



September 19, 2024

Chairman John Fervier
Georgia State Election Board
2 Martin Luther King Jr. Drive
Suite 802, Floyd West Tower
Atlanta, GA 30334
Sent via email to SEBPublicComments@sos.ga.gov

Re: Opposition to Proposed Rule 183-1-12-.12 (Tabulating Results) and 183-1-14.02(8) (Advance Voting)

Dear Chairman Fervier:

On behalf of the Legal Defense Fund, we write the Georgia State Election Board (the “Board”) to oppose Proposed Rules 183-1-12-.02 (Tabulating Results) and 183-1-14-.02(8) (Advance Voting). The proposed rules individually and collectively would create additional administrative burdens on local election officials to conduct unnecessary vote counts, while also creating greater opportunity for mistakes during both the advance voting and Election Day tabulation of votes. Moreover, the proposed rule changes this close to the November elections have the potential to create uncertainty in the tabulation and certification process. Accordingly, we urge the Board to vote no on these measures.

The Georgia Association of Voter Registration and Election Officials (“GAVREO”) has urged the Board to “pause” election rule changes.¹ GAVREO cites its concerns that these proposed rule changes would “create unnecessary confusion among both the public and the dedicated poll workers and election officials seeking to ensure a smooth and efficient voting process.”²

Proposed Rules 183-1-12-.12 and 183-1-14-.02(8) mandate that at the end of each voting day, during early voting and on Election Day, ballot boxes must be unsealed and the ballots hand

¹ Press Release, Georgia Association of Voter Registration and Election Officials, GAVREO Calls on State Elections Board to Pause Future Rule Changes Ahead of Presidential Election (Aug. 21, 2024), <https://www.democracymocket.com/wp-content/uploads/2024/08/Press-Release.pdf>. [<https://www.democracymocket.com>]

² *Id.*

counted by three independent poll officers. Further, they must agree on the total count, and any discrepancies should be investigated and documented promptly. For early voting, every ballot box containing more than 1,500 ballots must be counted at the end of each voting day. On Election Day, the poll manager or assistant poll manager will decide when to start processing ballots. They can begin at the end of Election Day, or, if a scanner has over 750 ballots, they may start the next day and complete the process during the week before county certification.

These rules, if passed, would become effective within days of the beginning of early voting in Georgia, after the training of hundreds of poll workers as nonpartisan participants in the system. In addition, these rules increase the workload for poll workers, especially those in larger counties, and even extend their working hours, which officials have neither accounted nor allocated resources or funding for.

Moreover, requiring poll workers to unseal and hand-count the ballots may lead to errors from fatigue. Any mistake made during this additional, unnecessary process could lead to voter disenfranchisement and allegations of malfeasance. Georgia already has robust laws regarding chain of custody to protect ballot integrity. Having votes sealed and unsealed creates yet another opportunity to generate distrust in our election system. We would note that no judge has found that Georgia's 2016, 2018, 2020, or 2022 elections were flawed or that the counts were inaccurate, and Georgia law provides remedies to challenge election results after the tabulation and certification of votes. The Georgia Secretary of State, too, has repeatedly affirmed the integrity of Georgia elections.³

Pursuant to O.C.G.A. § 50-13-4(a)(2), I request that the Board include this comment in the rulemaking record and, if the Board ultimately adopts the Proposed Rule, we request that it issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption as required by statute.

Sincerely,

s/ R. Gary Spencer

R. Gary Spencer

The NAACP Legal Defense & Educational Fund, Inc.

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³ Kate Brumback, *Georgia official says alleged election problems will be investigated, but dismisses claims of widespread fraud*, PBS News (Nov. 30, 2020), <https://www.pbs.org/newshour/politics/georgia-official-says-alleged-election-problems-will-be-investigated-but-dismisses-claims-of-widespread-fraud> [https://www.pbs.org].

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, the NAACP Legal Defense and Educational Fund, Inc. (“LDF”) has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression.