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July 11, 2017

Brian B. Kemp
Secretary of State
214 State Capitol
Atlanta, GA 30334

Mary Carole Cooney, Chairperson
Fulton County Board of Registration and Elections
130 Peachtree St., Suite 2186
Atlanta, GA 30303

Via Certified Mail

Re: Voter Purge Notice Received by Stacey Hopkins on July 3, 2017

Dear Secretary Brian B. Kemp and Ms. Mary Carole Cooney,

This letter is written on behalf of Stacey Hopkins, an African-American activist and registered voter in the State of Georgia. On July 3, 2017, Ms. Hopkins received an alarming notice in the mail—with highly misleading, confusing, and intimidating language—suggesting that she would be made “inactive” and potentially purged from the rolls unless she took immediate affirmative steps (the “Purge Notice”).¹ This was in apparent response to the fact that she moved within Fulton County last year. More troubling, according to a recent article in the *Atlanta Daily World*,² Fulton County appears to have admitted that they have sent these Purge Notices to over 45,000 registered voters “who have moved *within the county* over the past 2 years” (emphasis added), and pursuant to “state guidelines.”

As explained below, it is unlawful under the National Voter Registration Act of 1993 to issue these kinds of Purge Notices or require any affirmative action of registered voters who move within the same county. See 52 U.S.C. § 20507(f), (j). This letter constitutes official written notice that the State of Georgia has violated Ms. Hopkins’s rights (and potentially the rights of 45,000 other voters in Fulton County alone) under Section 8 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507. This letter also serves as an Open Records Request to ascertain on what basis Ms. Hopkins has received this Purge Notice and to ensure that the State is not systematically purging Ms. Hopkins or other voters in an unlawful manner.

Though written on behalf of Ms. Hopkins, the issues raised in the letter extend well beyond her individual circumstances, and strike at the heart of our democracy. Sending out

¹ A photo of the Purge Notice was posted on Ms. Hopkins’s Twitter account, which can be found here: <http://bit.ly/2t6rEOA>. The term “Purge Notice” shall also include the same type of notice received by any other Georgia voter.

² *Fulton County sends over 45k confirmation notices to voters*, Atlanta Daily World, <http://bit.ly/2uJD2lq>.

confusing and intimidating Purge Notices in an irresponsible and unlawful manner has the effect, if not the purpose, of making it harder for Georgia voters of all political parties—particularly voters with less income or educational background—to exercise their fundamental right to vote. Voter registration systems are supposed to facilitate the process of voting, and not be a trap for the unwary.

I. Ms. Hopkins was unable to obtain a clear answer from you on why she received a Purge Notice

As a preliminary matter, it was highly disturbing that Ms. Hopkins was unable to obtain a clear answer from either of your offices on why she received a purge notice in the first place. According to the Purge Notice, Ms. Hopkins received the notice “in response to one of the following: 1) You have filed a change of address form with the U.S. Postal Service; 2) You have not voted or updated your voter registration in at least 3 years; or 3) Official election mail has been returned when sent to the address on your voter registration record.” When Ms. Hopkins called the Fulton County Board of Registration and Elections (“Fulton County”) to ask for an explanation, they were unable to provide one. Specifically, Fulton County: 1) admitted that they did not check the U.S. Postal Service change-of-address system with respect to Ms. Hopkins; 2) acknowledged that Ms. Hopkins had voted in the last 3 years; and 3) confirmed that they did not send Ms. Hopkins any separate election mailing that was returned.

When pressed further, Fulton County told Ms. Hopkins to call the Secretary of State’s office to determine what happened. When Ms. Hopkins called the Secretary of State’s office, she was told to call Fulton County to determine what happened.

Subjecting voters to such Kafkaesque, bureaucratic nonsense is a hallmark of Jim Crow voter suppression. “The cherished right of people in a country like ours to vote cannot be obliterated by the use of [devices] like this, which leave the voting fate of a citizen to the passing whim or impulse of an individual registrar.” *Louisiana v. United States*, 380 U.S. 145, 153 (1965). This is a clear example of how these Purge Notices serve to confuse and intimidate voters with the effect or purpose of keeping them from the polls.

II. Ms. Hopkins should not have been issued a Purge Notice simply because she moved within the same county

To the extent that Fulton County did rely on information from the U.S. Postal Service change-of-address system indicating that Ms. Hopkins had moved (contrary to what they told Ms. Hopkins), Fulton County should have simply updated Ms. Hopkins’s registration without sending her a Purge Notice, because she moved within the same county. *See N.C. State Conf. of the NAACP v. N.C. State Bd. of Elections*, 2016 WL 6581284, at *8 (M.D.N.C. Nov. 4, 2016) (“The NVRA places the burden on the County Boards to update a voter’s change-of-address within the same county.”); *A. Philip Randolph Inst. v. Husted*, 838 F.3d 699, 706 (6th Cir. 2016) (“‘[O]ne of the guiding principles of [the NVRA is] to ensure that once registered, a voter remains on the rolls so long as he or she is eligible to vote in that jurisdiction.’” (citation omitted)).

