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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 Fed Ex Overnight Mail and E-mail

Re: Intimidating voter purge notices received by over 45,000 registered voters who have moved within the same county in violation of the NVRA

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

This letter is written on behalf of the Georgia Coalition for the People's Agenda, the Georgia State Conference of the NAACP, and Asia -Americans Advancing Justice-Atlanta, registered voters that these organizations represent and serve, and others similarly situated to notify you that the State of Georgia is not in compliance with Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 52 U.S.C. § 20507.

According to a recent article in the *Atlanta Daily World*,¹ the Fulton County Board of Registration and Elections ("Fulton County") appears to have admitted that they sent to over 45,000 registered voters "who have moved within the county over the past 2 years" purge notices saying that they would be moved to "inactive" status if they do not respond within 30 days. Even more troubling, Fulton County admitted that this practice was pursuant to "state guidelines," which suggest that Fulton County—and all other 158 counties in Georgia—is acting at the express behest of the Secretary of State.

Sending out 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.

¹ *Fulton County sends over 45k confirmation notices to voters*, Atlanta Daily World, <http://bit.ly/2uJD2lq>.

In any event, as explained below, sending these kinds of purge notices to registered voters who have indicated to the U.S. Postal Service that they have changed residence within the same county is in violation of federal law, and state law as well. As a result, we demand that Fulton County immediately update their voter lists to reflect this intra-county change-of-address, with a follow-up letter explaining your error and allowing such voters to verify or correct their new address while making it absolutely clear that the voter does not have to take any further action to maintain their registration. We further demand that the Secretary of State immediately direct all county boards of registration and elections to do the same.

If you do not comply with these demands within 90 days, we 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).

I. Violation of Section 8 of the National Voter Registration Act of 1993

Sending these purge notices to registered voters who have moved within the same county violates the NVRA, which “places the burden on the County Boards to update a voter’s change-of-address within the same county.” *N.C. State Conf. of the NAACP v. N.C. State Bd. of Elections*, No. 1:16CV1274, 2016 WL 6581284, at *8 (M.D.N.C. Nov. 4, 2016); *see also 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.” (citing S. Rep. No. 103-6, at 19 (1993))).

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). While the statute permits counties to send such a voters a mailing by which they can “verify or correct” the address information, it makes clear that such action is optional. This procedure does *not* contemplate any affirmative action on the part of the voter who has moved within the same county.

II. Violation of O.C.G.A. § 21-2-233(b)

Moreover, your actions are in direct violation of Georgia state law as well. Section 21-2-233(b) of the O.C.G.A., which mirrors 52 U.S.C. § 20507(c)(1)(B)(i), expressly provides that registered voters who inform the U.S. Postal Service that they have moved within the same county must have their voter registration information *automatically updated* without requiring further affirmative action on the voter's part. The statute provides:

If it appears from the change of address information supplied by the licensees of the United States Postal Service that an elector whose name appears on the official list of electors has moved *to a different address in the county in which the elector is presently registered*, the list of electors *shall be changed to reflect the new address* and the elector shall be sent a notice of the change by forwardable mail at the elector's old address with a postage prepaid, preaddressed return form by which the elector may verify or correct the address information. The registrars may also send a notice of the change by forwardable mail to the elector's new address with a postage prepaid, preaddressed return form by which the elector may verify or correct the address information

O.C.G.A. § 21-2-233(b) (emphasis added). While the statute permits counties to send such a voters a mailing by which they can “verify or correct” the address information, as with the NVRA, this provision makes clear that such action is optional.

* * *

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. This violation must be rectified by immediately updating all counties' voter lists to reflect any intra-county change-of-address reported by the U.S. Postal Service, with follow-up letters explaining your error and allowing such voters to verify or correct their new address while making it absolutely clear that the voter does not have to take any further action to maintain their registration. If it is not, we 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).

Thank you for your prompt attention. We are happy to discuss this matter by phone is it will result in speedy resolution of this matter.

Sincerely,



Sean J. Young
Legal Director
ACLU of Georgia

Sophia Lin Lakin

Helen Butler
Executive Director
Georgia Coalition for the People's Agenda

Francys Johnson

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