



TRANSMITTAL BY FACSIMILE AND EMAIL

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November 4, 2014

Kim Westbrook Strach, Executive Director,  
State Board of Elections,  
441 N Harrington Street,  
Raleigh, North Carolina, 27603

Dear Director Strach,

**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 North Carolina that need to be immediately addressed. For example, there are reports that voting machines in Guilford County have registered incorrect votes;<sup>1</sup> polling places in predominantly African American neighborhoods have been down; a polling place near Bennett College, a historically black college, having incorrect voter rolls; and another polling place missing essential thumb drives.<sup>2</sup> Finally, around the Charlotte metropolitan area, voters have been confused about their precinct location.<sup>3</sup> This is particularly troubling, as this is the first election that voters will not be permitted to cast provisional ballots in an incorrect precinct.<sup>4</sup>

These examples of failed vote tabulation, incorrect voter rolls, and precinct confusion make it clear that voters in North Carolina are not freely able to exercise this most cherished right. We call upon the state board of elections to investigate and address these issues immediately to ensure that North Carolinians can exercise their legal right to vote.

North Carolina’s courts have long upheld the importance of an unabridged right to vote for eligible North Carolinians. As described by the North Carolina Supreme Court, “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.” *Blankenship v. Bartlett*, 363 N.C. 518, 522 (N.C. 2009) (citing *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964)).

These barriers to voting, however, are the consequences of recent changes in election administration,

such as strict and costly ID requirements, limits on early voting, and manipulation of the registration process. 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 as well.<sup>5</sup>

The same concern extends to casting provisional ballots, which become even more relevant as these potentially suppressive laws are implemented. An impactful change that will affect North Carolinians is the new law that disqualifies any provisional ballots cast outside a voter's precinct. 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, including North Carolina, where counties with higher African American and overall minority populations were affected.<sup>6</sup> Together, these new restrictions on voting and the likelihood of communities with a higher percentage of minority voters casting provisional ballots may increase disenfranchisement among communities of color during this year's election.

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

Sincerely,

Michele L. Jawando

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<sup>1</sup> Greensboro News and Record, "Voting machine in Guilford County registers wrong votes; taken out of service," November 1 2014, available at <http://myfox8.com/2014/11/01/voting-machine-in-guilford-county-registers-wrong-votes-taken-out-of-service/>.

<sup>2</sup> Igor Volsky, "Voting Irregularities Reported in North Carolina," ThinkProgress, November 4, 2014, available at <http://thinkprogress.org/lbupdate/3588446/voting-irregularities-reported-in-north-carolina/#lbu-1415113465> (disclosure: the Center for American Progress is affiliated with ThinkProgress).

<sup>3</sup> Billy Corriher, "Voters In North Carolina Show Up To Find Their Polling Place Closed," ThinkProgress, November 4, 2014, available at <http://thinkprogress.org/lbupdate/3588608/voters-in-north-carolina-show-up-to-find-their-polling-place-is-closed/#lbu-1415120004>.

<sup>4</sup> As amended by North Carolina Session Law 2013-381, North Carolina's Election law now provides that a "ballot shall not be counted if the voter did not vote in the proper precinct under [section] 163-55, including a central location to be provided by that section."

<sup>5</sup> Nathaniel Persily and others, "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>.

<sup>6</sup> 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>.