Section 8(f) of the NVRA provides, “In the case of a change of address, for voting purposes, of a registrant to another address *within the same registrar’s jurisdiction*, the registrar shall correct the voting registration list accordingly, and the registrant’s name *may not be removed from the official list of eligible voters* by reason of such a change of address except” under circumstances not relevant here. 52 U.S.C. § 20507(f) (emphasis added); *see also* 52 U.S.C. § 20507(j)(2) (defining “registrar’s jurisdiction” as being the county if voter registration is maintained by the county). In addition, the safe harbor provision of the NVRA provides that:

if it appears from information provided by the Postal Service that . . . a registrant has moved to a different residence address *in the same registrar’s jurisdiction* in which the registrant is currently registered, the registrar [may change] the registration records to show the new address and [may send] the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information.

52 U.S.C. § 20507(c)(1)(B)(i) (emphasis added). This procedure does *not* contemplate any required action on the part of the voter. Only if the registrant “has moved to a different residence address *not in the same registrar’s jurisdiction*” can the registrar issue any kind of notice confirming the change of address. 52 U.S.C. § 20507(c)(1)(B)(ii) (emphasis added). Since both Ms. Hopkins’s old and new address are in Fulton County, it was unlawful to send her a Purge Notice requiring her to take affirmative steps to maintain her registration.

As Secretary of State, you have been designated by O.C.G.A. § 21-2-210 as Georgia’s chief election officer and are responsible under that code section, as well as under 52 U.S.C. § 20509, for insuring compliance by all state election officials with the requirements of the NVRA. Unless this violation is rectified without requiring any affirmative action on the part of Ms. Hopkins, she will bring a civil action in an appropriate district court for a declaratory and injunctive relief to redress the violation, and for attorneys’ fees and expenses, as provided by 52 U.S.C. § 20510(b)(2).

If there are other registered voters who have unlawfully received these Purge Notices, please provide written confirmation that those violations have been rectified as well.

III. Open Records Request concerning Fulton County’s Voter Purge Procedures

Furthermore, pursuant to the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.), Ms. Hopkins respectfully requests access to inspect and copy the following public records prepared or received by the Office of the Secretary of State or its employees, as well as those prepared or received by the Fulton County Board of Registration and Elections:

All documents from June 1, 2016, to the present, concerning Stacey Hopkins.

All documents from June 1, 2016, to the present, concerning the Purge Notice received by Stacey Hopkins or any other Georgia voter on the grounds that such voter has changed residence, either within the same county or from one county to another.

Any list of voters who received a Purge Notice in 2017 on the grounds that they changed residence, whether such voters changed residence within the same county or from one county to another, with their personal information appropriately redacted pursuant to state law, and the number of such voters who received a Purge Notice in each Georgia county.

All documents from June 1, 2016, to the present, concerning the cost of mailing each and every Purge Notice.

All documents from June 1, 2016, to the present, concerning any state or county guidelines on the issuance of the type of Purge Notice issued to any other Georgia voter on the grounds that such voter has changed residence, either within the same county or from one county to another, including documents with information on which government officials created or were involved in the development of such guidelines, when these guidelines were created, and the reasons for such guidelines.

All documents from June 1, 2016, to the present, concerning the drafting of the language used in the Purge Notice.

Pursuant to the Open Records Act (O.C.G.A. § 50-18-74), we request that you make these records available for inspection within a reasonable time not to exceed three business days of your receipt of this request. Should you determine that some portion of the documents requested are exempt from disclosure, please release any reasonably segregable portions that are not exempt, pursuant to O.C.G.A. § 50-18-72(g). In addition, if our request is denied in whole or in part, the law requires your agency to justify all deletions by reference to exemptions of the Georgia Open Records Act, specifying code section, subsection, and paragraph. *See* O.C.G.A. § 50-18-72(h).


We request that you waive the copying fees. If your office does not maintain these public records, please let us know who does and include the proper custodian's name and address. To the extent that your office claims the right to withhold any record, or portion of any record, please describe each and every record or portion that is being withheld and the claimed reason for exemption, citing the exact language of the Open Records Act on which you rely.

Should your estimate of those fees exceed \$10, please advise us of the costs before they are incurred. We would prefer electronic copies of the records whenever possible. However, we also seek a waiver of any and all possible charges because the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of how your offices are removing voters on the grounds that they have changed residence. *See* O.C.G.A. s 50-18-71(c). This information is not being sought for commercial purposes.

If any records are unavailable within three business days of receipt of the request, and responsive records exist, we seek a description of such records and a timeline of when access to the records will be provided. If you have suggestions for tailoring this request so as to ensure a more expeditious but still meaningful response, we would be happy to consider them. We receive the right to appeal any decision to withhold any information or to deny a waiver of fees.

Thank you for your prompt attention.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SJ Young', with a stylized flourish at the end.

Sean J. Young
Legal Director
ACLU of Georgia

Sophia Lin Lakin
Staff Attorney
ACLU Voting Rights Project