



September 7, 2021

VIA ELECTRONIC MAIL

Governor John Bel Edwards
PO Box 94004
Baton Rouge, LA 70804

R. Kyle Ardoin
Secretary of State
8585 Archives Avenue,
Baton Rouge, LA 70809

Re: Election Postponement and Emergency Planning Following Hurricane Ida

Dear Governor Edwards and Secretary Ardoin,

We hope that you, your families, and community are safe in the wake of Hurricane Ida. As nonprofit advocacy organizations working to serve Louisianans statewide, we share your concerns about the enduring challenges the storm will pose for communities in the southeast and the compounding threats these communities face as the COVID-19 crisis endures. On behalf of the Power Coalition for Equity and Justice and NAACP Legal Defense and Educational Fund we write with an urgent request that you use your executive authorities to postpone the October 9, 2021 and November 13, 2021 elections in order to ensure that voters impacted by the storm are not denied an equal opportunity to participate in this year's elections. We request that you also advance emergency plans and policies to equip voters with the safest options to cast a ballot this year and in the future.

I. POSTPONE THE OCTOBER 9, 2021 AND NOVEMBER 13, 2021 ELECTIONS AND RELATED DEADLINES

We implore your offices to postpone the October 9, 2021 and November 13, 2021 elections and all election-related deadlines in light of the devastation that Louisianans are facing after Hurricane Ida. Louisiana law authorizes the Governor to suspend or delay elections and early voting during an official state of emergency, but only after the Secretary of State certifies that a

state of emergency exists that “would affect the electoral process.”¹ Governor Edwards issued an executive order on August 26, 2021, declaring a statewide emergency in response to then-Tropical Storm Ida.² In the aftermath of Hurricane Ida, it is evident that Louisianans will continue recovering from its effects for weeks to come.

It is the eve of the deadline to register to vote in person or by mail, and less than two weeks before the September 18, 2021 deadline when voters may register to vote online. With early voting beginning in less than three weeks on September 25, 2021, the Secretary of State, as Louisiana’s chief elections officer, must recognize that the destruction caused by Hurricane Ida will inevitably interfere with the safe and efficient administration of the upcoming elections.³ Accordingly, we 1) urge the Secretary of State, as Louisiana’s chief elections officer, to certify that the devastation caused by Hurricane Ida will adversely impact the electoral process, and 2) urge the Governor to delay the October and November 2021 elections and related deadlines,⁴ upon receiving this certification.

No one could have anticipated the extent of damage that Hurricane Ida caused when it made landfall on August 28, 2021. Louisianans across the state, and particularly in southeastern Louisiana, evacuated their communities, leaving behind homes that were destroyed or damaged significantly by the storm. Since then, hundreds of thousands remain without power.⁵ Louisianans in the regions most affected by the hurricane will still be dealing with these issues in the weeks to come.

It is inevitable that the statewide emergency caused by Hurricane Ida will impact your offices’ abilities to administer the upcoming elections in October and November. Polling places may be without power or destroyed altogether. Displaced Louisianans may not be present in their parishes and may need to vote absentee by mail. Voters who cannot access their polling places may not be able to apply for their mail-in ballots. Louisianans should not be forced to navigate these elections while also recovering from a devastating hurricane. In light of these circumstances, we urge both of you as Secretary of State and Governor to take the necessary steps to postpone the elections and related deadlines to give Louisianans more time to recover from the devastating

¹ La. R.S. 18:401.1; 46 JBE 2020, Elections Rescheduled Due to Statewide State of Emergency Caused by COVID-19, April 14, 2021, <https://gov.louisiana.gov/assets/Proclamations/2020/46-JBE-2020-Elections-Rescheduled.pdf>.

² 165 JBE 2021, State of Emergency – Tropical Storm Ida, Aug. 26, 2021, <https://gov.louisiana.gov/assets/Proclamations/2021/131-JBE-2021-StateofEmergencySigned.pdf>.

³ As Louisiana’s chief elections officer, you are “charged with providing every opportunity...for individuals to exercise their right to vote.” Sec. of State Ardoin before the Louisiana Senate Com. on Senate of Gov’t Affairs (Apr. 15, 2020) https://senate.la.gov/s_video/videoarchive.asp?v=senate/2020/04/041520S~G_0 (59:52).

⁴ Related deadlines include, for example, the deadlines to register to vote or request and return absentee ballots. In addition to extending these deadlines, generally, your offices should account for the additional processes imposed on Louisianans with prior convictions to register to vote and make appropriate accommodations to ensure these voters are not denied the opportunity to register because of the limitations posed by the storm. See La R.S. 18:177.

⁵ Matthew Impelli, *Over 400K Remain Without Power in Louisiana 9 Days After Hurricane Ida*, NEWSWEEK (Sept. 7, 2021), <https://www.msn.com/en-us/news/us/over-400k-remain-without-power-in-louisiana-9-days-after-hurricane-ida/ar-AAOc701?ocid=BingNewsSearch>.

impact of Hurricane Ida, as has been the precedent in prior instances like the fallout of Hurricane Katrina.⁶

II. PROPOSE AN EMERGENCY ELECTION PLAN IN LIGHT OF THE COMPOUNDED EMERGENCIES POSED BY THE DELTA VARIANT AND HURRICANE SEASON.

