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November 6, 2018

By Email

Hon. John H. Merrill
Alabama Secretary of State
State Capitol Building Suite S-105
600 Dexter Avenue
Montgomery, Alabama 36130
John.Merrill@sos.alabama.gov

Re: Widespread Confusion Regarding Inactive Voters and the Photo ID Law

Dear Secretary Merrill:

As part of our efforts to ensure that all citizens can exercise the fundamental right to vote, the NAACP Legal Defense and Educational Fund, Inc. (LDF) monitors voter registration issues around the country. This morning, we have received multiple reports of confusion among poll workers about the proper procedures for processing the votes of people whose registrations are listed as “inactive.” Specifically, there are reports of poll workers telling voters who are listed as inactive that they must cast a provisional ballot. As you know, that is not the law. Your previous guidance on this issue made clear that inactive voters can cast *regular* ballots so long as they fill out an updated registration form: “Inactive voter registration status means that a voter is able to vote as a *normal voter* [i.e., cast a regular ballot] on election day but they will also be asked to update their voter registration information when they visit the polls on election day.”¹

We ask that you immediately reissue this guidance to every election official in the State. We also ask that this guidance is publicized and disseminated to poll workers through all available channels. It would violate the Fourteenth and Fifteenth Amendments to wrongfully deny one person the vote.² But here, the immediate remediation of this issue is of paramount

¹ See Alabama Secretary of State, *Inactive Voters, Voter Record Refresh Information*, <https://sos.alabama.gov/newsroom/inactive-voters-voter-record-refresh-information> (last visited Nov. 6, 2018) (emphasis added).

² Denying inactive voters the right to cast a regular ballot also likely violates the National Voter Registration Act. See 52 U.S.C. § 20507(e)(1) (“A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.”).

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importance given that there are over 300,000 Alabamians whose registrations are listed as inactive. This misinformation risks disenfranchising thousands of eligible voters.

Additionally, we have received reports that there is confusion among poll workers about what constitutes an eligible Photo ID for voting purposes. Specifically, there are reports of poll workers rejecting voters who have valid Photo IDs because their addresses on their IDs do not match the addresses on their registrations.³ That, too, is not the law. All that is required under the law is that at voter have one of the IDs listed under Alabama Code §17-9-30. There is no address-match requirement in this provision. The improper application of the Photo ID Law may violate the Fourteenth and Fifteenth Amendments and the Voting Rights Act.

We therefore also ask that you immediately issue guidance to every election official in the State instructing that there is no address-match requirement under the Photo ID Law, and that if a voter presents a valid ID listed under the law, they must be allowed to cast a regular ballot. This guidance should be publicized and disseminated to poll workers through all available channels.

If you have any questions, please contact Natasha Merle at 212-965-2234.

Sincerely,



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³ Similar reports were made after last December's Special Election. We informed you of this issue then, and no corrective steps were taken. *See* LDF letter to Secretary of State John Merrill, December 14, 2017 (attached).



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