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February 25, 2011

By Facsimile and U.S. Mail

The Honorable Tom Schedler
Louisiana Secretary of State
P.O. Box 94125
Baton Rouge, LA 70804-9125

Dear Secretary Schedler:

Thank you for your response, dated February 14, 2011 (the "Response Letter") to our Notice of violations of the National Voter Registration Act, 42 U.S.C. § 1973gg, et seq. ("NVRA"), dated January 12, 2011 (the "Notice Letter"). We respectfully disagree with your assertion that we have not provided you with adequate notice under 42 U.S.C. § 1973gg-9(b). As you know, this section of the NVRA requires that the aggrieved party "provide written notice of the violation to the chief election official of the state involved." Our January 12 Notice Letter provided such notice to the State.

The NVRA requires that three "services shall be made available" at all public assistance agencies: "(i) [d]istribution of mail voter registration application forms ... (ii) [a]ssistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance [and] (iii) [a]cceptance of completed voter registration application forms for transmittal to the appropriate State election official." 42 U.S.C. § 1973gg-5(a)(4)(A).

The Notice Letter informed you that Louisiana is in "violation" of all three of these obligations. As we noted, our information reveals that DCFS and DHH offices, and other public assistance agencies throughout the state have

revealed a number of instances in which individuals were not provided with an application to register to vote as a part of their application for benefits, recertification, or change of address as required by law. We also identified individuals who reported they had not received any offer of voter registration by agency staff, even though such an offer should have been made. Our survey also revealed that personnel at numerous agencies around the state were wholly unfamiliar with their voter registration obligations under the NVRA. In addition, a number of agencies around the state did not have hard copies of voter registration forms available for clients.

Notice Letter at 2. Accordingly, we have provided adequate and sufficient notice under 42 U.S.C. § 1973gg-9(b) that Louisiana is failing to provide mandatory voter registration services as required by Section 7 of the NVRA. *Cf. Nat'l Coal. for Students with Disabilities Educ. and Legal Defense Fund v. Scales*, 150 F.Supp.2d 845, 851 (D. Md. 2001) ("[T]he statement that [a state public assistance agency] failed to provide voter registration services to its *clients* that *made their initial*

application for services ... is sufficient to dispense with the notice provisions of the NVRA. Discovery procedures may be employed to test the accuracy of these allegations.") (emphasis in original).

Although you contend that the Notice Letter suffers from a "lack of specificity and generality," Response Letter at 2, we note that the statute plainly requires that an aggrieved party "provide written notice of a violation," 42 U.S.C. § 1973gg-9(b), which we have done in conformity with the statute and relevant case law. *See Scales*, 150 F. Supp. 2d at 851. We identified those agencies that have defaulted on their obligations under the statute and indicated the statutory provisions at issue. There is no requirement that we disclose all available information that substantiates our claims. The purpose of the notice requirement is simply to "provide states in violation of the Act an opportunity to attempt compliance before facing litigation." *Ass'n of Community Org. for Reform Now v. Miller*, 129 F.3d 833, 838 (6th Cir. 1997). For example, as the state's Chief Election Official responsible for coordinating Louisiana's responsibilities under the NVRA, it should be a simple matter for your office to verify that those state public assistance agencies identified above and in our Notice Letter do "not have hard copies of voter registration forms available for clients." Notice Letter at 2. At a minimum, the Chief Election Official should be able to ascertain whether all state public assistance offices have voter registration applications. That you cannot readily do so is clear evidence that a more comprehensive NVRA compliance program needs to be developed for Louisiana.

Your February 14, 2011 Response Letter – which is dated more than a month after the January 12 Notice Letter – indicates that you would be interested in receiving "details or ... specifics" about the nature of your violations. We stated in the Notice Letter that we have been and remain available to meet with you to discuss the aforementioned violations in further detail and are "eager to work cooperatively with you ... to assist with developing a plan that will quickly bring the state into compliance with the requirements of Section 7 of the NVRA." Notice Letter at 2. We also note that, in response to a phone message left on February 7, 2011 by Ms. Elsie Cangelosi of your office, we attempted to contact your office on two separate occasions: first, by leaving a telephone message for Ms. Cangelosi on the same day (February 7, 2011); and second, with a follow-up email on February 10, 2011. However, we did not receive a response on either occasion. As of the date of this letter, you still have not taken the opportunity to contact us to discuss those issues raised in our Notice Letter; nevertheless we remain available to work with your office cooperatively to ensure compliance with the NVRA.

