allowed individuals to register to vote contemporaneously with a driver's license application, without any heightened documentary proof-of-citizenship ("DPOC") requirement. Compl. ¶¶ 47-51, Doc. 1. But earlier this year, the Ohio legislature imposed a DPOC requirement for BMV customers who are otherwise eligible to register to vote. *Id.* ¶¶ 52-61. As a result of HB 54, BMV customers must now "present[] proof of United States citizenship to the registrar of motor vehicles or the deputy registrar" before being offered "the opportunity to register to vote or to update [their] voter registration." Ohio Rev. Code § 3503.11(A)(1). The statute gives no guidance as to what serves as adequate "proof" of citizenship. *Id.*; *see* Compl. ¶¶ 62-68.

III. The Plaintiffs

Red Wine & Blue is a membership organization whose mission is to empower women to engage in political discourse and to work together to counter extremism by building connections and organizing their communities. Compl. ¶ 20. Part of that core mission involves encouraging its

members to vote, to be politically engaged, and to organize their communities to be politically engaged. *Id.* ¶ 22. To achieve that mission, Red Wine & Blue provides information on the voting process, registers and turns out its members and their communities to vote, and regularly reminds its members to check their voter registration and update it if they have moved. *Id.* Red Wine & Blue has over 600,000 members, including more than 55,000 members who reside throughout Ohio. *Id.* ¶ 21. Members commonly find themselves at the BMV, often to update their driver's license because of a recent move or name change. *Id.* ¶¶ 24-25. The large majority of Red Wine & Blue's members are women, many of whom have changed or will change their name as a result of marriage or divorce. *Id.* ¶ 24. Red Wine & Blue identified specific members who are required to produce citizenship documents to register to vote at the BMV as a result of HB 54. *Id.* ¶¶ 29-30.

The Ohio Alliance for Retired Americans ("Alliance") is a chartered state affiliate of the Alliance for Retired Americans. *Id.* ¶ 32. The Alliance's mission is to protect the civil rights of retirees and to ensure that they obtain social and economic justice, and central to that mission is ensuring that its members are able to register and turn out to vote. *Id.* ¶ 34. It has approximately 253,000 members, consisting of retirees from public and private sector unions who reside throughout Ohio. *Id.* ¶ 33. The Alliance's members also frequently visit the BMV to renew or update their driver's licenses. *See id.* ¶¶ 35-36. In addition, Alliance members are largely older voters, who may lack DPOC or whose documents may have become worn, illegible, or otherwise unacceptable to the BMV. *Id.* ¶ 36.

LEGAL STANDARD

Defendants raise a facial challenge to Plaintiffs' pleadings on jurisdictional grounds. *See* Defs.' Mem. in Supp. of Mot. to Dismiss & Mot. for J. on Pleadings ("Mem."), at PageID 110, Doc. 15. "Where the Rule 12(b)(1) motion presents a facial attack, the Court accepts the material

allegations in the complaint as true and construes them in the light most favorable to the nonmoving party, similar to the standard for a Rule 12(b)(6) motion." *McKinney v. Bayer Corp.*, 744 F. Supp. 2d 733, 742 (N.D. Ohio 2010). At the motion to dismiss stage, plaintiffs need not *establish* standing, instead they need only plausibly *allege* the necessary elements. *Charlton-Perkins v. Univ. of Cincinnati*, 35 F.4th 1053, 1059 (6th Cir. 2022).

Defendants also bring a Rule 12(c) motion for judgment on the pleadings with respect to Count III and portions of Count II. *Mem.* at PageID 125-29. "The standard of review for a judgment on the pleadings is the same as that for a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6)." *E.E.O.C. v. J.H. Routh Packing Co.*, 246 F.3d 850, 851 (6th Cir. 2001). Accordingly, "a district court 'must construe the complaint in the light most favorable to the plaintiff, [and] accept all of the complaint's factual allegations as true.'" *Engler v. Arnold*, 862 F.3d 571, 574-75 (6th Cir. 2017) (quoting *Kottmyer v. Maas*, 436 F.3d 684, 689 (6th Cir. 2006)). So long as the complaint sets out a "plausible" claim for relief, the Court must deny the motion. *Id.*

ARGUMENT

I. Plaintiffs have associational standing to challenge HB 54 because the law requires Red Wine & Blue's members to perform unwanted actions.

