



June 11, 2019

Albany County Board of Elections
32 North Russell Road
Albany, NY 12206

Dear Commissioners Bledi and Clyne:

The Campaign Legal Center (“CLC”) writes to express concern about the manner in which the Albany County Board of Elections conducts voter purges. We urge you to take swift action to ensure that the Board’s practices comply with state and federal law. Specifically, we request that you (1) establish new procedures for carrying out voter purges that comport with state and federal law; (2) train your staff and volunteers on these procedures and laws; (3) restore voters purged after April 18, 2018 on the grounds of felony conviction status; and (4) educate the public about Executive Order No. 181, state law governing the maintenance of voter registration lists, the Board’s procedures for removing individuals from the lists, and voters’ rights when their registration is challenged under those procedures or at the polls.

Under state law, “[n]o person who has been convicted of a felony pursuant to the laws of this state, shall have the right to register for or vote at any election *unless he shall have been pardoned or restored to the rights of citizenship by the governor*, or his maximum sentence of imprisonment has expired, or he has been discharged from parole.” N.Y. ELEC. § 5-106(2) (emphasis added). On April 18, 2018, Gov. Andrew Cuomo issued an executive order restoring voting rights to “individuals being released from incarceration onto parole supervision and individuals who are currently under parole supervision.” EXEC. ORDER No. 181(I) (“E.O. 181”).

New York law permits the removal of ineligible persons from voter lists, *see* N.Y. ELEC. § 5-614(6), but officials must nonetheless observe certain rules in conducting purges. For example, officials must notify affected voters and give them an opportunity to respond, prior to their removal. *See* N.Y. ELEC. § 5-402(2). Additionally, under federal law, local officials must maintain and make available for public inspection “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official

lists of eligible voters.” 52 U.S.C. § 20507(i)(1). Federal law also provides that if an election official challenges a voter’s eligibility, or cannot locate the voter on the county registration list, the voter may cast a provisional ballot. *See* 52 U.S.C. § 21082(a).

On November 7, 2018, an Albany County voter with a felony conviction contacted CLC’s Restore Your Vote hotline. She complained that on Election Day 2018, a poll worker informed her that she could not vote due to her felony conviction, and denied her the right to cast a provisional ballot. The voter has resided at the address listed with her voter registration since her release in 2012. In our conversations with Election Board staff, we learned that the voter had been purged twice and that the reasons cited were “felony conviction.” Another Election Board staffer said the voter may have been removed because her parole officer may have failed to submit paperwork indicating that she had completed parole, and suggested that the Board had removed other voters due to similar errors. The voter states that she never received the legally required notification from the Board that would have allowed her to challenge her removal.

We subsequently filed two record requests under the state’s Freedom of Information Law, using the request form provided on the Board’s website. Our request sought the following information:

All documents and records created between December 12, 2005 and December 20, 2018, pertaining to the cancellation(s) of the voter registration of [redacted], and her removal(s) from Albany County’s official list of eligible voters, including, but not limited to, documents and records stating the legal basis for the removal(s) and the steps taken by the county board of elections to notify [redacted] that she had been purged.

The first request went without response. We filed our second request on March 13, 2019. Receiving no answer, we filed an appeal with you on April 2, 2019, to which we also received no response. The voter has since re-registered to vote but fears she will again be wrongfully purged.

This incident reflects several violations of state and federal law. Voting is a fundamental right, and its denial constitutes an irreparable injury. *See, e.g., Democratic Party of Ga. v. Crittenden*, 347 F. Supp. 3d 1324, 1346 (N.D. Ga. 2018) (“Courts consistently find infringements of voting rights to qualify as irreparable injury.”); *League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1223 (N.D. Fla. 2018) (“Accordingly, irreparable injury is presumed when ‘[a] restriction on the fundamental right to vote’ is at issue.”) (quoting *Obama for Am. v. Husted*, 697 F.3d 423 (6th Cir. 2012)); *see also League of Women Voters of North Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“Courts routinely deem restrictions on fundamental voting rights irreparable injury.”). **To protect Albany County voters**

against future errors, we strongly encourage the Board to take the following actions:

- Re-evaluate and update its procedures for removing voters from the county registration list;
- Provide additional training to its staff and volunteers on state and federal election law and the updated removal procedures;
- Make these procedures available to the public on the Board's website and in literature distributed by county agencies to voters;
- Restore to the registration list all voters whom the Board purged due to their felony convictions after E.O. 181's issuance on April 18, 2018;
- Proactively inform county residents with felony convictions of their right to vote and how to register; and
- Include information about provisional ballot voting in all election materials provided to voters, including in all official communications regarding upcoming elections and on the Board's website. Such information should explicitly address voters' rights regarding provisional ballots, be written in plain language, and be adequately labeled on the Board's website.

We would be happy to assist your office in drafting instructions that would fully and accurately inform citizens with convictions of their rights. To do so, please contact Danielle Lang, Co-Director, Voting Rights and Redistricting, at the phone number or email address listed below at your earliest convenience. Thank you for your attention and cooperation on this matter of utmost importance.

Sincerely,

/s/ Danielle M. Lang
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cc: New York State Board of Elections