



June 16, 2021

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Mr. Secretary:

On March 7, 2021, President Biden issued Executive Order on Promoting Access to Voting, Exec. Order No.14,019, 86 Fed. Reg. 13623 (Mar. 7, 2021), directing federal agencies, by September 23, 2021, to submit plans for promoting and facilitating the right to vote.¹ As we reach the halfway point toward the deadline in the Executive Order, the Campaign Legal Center (“CLC”) writes to provide suggestions and expertise to assist you in fulfilling the mandate in the Order. The Department of Education is uniquely positioned to disseminate resources to some of our youngest voters—students attending secondary and postsecondary institutions.

According to estimates, young people aged 18-29 voted in record numbers in the 2020 election, at a turnout rate of 55 percent.² However, this age group—largely comprised of the high school and college students under your Department’s purview—consistently face access barriers to the polls, which has historically made them among the groups with the lowest turnout in the country. Furthermore, this year marks the fiftieth anniversary of the ratification of the Twenty-Sixth Amendment of the Constitution, which granted the right to vote to citizens over 18 years old.

Campaign Legal Center (CLC) is a nonpartisan, nonprofit organization that works to advance democracy through law at the federal, state, and local levels, fighting for every American’s rights to responsive government and a fair opportunity to participate in and affect the democratic process. CLC seeks a future in which the American political process is accessible to all citizens, resulting in representative,

¹ Executive Order on Promoting Access to Voting, Sec. 3(a).

² CTR FOR INFO. AND RSCH. ON CIVIC LEARNING AND ENGAGEMENT, *Youth Voter Turnout Increased in 2020* (Nov. 25, 2020), <https://circle.tufts.edu/latest-research/election-week-2020#youth-voter-turnout-increased-in-2020>.

responsive and accountable government. Consistent with that mission and the Executive Order, we respectfully recommend several ways that the Department of Education can promote access to voting for students in secondary education and in institutes of higher learning.

Recommendations for Engaging with the Public on How to Register to Vote, Request a Ballot, and Cast a Ballot

The Executive Order calls for agencies, by September 23, 2021, to identify “ways to provide relevant information in the course of activities or services that directly engage with the public about how to register to vote, how to request a vote-by-mail ballot, and how to cast a ballot in upcoming elections.”³ To facilitate the Department’s response, the Campaign Legal Center offers the following recommendations:

1. *Encourage high schools and federally funded institutions of higher learning to provide voter registration, vote by mail, and other voter education resources.* The Department of Education frequently publishes guidance for secondary and postsecondary institutions. The Department should develop guidance consistent with state and federal law outlining the authority of educational institutions to provide voter registration, vote by mail, and in-person voting information. Many nonprofit organizations that focus on voting rights on college campuses already provide this guidance.⁴ The Department of Education can rely on these organizations as resources and disseminate educational materials to institutions to promote voter registration and voting.
2. *Provide voter registration materials on campus at colleges, universities, and community colleges.* The Department of Education can provide schools the materials necessary for students to register to vote. The federal form, provided by the Elections Assistance Commission, conforms to the National Voter Registration Act and can be used to register to vote in all states that require voter registration.⁵ Furthermore, the Department of Education could provide information to college students studying abroad about their rights to vote while overseas pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §§ 20301, *et seq.* This information is available through the Federal Voter Assistance Program.⁶

³ *Id.* at 3(a)(i). The executive order requires federal agencies to present a plan to implement the policies within 200 days of the March 7 order, which places the deadline at September 23, 2021. *See id.* at 3(a)(v)(b).

⁴ *See, e.g.,* Students Learn Students Vote Coalition, *Our Partners*, <https://slsvcoalition.org/partners/> (listing a coalition of nonpartisan, nonprofit organizations that focus on student voting rights on college campuses).

⁵ *See* ELECTION ASSISTANCE COMM’N, National Voter Registration Form (last visited May 6, 2021), <https://www.eac.gov/voters/national-mail-voter-registration-form>.

⁶ *See* FED. VOTER ASSISTANCE PROGRAM, The Uniformed and Overseas Citizens Absentee Voting Act Overview (last visited May 6, 2021), <https://www.fvap.gov/info/laws/uocava>.

3. *Provide resources to colleges and universities to facilitate vote by mail and absentee voting.* Students who are attending college or university away from their primary residence can vote by mail in the state of their primary residence. Many students, however, are unaware of their right to vote by mail as students.⁷ The Department of Education should provide guidance—such as literature or posters—to institutions of higher learning about the right of students to vote absentee in the state of their primary residence.