In the meantime, we can provide you with the following additional details, further illustrating the scope of the state's non-compliance, and substantiating the earlier notice that has already been provided. We note that what follows is meant to be illustrative, and not exhaustive, of the information that we have obtained substantiating the State's non-compliance with the NVRA.

Specifically, information indicated that numerous public assistance agencies in Louisiana are failing to make voter registration opportunities available as required under 42 U.S.C. § 1973gg-5(a)(6). Information demonstrating non-compliance dates back to December 2008, and stretches through the present. Of 59 Offices of Family Support surveyed during December 2008, representatives from 29 of those offices indicated that they do not make voter registration opportunities available to clients. Those 29 offices include the following parish offices: Vermillion; Tensas; Sabine; Tangipahoa; St. Martin; Madison; Evangeline; Winn; Bienville; Calcasieu & Cameron; East Carroll; Concordia; Terrebonne; Caddo; Rapides; Washington; Grant;

Acadia; Beauregard; Ascension; Jackson; Catahoula; Monroe; Assumption; Pointe Coupee; Iberville; West Baton Rouge; West Carroll; Livingston; and Iberia.

Our information also revealed similar problems at 12 of the state's WIC offices including the St. Martin Parish Breaux Bridge WIC Clinic; Evangeline Parish Community Health WIC Clinic; SWLA Center for Health Services; Health Unit Iberia Parish; Health Unit Lafayette Parish; David Raines Community Health Center WIC Clinic; North Caddo Medical Center WIC Clinic; LSU Health Sciences Center Shreveport WIC Clinic; Cameron Parish Field Clinic; Teche Action WIC Clinic; Aruna T. Sangisetty WIC Clinic; and Teche Action Clinic: Dulac.

Finally, staff at the following 13 Medicaid offices indicated that their offices do not offer voter registration: East Baton Rouge; Acadia; Ascension; Tangipahoa; LaSalle; Catahoula; Avoyelles; Iberia; Iberville & West Baton Rouge; St. Landry; Madison & Richland; St. Martin Parish; and Winn.

Further information revealed ongoing problems at Offices of Family Support and Medicaid offices across the state as of February 2010. Staff at the following 11 Offices of Family Support indicated they did not offer voter registration: Concordia; Iberia; Jefferson; Lafayette; Orleans; Rapides; St. Martin; and Terrebonne. Of the 11 Medicaid offices reviewed, staff at offices in the following 7 parishes indicated they did not offer voter registration: Caddo; Concordia; Iberia; Jefferson; Orleans; Rapides; and St. Martin.

More recent information received between March through November, 2010 revealed non-compliance at various Offices of Family Support in the following parishes: Caddo, East Baton Rouge, Jefferson, Lafayette, Orleans, Ouchita, Rapides, and Terrebonne.

At many of the agencies identified above, agency staff failed to make registration opportunities available while clients were completing applications for benefits, submitting recertifications, and/or providing a change of address. In addition, individuals seeking services at many of the sites identified above were not asked if they wanted to register to vote during their visit, nor provided an application to register to vote.

In sum, our information reveals specific instances of noncompliance with the NVRA, which, in combination with the low numbers of persons registering to vote at public assistance agencies in Louisiana, *see* Notice Letter at 1, are indicative of long-term, systemic violations that must be remedied immediately.

We reiterate that we are available to meet with you to discuss these and other details of the State's violations of the NVRA in more detail. Please feel free to contact Nicole Zeitler, Director of the Public Agency Voter Registration Program at Project Vote at (202) 546-4173 Ext. 303 or Dale Ho, Assistant Counsel at the NAACP Legal Defense and Educational Fund, Inc. at (212) 965-2252 to arrange a meeting.

Sincerely,

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