An organization has standing to sue on behalf of its members if: "[1] its members would otherwise have standing to sue in their own right, [2] the interests at stake are germane to the organization's purpose, and [3] neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Online Merchants Guild v. Cameron*, 995 F.3d 540, 549 (6th Cir. 2021) (quoting *Friends of the Earth, Inc. v. Laidlaw Env't Servs., Inc.*, 528 U.S. 167, 181 (2000)). Defendants do not dispute that Plaintiffs satisfy the second and third elements of associational standing. Defendants argue, however, that Plaintiffs have failed to identify members who have standing to challenge HB 54. That argument is meritless.

To establish standing, a plaintiff must have (1) suffered an injury in fact, (2) that is traceable to Defendants, and (3) that would be redressable by a favorable decision. *Sandusky Cnty. Democratic Party v. Blackwell*, 387 F.3d 565, 573 (6th Cir. 2004) (*per curiam*). The complaint contains allegations about two members of Red Wine & Blue—Peggy Dutcher and Gia Borgerson—that courts routinely find sufficient for standing.[1] Compl. ¶¶ 29-30.

A. Red Wine & Blue's members have suffered an injury in fact.

Defendants misidentify Ms. Dutcher's and Ms. Borgerson's injuries as their "moral opposition" to HB 54, Mem. at PageID 116-117, 119, but that fundamentally misunderstands the nature of their Article III injuries. Ms. Dutcher and Ms. Borgerson are not injured because they *dislike* the law, but because HB 54 *requires* each of them to *take an action* that they do not wish to do: namely, locate and produce citizenship documents before they can register to vote. Compl. ¶¶ 29-30. As the Supreme Court recently (and unanimously) recognized, "[g]overnment regulations that *require . . . some action by* the plaintiff almost invariably satisfy both the injury in fact and causation requirements. So in those cases, standing is usually easy to establish." *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 382 (2024) (emphasis added). And, consistent with this well-established principle, numerous courts have squarely held that individuals suffer a cognizable Article III injury *when they are required to produce a document to vote or register to vote*.

Thus, the Eleventh Circuit held that a voter had standing to challenge a voter ID law, finding that "[r]equiring a registered voter either to produce photo identification to vote in person or to cast an absentee or provisional ballot is," in and of itself, "an injury sufficient for standing."

[1] Because Red Wine & Blue has identified members with standing—and therefore has associational standing—the Court does not need to separately consider the standing of the Alliance. *See Ne. Ohio Coalition for the Homeless v. Husted*, 837 F.3d 612, 623 (6th Cir. 2016) ("When one party has standing to bring a claim, the identical claims brought by other parties to the same lawsuit are justiciable.").

Common Cause/Georgia v. Billups, 554 F.3d 1340, 1351-52 (11th Cir. 2009). Whether the voter actually *possessed* a photo ID was immaterial—it was sufficient for Article III purposes that the law required the individual to *produce* the document in order to vote. *See id.* at 1352 ("[T]he lack of an acceptable photo identification *is not necessary* to challenge a statute that requires photo identification to vote in person"; rather, "[b]ecause [the individual plaintiffs], who are registered voters, would be required to *present* photo identification to vote in person, they have suffered a sufficient injury.") (emphases added).

The Tenth Circuit reached the same conclusion in *Fish v. Schwab*, a challenge (like here) to a DPOC requirement for voter registration, where the court held that "the requirement that [a voter] provide DPOC is sufficient to establish standing." *Fish II*, 957 F.3d at 1120. Here, too, the Tenth Circuit held that a voter has standing to challenge a law requiring DPOC even when the required documents are readily accessible to the voter. *Id.* at 1119-20 (holding that an individual plaintiff had standing even though he "possessed DPOC that was located at his parent's home in Texas, [and] he acquired a copy of this DPOC at some point during his Kansas residency in order to apply to the Navy, and . . . he stated that he did not bring the DPOC when he attempted to register to vote because he did not agree with the law").

