



June 11, 2019

Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

The Campaign Legal Center (“CLC”) writes to share concerns about the implementation of Executive Order No. 181 (“E.O. 181”) in Albany County and throughout the state. We applaud your use of your clemency power to re-enfranchise 30,000 New Yorkers, and urge you to support Assembly Bill 4987 (A4987) and Senate Bill 1931 (S1931) to make this change permanent and expand efforts to inform returning citizens of their voting rights.

CLC is a 501(c)(3) nonprofit organization that works to enforce campaign finance laws and voting rights. As part of our mission, we oversee the Restore Your Vote Project, which helps eligible returning citizens register to vote. On November 7, 2018, we received a complaint to our Restore Your Vote hotline from an Albany County voter with a felony conviction, who was told by a poll worker that she was ineligible to vote due to her conviction. The worker would not allow her to cast a provisional ballot. In subsequent conversations with staff at the Albany County Board of Elections, we learned that the voter had been removed twice from the county’s voter registration list on the grounds that she had a felony conviction. Despite living at the same address since her release in 2012, she never received notice from the county that would have allowed her to challenge her removal, as required under state law.

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.”). We remain concerned that this was not an isolated incident, and that voters may be subject to wrongful purges in the future. For these reasons, we ask you to support A4987 and S1931 and work with legislators to enact these critical reforms. The bills would build upon E.O. 181 by:

- Codifying the changes to the law made by E.O. 181;
- Mandating that, prior to accepting a guilty plea, a court notify the defendant that he or she will have his or her right to vote restored upon release from incarceration;
- Requiring correctional staff to assist in the registration of prisoners scheduled for release, parolees, and probationers, by informing them of their right to vote, providing them with registration forms and other publications by the state Board of Elections, and submitting completed forms to applicants’ local boards of elections; and
- Implementing a program to educate attorneys, judges, election officials, corrections officials, parole and probation officers, and members of the public about these requirements.

We anticipate that, like the 2018 midterm elections, the 2020 elections will witness unprecedented participation. New Yorkers will be called upon to choose a President, Congressional delegation, state legislators, and other state and local officials, and to voice their opinions on referenda. It is crucial that state officials give returning citizens and people subject to community supervision the information they need to engage in this process. A4987 and S1931 would promote this effort by facilitating registration and public education. This legislation may also reduce erroneous purges like the one we documented in Albany County by requiring local election officials to attend training on rights restoration.

In the interim, action can be taken to enforce E.O. 181. We encourage your office to direct the department of corrections to notify eligible persons under its supervision about their right to vote and help them register. Currently, the department’s online Supervision Handbook incorrectly states that “[t]he right to vote is automatically restored when a parolee completes the maximum expiration of sentence or is discharged by DOCCS.” Your office can

also issue memoranda to the state Board of Elections and local boards about E.O. 181 and request that they update their maintenance procedures, websites, and education materials accordingly.

Again, thank you for your support for voting rights. 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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