



TRANSMITTAL BY FACSIMILE AND EMAIL

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

November 4, 2014

Kris Kobach,  
Kansas Secretary of State,  
Memorial Hall, 1st Floor,  
120 SW 10th Avenue,  
Topeka, Kansas, 66612–1594

Dear Secretary Kobach,

**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 Kansas that need to be addressed. For example, as reported by *The Wichita Eagle*, more than 21,000 Kansans’ voter registrations are in limbo.<sup>1</sup> This example of voter registration uncertainty based on required proof of citizenship makes it clear that voters in Kansas are not freely able to exercise this most cherished right. We call upon the secretary of state’s office to investigate and address these issues immediately to ensure that Kansans can exercise their legal right to vote.

Kansas’ Courts have long upheld the importance of an unabridged right to vote for eligible Kansans. As described by the Kansas Supreme Court, “the right to vote for elected representatives is fundamental ‘because statutes distributing the franchise constitute the foundation of our representative society.’” *Provance v. Shawnee Mission Unified School Dist.*, 231 Kan. 636, 641 (Kan. 1982).

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. An impactful change that will affect Kansans is the new law that requires proof of citizenship, which many eligible voters may lack. 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.<sup>2</sup>

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 that Kansas is 1 of 16 states where counties with a higher percentage of minorities cast provisional ballots at a higher rate than in counties with lower percentage of minorities.<sup>3</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 Kansans 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> Deb Gruver, "More than 21,000 Kansans' voter registrations in suspense because of proof of citizenship," *The Wichita Eagle*, November 1, 2014, available at <http://www.kansas.com/news/politics-government/article3504228.html>.

<sup>2</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>3</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>.