The same principles have regularly been applied in voting cases by courts across the country. Just two months ago, the District of New Hampshire held that a DPOC requirement caused an injury in fact because the law would "force [the voter] to locate and bring documentary evidence of citizenship that they would not otherwise need to provide." *N.H. Youth Movement v. Scanlan*, No. 24-cv-291, 2025 WL 2336868, at *6 (D.N.H. Aug. 13, 2025). Numerous other courts, including within the Sixth Circuit, have likewise recognized standing based on similar reasoning. *See, e.g.*, *Ne. Ohio Coal. for the Homeless v. Brunner*, 652 F. Supp. 2d 871, 880 (S.D. Ohio 2009),

modified on reconsideration on other grounds, 2009 WL 10663619 (S.D. Ohio July 30, 2009) (agreeing that the Eleventh Circuit's finding of standing in *Billups* "was logical because every voter was subjected to the challenged barrier, i.e., the requirement that they produce photo identification"); *Green Party of Tenn. v. Hargett*, 194 F. Supp. 3d 691, 697 (M.D. Tenn. 2016) (citing *Billups* and finding voter had standing to challenge voter ID law because "[s]he is allegedly injured every time she votes because she must either produce a valid form of identification, sign an affidavit, or cast a provisional or absentee ballot"); *see also, e.g.*, *Frank v. Walker*, 17 F. Supp. 3d 837, 866 (E.D. Wis.) ("It is the need to present such an ID that injures a voter and confers standing to sue."), *rev'd on other grounds*, 768 F.3d 744 (7th Cir. 2014); *One Wis. Inst., Inc. v. Nichol*, 186 F. Supp. 3d 958, 966 (W.D. Wis. 2016) ("[T]he requirement of *presenting* an ID to vote is a sufficient injury for purposes of Article III standing. . . ."); *People First of Ala. v. Merrill*, 467 F. Supp. 3d 1179, 1198 (N.D. Ala. 2020) ("[A] voter always has standing to challenge a statute that places a requirement on the exercise of his or her right to vote.").[2]

Ms. Dutcher's and Ms. Borgerson's allegations are the same as those found sufficient for standing in the cited authorities. Both want to register to vote at the BMV, but to do, so they must now produce additional documentation under the challenged law. *See* Compl. ¶¶ 29-30; Ohio Rev. Code. § 3503.11(A)(1). Ms. Dutcher recently moved to Ohio. Compl. ¶ 29. Thus, when she goes to the BMV to obtain her driver's license, HB 54 will now require her to produce DPOC before

[2] In addition, a three-judge district court that included Judge Thapar of the Sixth Circuit held that "wasted effort" is a "concrete injur[y]" in the context of attempting to vote. *Gonidakis v. LaRose*, 599 F. Supp. 3d 642, 657 (S.D. Ohio 2022) (*per curiam*). Thus, if someone goes to the BMV with the hope of registering to vote but is not allowed to do so because they fail to bring DPOC, that person's "wasted effort" likewise is an injury sufficient to support standing. *See id.*

she will be allowed to register to vote.[3] Ms. Borgerson will need to do the same when she goes to update her driver's license and her voter registration after she changes her legal name. Compl. ¶ 30. While Defendants speculate that Ms. Borgerson might have previously produced citizenship documents to the BMV, *see* Mem. at PageID 119, that is irrelevant here. After she changes her legal name, she will need to prove to the BMV that she is a citizen, either by producing DPOC in the first instance or by producing documents evidencing her name change to show that she is the same person who previously did so. Compl. ¶ 30. Either way, HB 54 requires her to produce *something* proving citizenship before she is allowed to register to vote. *See* Ohio Rev. Code § 3503.11(A)(1). In short, because HB 54 requires Ms. Dutcher and Ms. Borgerson to produce documents before they are allowed to register to vote, they have suffered a cognizable injury in fact. *See, e.g.*, *Fish II*, 957 F.3d at 1120.

B. The injuries of Red Wine & Blue's members are traceable to Defendants.

An injury caused by a statute is traceable to the executive official charged with enforcing the law. *See, e.g.*, *NetChoice, LLC v. Yost*, 778 F. Supp. 3d 923, 941 (S.D. Ohio 2025) ("[T]he injury is directly traceable to Defendant, whom the Act vests with enforcement authority.").

[3] After the complaint was filed, Ms. Dutcher tried to register at the BMV but was denied for want of an acceptable social security card. She then successfully registered to vote at the BMV (on her second attempt), but was required to produce a citizenship document (her passport) to do so. Her claims are not moot. "[A] case will not be considered moot if the challenged activity is capable of repetition, yet evading review." *Lawrence v. Blackwell*, 430 F.3d 368, 371 (6th Cir. 2005). "Challenges to election laws are one of the quintessential categories of cases which usually fit this prong because litigation has only a few months before the remedy sought is rendered impossible by the occurrence of the relevant election." *Id.* To fall under this exception to the mootness doctrine, it is not necessary that the injury is likely to occur again for *Ms. Dutcher*. Rather, the Sixth Circuit held that an election law case is not moot so long as the same controversy "almost invariably will recur with respect to *some future . . . voter in Ohio*." *Id.* at 372 (emphasis added). Thus, the mootness exception is met when "the harm Plaintiffs allege was the direct result of an extant Ohio statute," and similarly situated individuals in the "future" "will suffer the same harm Plaintiffs are alleging." *Id.* That is exactly the situation here.

