



Sent Via Email

County Election Supervisors
Boards of Election
State of Georgia

November 15, 2022

Re: Advance Voting for the December 6, 2022 Runoff Election

Dear Election Supervisors and Boards of Election:

The Legal Defense Fund (“LDF”), the ACLU of Georgia, and the Southern Poverty Law Center urge you to offer additional advance voting for the December 6, 2022 Runoff Election beyond the minimum five days of advance voting that are mandated by Georgia law (which are all during weekday working hours). It is widely expected that turnout for the December 6 runoff will be extremely high, and additional advance voting options are critical to accommodate the large number of voters and to avoid long delays at the polls. In particular, we urge you to add *at least three additional days of advance voting on Tuesday, November 22, Wednesday, November 23 and Sunday, November 27 from 7:00 A.M. until 7:00 P.M.*

I. Georgia Law Affords You Discretion to Add Additional Days of Advance Voting.

Georgia law affords you broad discretion to add additional days for advance voting. Specifically, Georgia law states that advance voting for runoff elections shall commence “[a]s soon as possible prior to a runoff from any general primary or election but no later than the second Monday immediately prior to such runoff and shall end on the Friday immediately prior to each primary, election, or runoff.” *See* Ga. Code Ann. § 21-2-385(d)(1). The statute also provides that “[v]oting shall be conducted beginning at 9:00 A.M. and ending at 5:00 P.M. on weekdays[.]” *Id.*

This means that you are *required* to offer advance voting every day from 9:00 A.M. to 5:00 P.M. from Monday, November 28 through Friday, December 2. However, because the statute states that advance voting commences “as soon as possible prior to a runoff,” it explicitly grants you broad discretion to offer advance voting on any day or days of your choosing prior to Monday, November 28. *Id.* Moreover, you may “extend the hours for voting to permit advance voting from 7:00 A.M., until 7:00 P.M.” *Id.* Therefore, you should offer additional days of advance voting *at least* on Tuesday, November 22, Wednesday, November 23 and Sunday, November 27.

II. It Is Critical to Add Additional Advance Voting Options.

It is widely expected that voter turnout in the upcoming runoff election will be extremely high and additional advance voting options will be critical to accommodate large voter turnout. The turnout in the 2020 U.S. Senate runoff election was approximately 4.5 million people, which *exceeds* the turnout in the recent November general election of approximately 3.95 million.¹ You should therefore be prepared for turnout in the upcoming runoff that is *higher* than the turnout from the recent general election.

If you only offer advance voting on the five days required by statute (which, as noted above, is limited to weekdays), there is a significant risk that many voters will be unable to participate due to obligations during the workday. Moreover, any voters who are able to vote during the workday are at risk of facing extremely long lines given the limited options that are available. The limited advance voting options required by statute are especially concerning when contrasted to the broader advance voting options that were available for the general election, when many Georgia counties offered as many as nineteen days of advance voting, including four weekend days of advance voting.² The lack of weekend or evening voting options is especially concerning for voters of color, who may be less able to take time off from work to vote.³ And the lack of any voting options immediately before or after Thanksgiving creates significant barriers for college students who attend class away from home, and would be able to vote during their Thanksgiving break but unable to travel back home to vote during the weekdays following Thanksgiving or on election day.

In light of these concerns, we urge you to exercise your discretion to add additional days of advance voting and extend advance voting hours. In particular, we urge you to add additional advance voting at least on Tuesday, November 22, Wednesday, November 23 and Sunday, November 27 from 7:00 A.M. until 7:00 P.M., which will provide a sorely needed option to voters and may help to mitigate the substantial risk of long lines.

Please share this letter with other members of the Board of Election in your county. If you have questions or would like to discuss these issues in the meantime, please contact John Cusick by email at jcusick@naacpldf.org or telephone at 347-491-2597.

Sincerely,

John Cusick

¹ See Mark Niese, *After Big Early Vote, Overall Georgia Turnout Misses Expectations*, The Atlanta Journal-Constitution (Nov. 10, 2022), available at <https://www.ajc.com/politics/georgia-voter-turnout-in-midterms-falls-short-of-predictions/G6C5QXGO6FGM7GBKZFBVAXYAKSQ/>.

² See, e.g., Fulton County Early Voting Locations, available at <https://www.fultoncountyga.gov/inside-fulton-county/fulton-county-departments/registration-and-elections/early-voting-locations>.

³ There is a severe racial income gap in Georgia, which may make it more difficult for people of color to afford to take time off from work to vote. Based on data provided by the United States Census, per capita income among white Georgians is \$38,136, whereas per capita income among Black Georgians is only \$24,114. See *U.S. Census 2020 American Community Survey* Table A14024.

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Legal Defense Fund (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that prohibit voter discrimination, intimidation, and suppression and increase access to the electoral process.

ACLU of Georgia

The ACLU of Georgia envisions a state that guarantees all persons the civil liberties and rights contained in the United States and Georgia Constitutions and Bill of Rights. The ACLU of Georgia

enhances and defends the civil liberties and rights of all Georgians through legal action, legislative and community advocacy, and civic education and engagement. We are an inclusive, nonpartisan, and statewide organization powered by our members, donors and active volunteers.

Southern Poverty Law Center (“SPLC”)

The Southern Poverty Law Center is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. For more information, visit www.splcenter.org.