

TRANSMITTAL BY FACSIMILE AND EMAIL

Michele L. Jawando,
Vice President of Legal Progress,
Center for American Progress

November 4, 2014

Brian P. Kemp,
Georgia Secretary of State,
2 Martin Luther King Jr. Dr. Suite 802 Floyd West Tower,
Atlanta, Georgia, 30334

Dear Secretary Kemp,

RE: Election Administration Issues

The right to vote is a core tenet of our citizenship. As Chief Justice John G. Roberts Jr. explains, “There is no right more basic in our democracy than the right to participate in electing our political leaders.” *McCutcheon v. FEC*, 134 S. Ct. 1434, 1440-41 (2014). This protection is enshrined in the 15th Amendment, which prohibits states from denying the right to vote based on race, and in several state constitutions.

Today, however, there is evidence of barriers to voting in Georgia that need to be immediately addressed. For example, there are reports that your website, touted as a way for voters to find their polling locations, was down this morning.¹ Another report indicates that voters were required to pay for parking at Georgia Tech’s student center polling location and voters left polling locations because of excessively long lines.² Today’s disturbing reports come after a lawsuit was filed alleging that upwards of 40,000 voter registrations from three Georgia counties have gone missing.³

The examples of long lines, missing registrations, and a disabled voter information website makes it clear that voters in Georgia are not freely able to exercise this most cherished right. We call upon the secretary of state’s office and the county board of elections to investigate and address these issues immediately to ensure that Georgians can exercise their legal right to vote.

Georgia’s Courts have long upheld the importance of an unabridged right for eligible Georgians to vote. As described by the Georgia Supreme Court, “The right to vote is fundamental, forming the bedrock of our democracy. However, it is also clear that states are entitled to broad leeway in enacting reasonable, even-handed legislation to ensure that

elections are carried out in a fair and orderly manner.” *Favorito v. Handel*, 285 Ga. 795, 796 (Ga. 2009) (citations omitted).

As the Presidential Commission on Election Administration noted, there are problems with voter registration, access to the polls, polling place management, and voting technology that need to be addressed.⁴ We concur.

The same concern extends to casting provisional ballots, which become even more relevant as these suppressive laws are implemented. As the Center for American Progress found, counties with a higher percentage of minorities cast provisional ballots at a higher rate than in counties with lower percentage of minorities in 16 states.⁵ We were unable, however, to evaluate Georgia in our analysis. Shockingly, Georgia was the only state to have incomplete county-level provisional ballot Election Assistance Commission data after it was required.⁶

To ensure that Georgians can exercise their legal right to vote, immediate action must be taken to address these concerns.

Sincerely,

Michele L. Jawando

¹ David Ferguson, “Georgia Republic Secretary of State’s voter info website abruptly crashes on Election Day,” RawStory, November 4, 2014, available at <http://www.rawstory.com/rs/2014/11/georgia-republican-secretary-of-states-voter-info-website-abruptly-crashes-on-election-day/>.

² Nancy Badertscher & April Hunt, “Election Day brings long lines, sporadic problems,” Atlanta Journal Constitution, November 4, 2014, available at <http://www.ajc.com/news/news/state-regional-govt-politics/election-day-brings-long-lines-sporadic-problems/nhy6s/>.

³ Naomi Shavin, “40,000 Voter Registrations Have Gone Missing in Georgia, and They’re Probably Lost Forever,” New Republic, available at <http://www.newrepublic.com/article/120097/40000-missing-voters-georgia-are-unlikely-regain-their-ballot>.

⁴ NATHANIEL PERSILY ET AL., THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION, PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

⁵ Joshua Field, Charles Posner, and Anna Chu, “Uncounted Votes, the Racially Discriminatory Effect of Provisional Ballots” (Washington: Center for American Progress, 2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/10/ProvisionalBallots-report.pdf>.

⁶ Ibid.