Because Secretary LaRose and Registrar Norman are ultimately responsible for enforcing HB 54's DPOC requirement, *see* Compl. ¶¶ 37-38, Ms. Dutcher's and Ms. Borgerson's injuries are traceable to them.

Nor is there any merit to Defendants' argument that Ms. Dutcher's and Ms. Borgerson's injuries are "self-inflicted." *See* Mem. at PageID 117-18. That argument cannot be squared with the repeated decisions holding that a voter has standing to challenge laws requiring him or her to produce a document before voting. *See, e.g.*, *Fish II*, 957 F.3d at 1119-20; *Billups*, 554 F.3d at 1352. Indeed, the same argument was raised by Kansas in *Fish II*, where the Tenth Circuit "rejected the notion that the source of an injury is a litigant's decision not to comply with an allegedly unlawful state regime, rather than the regime itself." 957 F.3d at 1120 (cleaned up).

C. The injuries of Red Wine & Blue's members are redressable.

"[A] plaintiff satisfies the redressability requirement when he shows that a favorable decision will relieve a discrete injury[.]" *Parsons v. U.S. Dep't of Justice*, 801 F.3d 701, 715 (6th Cir. 2015) (quoting *Larson v. Valente*, 456 U.S. 228, 244 n.15 (1982)). Enjoining HB 54's DPOC requirement will redress Red Wine & Blue's members' injuries because they would not need to produce citizenship documents to register to vote at the BMV. Defendants resist this conclusion by arguing that even if HB 54 is enjoined, Ohio driver's license regulations would still require Ms. Dutcher and Ms. Borgerson to produce the same documents when they apply for a driver's license. Mem. at PageID 118. In short, Defendants argue that a plaintiff does not have standing to present an NVRA claim unless they can prove that they will *successfully* apply for a driver's license under state law. This argument is flawed in multiple respects.

1. Ohio's driver's license regulations serve a discrete purpose than HB 54: the former determines who can get a driver's license, and the latter determines when the BMV will let

someone register to vote. A person can register to vote without getting a driver's license, and they can get a driver's license without registering to vote. This distinction matters because the NVRA obligates states to allow individuals to register to vote at the BMV even when they do not fulfill every state-law requirement for a driver's license. That conclusion follows from the plain text of the NVRA. Its operative provision states:

> Each State motor vehicle driver's license *application* (including any renewal application) *submitted* to the appropriate State motor vehicle authority under State law *shall serve as an application for voter registration* with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

52 U.S.C. § 20504(a)(1) (emphasis added).

Thus, a state's obligation to allow someone to register to vote is triggered when a prospective voter "submit[s]" an "application" for a driver's license. *Id.* What this means is that if Ms. Dutcher or Ms. Borgerson went to a BMV office and submitted an application for a driver's license, the BMV must allow them to apply to register to vote, even if their application did not include citizenship documents. Even if their application did not result in them successfully obtaining a driver's license, it is still an "application." It might be an application that a decisionmaker will later deny, but that is the nature of an "application"—it is a request that is necessarily contingent on a later decision.[4]

[4] Dictionary definitions bear this out. For example, Merriam-Webster defines "application" to include "request," "petition," or "a form used in making a request." *Application*, Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/application; *see also Application*, Dictionary.com, https://www.dictionary.com/browse/application (defining "application" as "the act of requesting," "a formal or written request," or "a form to be filled out by an applicant, as for a job or a driver's license"). The NVRA does not define "application," and "[w]hen a statutory term is undefined, . . . courts give it the 'ordinary meaning.'" *United States v. Small*, 988 F.3d 241, 254 (6th Cir. 2021) (quoting *United States v. Santos*, 553 U.S. 507, 511 (2008)). "To ascertain ordinary meaning, courts often turn to dictionary definitions for guidance." *Id.*

