



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
U N D E R L A W

Demos

January 25, 2011

Via Facsimile and U.S. Mail
The Honorable Brian Kemp
Secretary of State of Georgia
214 State Capitol
Atlanta, GA 30334

Re: National Voter Registration Act Non-Compliance

Dear Secretary Kemp:

We write on behalf of the Georgia State Conference of the NAACP, eligible voters it represents, and others similarly situated, to notify you that, based on the investigation we have undertaken, offices of the Georgia Department of Human Services ("DHS") are not offering voter registration to public assistance clients as required by Section 7 of the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-5 ("NVRA"). Section 7 establishes clear obligations on the part of state public assistance agencies to provide voter registration services, for which you as the State's chief election official share responsibility. The NVRA includes a private right of action in the event that a State fails to correct its noncompliance after its chief election official has received due notice. We urge you as the State's chief election official, acting in conjunction with DHS, to take immediate steps to bring the State into compliance with Section 7.

Pursuant to the NVRA, state public assistance agencies are designated as "voter registration agencies" and are required to provide certain specified voter registration services. 42 U.S.C. § 1973gg-5. Georgia public assistance offices must distribute a voter registration application, and a voter information form that includes the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?" along with other information prescribed by the NVRA regarding the voter registration process, with public assistance applications, recertifications, renewals, and change of address forms. 42 U.S.C. § 1973gg-5(6)(B). Each office also must assist applicants in completing the voter registration form, accept completed voter registration forms, and forward the completed forms to the appropriate election

official. 42 U.S.C. § 1973gg-5(a)(4)(A).

Substantial evidence demonstrates that Georgia is systematically failing to provide the voter registration services at its public assistance offices that are required by the NVRA. The State's own report to the U.S. Election Assistance Commission reveals that Georgia public assistance offices received only 21,762 voter registration applications in 2007-2008. This represents a 79 percent decline since 1995-1996, when Georgia reported 103,942 registrations from public assistance offices. Voter registration at state public assistance offices has steadily declined over the past decade, except for a brief increase in 2003-2004, despite a sharp increase in the number of clients seeking public assistance benefits.

Our investigation of Georgia's NVRA compliance included visits to eleven DHS offices throughout Georgia. We found that voter registration was not being offered at eight of those eleven offices, and that voter registration services were materially inadequate under the NVRA at the other three offices. As part of our investigation, fifty clients were interviewed after they completed an NVRA-covered transaction, among whom, forty-four (88 percent) reported that they had not been offered voter registration. Of the six clients at the three offices who reported that they were offered voter registration, only one reported having seen a voter information form. These interviews confirm that the low levels of registration at public assistance offices reported to the EAC reflect a failure of DHS offices to offer voter registration.

Moreover, compounding the problem, state law and internal DHS policies do not comply with the NVRA as well. For example, Georgia state law limits offering voter registration applications to in-person applications for services, renewals, recertifications, and changes of address. See, Ga. Code Ann. § 21-2-222(f) (2010). Under the NVRA, voter registration applications must be distributed with applications for services, renewals, recertifications, and changes of address regardless of whether the transaction occurs in-person, via the internet, or on the telephone.

Other violations include, but are not limited to, a Georgia statewide policy limiting the circumstances under which DHS offices offer voter registration. Specifically, DHS' policy is that voter registration shall not be offered to a client during an NVRA-covered transaction if the client, during the course of a previous transaction, informed DHS in writing that s/he did not wish to register to vote at that time. This policy violates the language and structure of Section 7, including the requirement that designated state agencies "shall" conduct voter registration "with each application for . . . service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance." 42 U.S.C. § 1973gg-5(a)(6)(A). A client who declines to register on a particular occasion may wish to register during a subsequent covered transaction, whether because of a change of address or because she has simply changed her mind. The required registration opportunity must be provided with each covered transaction, and Georgia cannot withhold this opportunity merely because of a past declination that may have occurred months or years ago.

We would be pleased to work cooperatively with you and with the Commissioner of the Department of Human Services to develop a plan for bringing Georgia into compliance with the NVRA, as we have successfully done with other States. However, if Georgia fails to take steps to remedy its violations of Section 7 of the NVRA, we are prepared to initiate litigation. In this regard, please be advised that this letter serves as notice of a violation of the NVRA pursuant to

42 U.S.C. § 1973gg-9(b), thus allowing us to file suit at the conclusion of the statutory 90-day waiting period if the violation has not been fully remedied.

We look forward to hearing from you.

Sincerely,



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