On August 25, 2021, our organizations submitted a letter calling for the Secretary of State to propose an emergency election plan for the remaining 2021 elections due to the enduring threats of COVID-19 now exacerbated by the Delta variant. Indeed, in recent weeks Louisiana has reported unprecedented rates of virus infection and hospitalization.⁷ Hurricane Ida only heightens the risks of virus transmission as people are displaced from their homes and forced into common spaces to seek access to food, resources, cooling, and power.

Although Secretary Ardoin announced on August 25, 2021 that you had no intention of proposing an emergency proposal, we respectfully urge you to reconsider for the reasons stated in our letter—which have become only more urgent with the persistence of unprecedented rates of COVID-19 transmission in Louisiana—and also because Hurricane Ida has created new conditions that require an emergency action plan. Our August 25 letter is attached, and we renew every request presented therein with increased urgency in light of Hurricane Ida—whether or not the dates of the elections are postponed. Specifically, we call for the proposal and adoption of an emergency plan that will:

- 1. Expand mail-in voting eligibility to all voters:** The urgent need to provide absentee-by-mail qualifications to *all* Louisiana voters remains. At minimum, we renew the call to allow Louisianans most vulnerable to COVID-19, as identified in prior emergency election plans, to vote absentee-by-mail. Now, in light of Hurricane Ida, it is also necessary that voters in the impacted region have access to safe opportunities to vote by mail. While voters who are out of parish qualify to vote absentee by mail under present law,⁸ it is not only displaced voters who must have the opportunity to choose this safe alternative to casting a ballot in person. Power grid restoration remains on an ambiguous timeline and resources, including gasoline for both transportation and generators, are limited. As a result, even those voters who remain in their home parish in the weeks ahead will face challenges in participating in the upcoming elections if in-person voting remains the only option. An emergency plan that allows all voters in the state to vote by mail during the ongoing health pandemic and hurricane recovery period would provide the clearest and most equitable solution to empower safe election access.

⁶ The Louisiana Weekly, *Postponed election lessons from Katrina* (Apr. 14, 2020), <http://www.louisianaweekly.com/postponed-election-lessons-from-katrina/>.

⁷ Tori B. Powell, *Louisiana reports record number of COVID-19 deaths*, CBS NEWS (Aug. 25, 2021), <https://www.cbsnews.com/news/louisiana-covid-19-deaths-highest-daily-total-pandemic/>.

⁸ La. R.S. 18:1303(B).

At minimum, voters at highest risk of COVID-19 and voters in the direct path of Hurricane Ida should be permitted to vote by mail.

- 2. Provide public guidance on emergency absentee voting qualifications:** Your offices, and all state and election administration leaders, must commit to ensuring that voters are fully versed on their rights and qualifications to vote absentee by mail under current law and any emergency plan. We implore your offices to work with FEMA and other recovery agencies, nonprofits, and interstate governments to ensure that voters who have been displaced— both within and beyond Louisiana’s borders— are apprised of the process to request and return their absentee ballots. Additionally, if qualifications are properly expanded, your offices should provide clear guidance on these protocols on government platforms and in partnership with media sources and community organizations.
- 3. Extend the absentee ballot return deadline:** The challenges that COVID-19 poses to voters in obtaining and returning an absentee ballot under current deadlines are now heightened. Hurricane Ida has left infrastructural damage that can protract mail routes and cause delays in the receipt of ballots. These challenges should not be at the expense of voters or cause their ballots to go uncounted. We accordingly renew the request that absentee ballots be accepted if they are postmarked by Election Day and received before returns are canvassed.
- 4. Expand opportunities for early voting:** Expanded early voting will help reduce the challenges imposed on voters in accessing in-person voting in the wake of the hurricane and will reduce lines and congestion at polling sites in the midst of the pandemic. It is a tried, tested, and commonsense emergency provision, which we implore you to renew.
- 5. Provide PPE and encourage mask wearing in polling places:** As displacement and resource limitations exacerbate the threats of COVID-19 transmission, strict mask wearing guidance and sanitary protocols at polling sites are more urgent than ever. We ask that you work with both local election officials and community organizations to promote the provision of PPE supplies during the voting period.

The effects of Hurricane Ida and the lingering threats of the continued hurricane season reveal that these necessary protections called for on August 25 and renewed above alone would be insufficient. In addition to the recommendations reiterated above, we ask that state leaders make the following commitments through the adoption of a new emergency plan in response to the compounded emergencies of Hurricane Ida and COVID-19:

- 6. Empower parishes to utilize mega polling sites for early voting and Election Day and promote the provision of free or subsidized transportation:** Last year, the use of large venues like the Smoothie King Center for early voting proved vital for

maintaining election access and sustaining social distancing practices. These necessities remain. Structural damage to poll site buildings and infrastructure following Hurricane Ida renews the need to empower parishes to utilize polling locations that can provide power and shelter for voters during early voting and on Election Day. Any emergency plan should ensure that parishes are able to utilize large and safe spaces for voting this cycle, as well as the funding and resources necessary to provide voters with the information and transportation they need to identify and reach newly assigned polling sites.