Any other interpretation would be contrary to the NVRA's plain text. In particular, the State's attempt to limit the NVRA's reach to only successful applications impermissibly adds requirements to the statute beyond those in its text. *See, e.g.*, *Action NC v. Strach*, 216 F. Supp. 3d 597, 634 (M.D.N.C. 2016) (rejecting a reading of the NVRA that would limit its reach to "in-person" applications, since the plain terms of the statute did not allow for that limitation); *Bates v. United States*, 522 U.S. 23, 29 (1997) ("[Courts] ordinarily resist reading words or elements into a statute that do not appear on its face."). Moreover, Ohio driver's license regulations specifically contemplate individuals submitting a driver's license application to a BMV office without the listed citizenship documents, after which the Registrar will determine whether to issue a driver's license. Ohio Admin. Code § 4501:1-1-21(Q). Ohio law thus recognizes that an application may be submitted without citizenship documents (and might be denied on that basis) and yet still be considered an "application," thereby triggering the NVRA's voter-registration obligations.

The bottom line is that if an individual goes to the BMV and submits an application for a driver's license, the NVRA requires Ohio to allow them to register to vote regardless of whether they brought citizenship documents. But HB 54 specifically prohibits BMV employees from offering those individuals the opportunity to register to vote. *See* Ohio Rev. Code § 3503.11(A)(1). Consequently, but for HB 54, Ms. Dutcher and Ms. Borgerson would be able to register to vote at the BMV without bringing citizenship documents. An order enjoining HB 54's DPOC requirement therefore would fully redress their injury.

To hold otherwise would allow Ohio to evade its voter-registration duties under the NVRA by promulgating an additional state-law requirement (proof of citizenship) that is inconsistent with federal law. But caselaw makes clear that a state cannot evade its federal law obligations in this way. *See, e.g.*, *Camacho v. Tex. Workforce Comm'n*, 326 F. Supp. 2d 794, 801 (W.D. Tex. 2004)

(collecting Supreme Court and other authority and stating "[t]hese cases establish [that] a state cannot withhold assistance from individuals who meet the federal eligibility requirements, simply because the individuals do not meet the state's additional requirements"); *see also Inter Tribal Council*, 570 U.S. at 13 (rejecting a reading of the NVRA that "would permit a State to demand of Federal Form applicants every additional piece of information the State requires on its state-specific form").

2. Defendants' redressability argument fails for an additional and independent reason: it rests entirely on a flawed premise; that a BMV customer will not be allowed to obtain a driver's license unless they present one of the "six types of acceptable proof" of legal presence listed in Ohio Administrative Code § 4501:1-1-21(G). Mem. at PageID 110, 117. But other provisions of that regulation recognize that an applicant may apply for a driver's license *without* those documents. Specifically, the regulation recognizes and accounts for the fact that some individuals may not possess the required documents. Thus, "[a]pplicants who, for reasons beyond their control, are unable to present all necessary documents for the issuance of a [*sic*] Ohio credential, and must rely on alternate documents . . . *may request an exception* in accordance with 6 C.F.R. 37.11." Ohio Admin. Code § 4501:1-1-21(Q) (emphasis added). That subsection specifically contemplates that alternative documents "will . . . be allowed to demonstrate United States citizenship." *Id.*[5]

[5] Defendants' suggestion that all persons applying for a driver's license will need to produce DPOC is also incorrect in an additional respect. The requirement to provide "identification documents" to "establish [] legal presence" applies only to the issuance of new driver's licenses or licenses that have been expired for more than six months, while renewal applicants may use their current or recently-expired driver's license to satisfy *all* identification requirements. Ohio Admin. Code § 4501:1-1-21(C), (G), (L). Therefore, a registrant who has held an Ohio driver's license for decades and has always timely renewed may never have submitted legal presence documents at the BMV and would be eligible for renewal of their license without providing DPOC, but would be denied the opportunity to register to vote under HB 54. *See Fish v. Kobach*, 189 F. Supp. 3d 1107, 1128 (D. Kan. 2016) (observing that motor vehicle registrars in Kansas were asking for proof of legal

Thus, contrary to Defendants assertion that an applicant cannot obtain a driver's license unless they produce one of the six types of documents listed in § 4501:1-1-21(G), Mem. at PageID 117, 127-28, Ohio regulations allow the Registrar to consider other, undefined evidence of legal presence in determining whether to issue a driver's license. The upshot is that it is HB 54—and only HB 54—that directly *requires* Ms. Dutcher and Ms. Borgerson to locate and produce DPOC before registering to vote at the BMV. Enjoining HB 54's DPOC requirement therefore would fully redress their constitutional injury.[6]

II. Plaintiffs also have standing to challenge HB 54 because the law directly injures Plaintiffs' organizational missions.

As Plaintiffs have plausibly alleged associational standing, the Court need go no further to deny the motion to dismiss. That said, Plaintiffs have also plausibly alleged organizational standing. HB 54's DPOC requirement directly interferes with Red Wine & Blue's core mission, which includes "encouraging its members to vote, to be politically engaged, and to organize their communities to be politically engaged." Compl. ¶ 22. As part of that mission, it registers, turns out, and reminds its members to check and update their voter registration. *Id.* As a crucial part of the Alliance's mission of protecting the civil rights of retirees, the Alliance ensures that "its members are able to register and turn out to vote." Compl. ¶ 34.

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status from new registrants but not from individuals renewing their driver's license). The requirement for legal presence documents was added to the Ohio Admin. Code § 4501:1-1-21 in April 2016. 2016 OH Reg Text 415222.

[6] Moreover, HB 54's DPOC requirement is one obstacle standing in the way of Ms. Dutcher's and Ms. Borgerson's right to vote, and "[t]he removal of even one obstacle to the exercise of one's rights, even if other barriers remain, is sufficient to show redressability." *Sierra Club v. U.S. Dep't of Interior*, 899 F.3d 260, 284 (4th Cir. 2018); *accord Cal. Sea Urchin Comm'n v. Bean*, 883 F.3d 1173, 1181-82 (9th Cir. 2018) ("Where there are legal impediments to the recovery sought, it is enough for standing that the relief sought will remove some of those legal roadblocks, even if others may remain.").

Far more than "a setback to the organization's abstract social interests," Mem. at PageID 122, Plaintiffs are injured by HB 54's DPOC requirement because it directly obstructs their core organizational missions of political engagement when their members are turned away from voter registration opportunities. Compl. ¶¶ 22-31, 34-36. Federal courts regularly find that organizations like Plaintiffs have standing based on similar injuries. *See, e.g., LULAC*, 780 F. Supp. 3d at 188 (finding standing for organizations challenging a DPOC requirement because it would "unquestionably make it more difficult for [the organizations] to accomplish their primary mission[s] of registering voters"); *Mi Familia Vota v. Fontes*, 719 F. Supp. 3d 929, 985-87 (D. Ariz. 2024) (finding standing for organizations seeking to protect the voting rights of its members in a challenge to Arizona's DPOC and related voter registration laws); *March for Our Lives Idaho v. McGrane*, 749 F. Supp. 3d 1128, 1139 (D. Idaho 2024) (finding standing for organization "in the 'business' of educating and registering voters" to challenge a voter ID law that "increased its costs for its core activities of educating and registering voters"); *cf. Tennessee State Conf. of NAACP v. Hargett*, 420 F. Supp. 3d 683, 698 (M.D. Tenn. 2019) (finding standing for organizations that conduct voter registration to challenge a law that made it harder to register voters).

The cases Defendants cite are inapposite. In *Tennessee Conf. of NAACP v. Lee*. 139 F.4th 557, 566-68 (6th Cir. 2025), the Sixth Circuit found that plaintiffs had produced insufficient factual evidence to demonstrate standing at the summary judgment stage. At the motion to dismiss stage, plaintiffs need only "plausibly allege standing." *Davis v. Colerain Twp*., 51 F.4th 164, 171 (6th Cir. 2022). In *Equality State Policy Center v. Gray*, plaintiff alleged that its organizational mission was affected because it had to answer questions about the challenged law, redevelop voter education materials, and increase voter registration education efforts. Mem., Ex. A at 7. These educational efforts, the court surmised, were not sufficiently concrete injuries. *Id.* at 10. But Plaintiffs here

assert injuries based on the fact that they are hindered in "achiev[ing] [their] mission of political engagement" due to the obstacles posed by HB 54's DPOC requirement. Compl. ¶ 31.

Finally, the injuries Plaintiffs face are traceable to Defendants, and enjoining the law would redress their injuries. *See supra* Part I(B)-(C).

III. The Court should reject Defendants' cursory argument that HB 54 does not prohibit the BMV from registering individuals without citizenship documents.