- 7. Make the list of changed or consolidated polling places publicly accessible and promoted:** Your offices should provide the public with readily available information about the timeline for when polling locations will be confirmed and reported by parish officials, in addition to a public-facing website that lists *every* polling site with clear indicators of where changes have been made. At present, full and up-to-date lists of polling locations are not publicly posted. Voters may learn their polling site only by completing an individual search on the GeauxVote portal or referring to the printed copy of their registration card. Complete lists of polling sites must be obtained by records request at the expense of the requester. This makes it challenging for local leaders and community organizations to assist voters by comprehensively identifying closed or consolidated voting locations. This issue would be readily solved by providing comprehensive public information about the locations of polling sites and the extent of location changes. Your offices should provide the public with readily available information about the timeline for when polling locations will be confirmed and reported by parish officials, in addition to a public-facing website that lists *every* polling site with clear indicators of where changes have been made.
- 8. Commit to broad public education efforts to ensure all voters—especially those displaced—are aware of their rights and the available methods to register and vote following a hurricane:** While limited, present law does provide some protections for voters who have been affected by natural disasters, including allowing voters displaced from their parishes to vote absentee by mail under the same provision that allows any voters who are out of parish to vote by mail.⁹ Your offices must take a multi-tactic approach to ensure that voters are apprised of this and other voting rights and logistics, as well as the importance of participating in the upcoming statewide and local elections. We implore you to work in coordination with media, community leaders, nonprofit organizations, and emergency response providers to educate voters on their established voting rights and all emergency protections provided.

III. ADVANCE PERMANENT POLICY SOLUTIONS TO AVOID FUTURE ELECTION ADMINISTRATION CHALLENGES POSED IN STATES OF EMERGENCIES

⁹ La. R.S. 18:1303(B).

Unfortunately, COVID-19 and Hurricane Ida will not be the last public health and weather disasters to threaten election administration in Louisiana. COVID-19 required multiple postponements of elections in early 2020¹⁰ and Hurricane Zeta compromised power access at polling sites right until the eve of Election Day last November.¹¹ Louisiana now faces common challenges this year with the Delta variant surging and Hurricane Ida's havoc lingering in the state's southeast. As the State of Louisiana faces multilayered threats of climate change, it is critical that the state's laws adapt to better serve the voters of Louisiana.

The current emergency election planning process is protracted, impractical, and a threat to future election access. The process requires coordination from both your offices, bilateral legislative committee review, and a vote of the entire legislature prior to implementation.¹² If any of these steps falter, the proposed protections are rendered obsolete. We implore your offices to work with legislative leaders to find new solutions to ensure state and parish election officials are not barred from taking necessary steps to ensure election access and protect voter safety in an emergency because of bureaucratic red tape. Revised emergency election statutes should call for automatic minimum election accommodations during states of emergency, as well as renewed protocols for case-specific planning that minimizes procedural delays.

We understand that your offices balance many responsibilities in these moments of crisis. We hope that you will take the necessary steps to ensure that election access is not one of the added hurdles faced by Louisianans this year—or in the future. We would eagerly work with your offices to advance both immediate and long-term solutions to protect and expand access to the ballot for the voters of Louisiana.

We implore you to act and respectfully request a reply at least one week before the anticipated start of early voting on Friday, September 24, 2021. Thank you for your attention to this pressing matter.

Sincerely,
/s/ Victoria Wenger
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¹⁰ Emma Tucker, *Louisiana Gov. John Bel Edwards Postpones Elections Again Due to Coronavirus*, THE DAILY BEAST (Apr. 14, 2020), <https://www.thedailybeast.com/louisiana-gov-john-bel-edwards-postpones-elections-again-due-to-coronavirus>.

¹¹ Cody Lillich, *Louisiana in a race against time to restore power to election facilities ahead of Election Day*, FOX 8 (Oct. 29, 2020), <https://www.msn.com/en-us/news/us/louisiana-in-a-race-against-time-to-restore-power-to-election-facilities-ahead-of-election-day/ar-BB1aw544>.

¹² La. R.S. 18:401.3.

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NAACP Legal Defense and Educational Fund, Inc. (“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.

Power Coalition for Equity and Justice

The Power Coalition for Equity and Justice works to build voice and power in traditionally ignored communities. We are a coalition of groups from across Louisiana whose mission is to organize in impacted communities, educate and turn out voters, and fight for policies that create a more equitable and just system in Louisiana.

Attachment: Letter to Louisiana Secretary of State Kyle Ardoin, August 25, 2021

CC:

Commissioner of Elections Sherri Hadskey
Executive Counsel to the Governor Matthew Block
Speaker of the House Clay Schexnayder
Senate President Patrick Page Cortez
Senate and Governmental Affairs Committee
House and Governmental Affairs Committee