The Court should also reject the motion to the extent it suggests that Plaintiffs lack standing because HB 54 permits BMV agents to allow voter registration without DPOC. In this regard, Defendants twice suggest (in passing, and without any substantial argument or analysis) that HB 54 only regulates when BMV deputy registrars are "required to provide voter registration applications," as opposed to "when they are forbidden from doing so." Mem. at PageID 125; *see also id.* at PageID 111. In fact, before HB 54's enactment, whenever "any person applie[d] for a driver's license," Ohio law required that "the registrar . . . or deputy registrar shall offer the applicant the opportunity to register to vote or to update the applicant's voter registration by electronic means in conjunction with the person's transaction with the registrar or deputy registrar." Ohio Rev. Code § 3503.11(A)(1) (May 2025). By the statute's plain terms, that obligation extended to *all* applicants. HB 54 amended that law so that *only* applicants who "present[] proof of United States citizenship" (or who have previously done so) are offered the opportunity to register to vote. *Id.* (July 2025). There is no way to read that amendment as anything other than a prohibition on registering someone to vote who has not provided DPOC. Indeed, if the amended § 3503.11(A)(1) were somehow read to still allow a deputy registrar to register individuals who have not provided DPOC, then the language added by HB 54 would have no substantive content and would be entirely superfluous. *See TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (statutes should be construed so that "no clause, sentence, or word shall be superfluous,

void, or insignificant"). In any event, Defendants' motion elsewhere states that HB 54 *does* require a person to provide DPOC before being allowed to register to vote at the BMV. *See, e.g.*, Mem. at PageID 117, 127-28.

IV. The Court should reject Defendants' Rule 12(c) motion.

Plaintiffs have adequately pleaded their claims asserting constitutional vagueness and violations of Section 8 of the NVRA. Defendants do not move for judgment on Count I (NVRA Section 5) or part of Count II (NVRA Section 8, 52 U.S.C. § 20507(a)(1)(A)), so even if Defendants prevail on their partial motion for judgment on the pleadings, Count I and part of Count II would survive.

A. Plaintiffs' vagueness claim survives because no statute, regulation, or guidance defines "proof of United States citizenship" for voter registration.

A statute is vague if the relevant terms "(1) 'fail to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits' or (2) 'authorize or even encourage arbitrary and discriminatory enforcement.'" *Platt v. Bd. of Comm'rs on Grievances & Discipline of Ohio Sup. Ct.*, 894 F.3d 235, 246 (6th Cir. 2018) (quoting *Hill v. Colorado*, 530 U.S. 703, 732 (2000)). HB 54's use of the undefined term "proof of United States citizenship" fails that test. Ohio Rev. Code § 3503.11(A)(1). Nowhere in Ohio law—not in any statute, not in the administrative code, and not in any guidance document—does Ohio define what suffices as "proof of citizenship" for voter registration. The meaning of the term is not self-evident; no two states define it in the same way. So, a person of ordinary intelligence has no choice but to guess what universe of documents would or would not suffice.

In response, Defendants offer a post-hoc suggestion, made during litigation, that HB 54's use of "proof of United States citizenship" for voter registration would inform a reasonable person that the term refers to a subset of documents listed in a different regulation about a different topic

(*i.e.*, identification documents to establish "legal presence" to apply for a driver's license). Defendants are wrong, for several reasons.

First, "proof of citizenship" and "proof of legal presence" are different things. Non-citizens can be legally present in Ohio. Moreover, constructions such as "*proof of* citizenship" and "*establish*[*ment*] *of* legal presence" are legal terms of art used to specify the types of acceptable evidence that a state deems sufficient to establish either citizenship or legal presence. *See, e.g.*, Compl. ¶¶ 63-68. Thus, there is no reason why a reasonable person trying to understand how to satisfy HB 54's "proof of citizenship" requirement would know that he should look to a different regulation's requirement for "proof of legal presence." To the contrary, basic principles of statutory interpretation suggest the opposite, since courts presume that when the legislature uses different terms, it intends those terms to convey different meanings. *See Rudisill v. McDonough*, 601 U.S. 294, 308 (2024) (citing *Henson v. Santander Consumer USA Inc.*, 582 U.S. 79, 86 (2017)) ("[W]e generally 'presume differences in language. . . convey differences in meaning.'"); *Liberty Ford Lincoln Mercury, Inc. v. Ford Motor Co.*, 644 F. Supp. 3d 417, 425 (N.D. Ohio 2022) (internal quotations omitted) ("Ohio courts generally presume that when the General Assembly uses different words in a statute, it intends those words to have different meanings.").

Nor do Defendants point to any statement from the legislative process to suggest the legislature intended HB 54's use of "proof of United States citizenship" to refer to a different regulation about documents to establish legal presence, and Plaintiffs have not been able to find any such statement. *See* Compl. ¶¶ 54-60. Defendants' suggestion thus is pure speculation. *Magwood v. Patterson*, 561 U.S. 320, 334 (2010) ("We cannot replace the actual text with speculation as to [legislative] intent").

There is simply no getting around the fact that someone reading HB 54's proof-of-citizenship requirement is left to guess what the statute requires. And real-world experience shows that "proof of United States citizenship" could mean any number of things. Numerous states have enacted DPOC regimes, but no two states accept the same set of documents for that purpose. Compl. ¶ 63. While Ohio *could* have specified that "proof of United States citizenship" meant submitting one of five categories of documents listed in Ohio Admin. Code § 4501:1-1-21(G)(1)-(5), Ohio has not done so, either via statute, regulation, or administrative guidance.

Other states permit people to prove citizenship by submitting out-of-state driver's licenses or identification cards if the card indicates U.S. citizenship, naturalization numbers, and tribal card numbers, Compl. ¶ 64; Ariz. Rev. Stat. § 16-166(F), and others include a catch-all provision and allow reasonable documentation of citizenship, Compl. ¶ 65; N.H. Rev. Stat. § 654:12(I)(a). Particularly given the divergent practice across the states, the Court should not accept Defendants' *ipse dixit* that "a person of ordinary intelligence" will divine that HB 54's DPOC requirement is met via a subset of documents listed in an Ohio regulation about driver's licenses, and not other documents that other states find sufficient as proof of citizenship for voter registration.

In short, HB 54 is impermissibly vague. Plaintiffs and their members are left to guess what documents are sufficient, and the same is true for BMV officials charged with implementing HB 54 on the ground. Without any guidance from Ohio law, some officials could allow any documents from § 4501:1-1-21(G)(1)-(5), some could allow a subset of those documents, and others could accept additional documents deemed acceptable in other states, such as tribal identification numbers, out-of-state licenses, or other reasonable proof of citizenship. And if Defendants were correct (which they are not, *see supra* Part III) that the DPOC requirement in HB 54 does not prohibit BMV officials from offering voter registration but merely imposes an obligation to offer

the opportunity if DPOC has been provided, *see* Answer ¶ 4, that interpretation would give BMV officials unbridled discretion to offer voter registration only when they *subjectively believe* a registrant is a citizen. *See Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) ("A vague law impermissibly delegates basic policy matters to policemen . . . for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.").

Finally, even if the Court believes that "proof of citizenship" documents could potentially be comprised only of documents listed in § 4501:1-1-21(G)(1)-(5), it would still be premature to enter judgment. "[E]lection administration is a specialized field," *Tennessee State Conf. of the N.A.A.C.P. v. Hargett*, 441 F. Supp. 3d 609, 631 (M.D. Tenn. 2019), and Plaintiffs have pointed to several instances where "proof of citizenship" does not carry the same meaning as Defendants argue here. The Court could benefit from an evidentiary record regarding how "proof of citizenship" is interpreted in election administration in Ohio before entering judgment.

B. Plaintiffs' claims under NVRA Section 8 also survive because it applies to restrictions on the voter registration process itself.

The Court should also reject Plaintiffs' argument that NVRA Section 8 applies only to state efforts to remove names from voter lists. This Court has already applied NVRA Section 8 to apply to restrictions on the voter registration process itself, not just on the maintenance of voter lists. *See, e.g., Project Vote v. Blackwell*, 455 F. Supp. 2d 694, 703-04 (N.D. Ohio 2006) (holding that NVRA preempted pre-registration, training, and affirmation requirements imposed on compensated voter registration workers). It should do the same here.

CONCLUSION

For the foregoing reasons, the Court should deny Defendants' Combined Motion to Dismiss and Partial Motion for Judgment on the Pleadings.

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2025, the foregoing was filed electronically with the Clerk of the Court using the Court's electronic case filing system, which will serve such filing on all counsel of record.

/s/ *Stacey N. Hauff*
Stacey N. Hauff

CERTIFICATE OF COMPLIANCE

Pursuant to Northern District of Ohio Local Civil Rule 7.1(f), I hereby certify that this case has not been assigned to a track. This memorandum complies with the page limitations for unassigned cases.

/s/ *Stacey N. Hauff*
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