Recommendations for Providing Access to Voter Registration and Vote-By-Mail Applications

The Executive Order calls for agencies to provide information relevant to “ways to provide access to voter registration services and vote-by-mail ballot applications in the course of activities or services that directly engage with the public.”⁸ The following guidance recommendations could fulfill this mandate under the Executive Order:

1. *In states that allow pre-registration of 16- and 17-year-olds, provide the federal voter registration form as well as resources and recommendations for pre-registration drives in the state.* Twenty-four states allow minors aged 16 or 17 to pre-register to vote so that they are already registered by the time they turn 18.⁹ The federal form provided by the Elections Assistance Commission lists the instructions for every state which allows minors to pre-register to vote. The Department of Education should leverage this resource to provide guidance to secondary education institutions about minors’ rights to pre-register in the states where this option is available. The Department of Education could also provide instruction on best practices for hosting voter registration drives at these institutions.¹⁰
2. *Provide guidance to schools in states where student ID can be used as voter ID.* In most states, students enrolled in colleges and universities are allowed to use their college student identification as voter identification when registering to vote and voting in person. The ability to use student identification as voter identification has been shown to facilitate voting by college students in the

⁷ See, e.g., CTR FOR INFO. AND RSCH. ON CIVIC LEARNING AND ENGAGEMENT, *Youth Who Learned about Voting in High School More Likely to Become Informed and Engaged Voters* (Aug. 31, 2020), <https://circle.tufts.edu/latest-research/youth-who-learned-about-voting-high-school-more-likely-become-informed-and-engaged> (discussing young people’s knowledge about voting and interest in civic engagement).

⁸ *Id.* at 3(a)(ii).

⁹ See NAT’L CONFERENCE OF STATE LEGISLATURES, *Pre-Registration for Young Voters* (Feb. 12, 2019), <https://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx>

¹⁰ Nonpartisan resources like National Voter Registration Day provide free information about hosting voter registration drives on campus. See National Voter Registration Day, <https://nationalvoterregistrationday.org/>.

states where this is allowed.¹¹ The Department of Education should provide guidance to institutions of higher learning about their students' rights to vote using their student ID in the states where this is permitted. In certain states, a student ID may be accepted as voter identification provided that the student ID meets certain specifications. The Department should provide guidance to institutions of higher learning about how to ensure that their students' school-provided IDs meet the requirements of voter identification in their states.

Other Recommendations

The Biden Administration promulgated the Executive Order on the anniversary of Bloody Sunday, a somber day which reminds the American people of importance of the right to vote. In the spirit of the Executive Order, we also make the following recommendations:

1. *Provide resources to encourage students attending institutions of higher learning to volunteer as poll workers.* In general, poll workers tend to be aged 61 and above.¹² In the 2020 election, many states suffered from a poll worker shortage, because the typical poll workers, who are often elderly people, could not serve for fear of contracting COVID-19.¹³ In states like Georgia, college students rose to the occasion by recruiting fellow students as poll workers.¹⁴ Additionally, there was a national movement to recruit young people as poll workers on Election Day to mitigate the shortage.¹⁵ While the Executive Order does not discuss poll worker recruitment, it falls squarely in line with the Executive Order's goals of improving access to the vote. As such, the Department of Education should recommend to post-secondary institutions that they encourage students to volunteer as poll workers.
2. *Support efforts by students at institutions of higher learning to make Election Day a holiday on campuses.* Many students cite the timing of Election Day and

¹¹ See CTR FOR INFO. AND RSCH. ON CIVIC LEARNING AND ENGAGEMENT, *Growing Voters: Engaging Youth Before they Reach Voting Age to Strengthen Democracy* (Aug. 14, 2019), <https://circle.tufts.edu/latest-research/growing-voters-engaging-youth-they-reach-voting-age-strengthen-democracy> (showing a negative correlation between strict voter ID laws and youth voter turnout).

¹² Michael Barthel and Galen Stocking, *Older People Account for Large Shares of Poll Workers and Voters in U.S. General Elections*, PEW (Apr. 6, 2020), <https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/>.

¹³ *Id.*

¹⁴ See *The Georgia Youth Poll Workers Project Is Recruiting Election Day Workers*, WSB-TV (Aug. 18, 2020), <https://www.wsbtv.com/news/local/atlanta/georgia-youth-poll-workers-project-is-recruiting-election-day-workers/BGAO3CU36NA5XHDXDIZ5RY2UM/>; see also Georgia Youth Poll Workers Project, <https://www.thegeorgiayouthpollworkerproject.org/>.

¹⁵ See Maxine Wally, *The Organizations Recruiting 700,000+ Poll Workers on Instagram*, W MAG. (Oct. 27, 2020), <https://www.wmagazine.com/story/power-the-polls-young-poll-workers-project-instagram-interview>.

the location of the polls as reasons why they did not vote.¹⁶ To deal with this problem, many students have sought to make Election Day a holiday on their college campuses, so that students are not forced to choose between exercising their right to vote and attending classes.¹⁷ In the spirit of the Executive Order, the Department of Education should issue a formal statement urging post-secondary institutions to make Election Day a holiday for students, faculty and staff. This statement would send a strong message to colleges and universities that they should prioritize the civic education of not only their students, but all members of their academic communities.

In conclusion, the Department of Education can implement this Executive Order and reach voters who face some of the strictest barriers to the polls—particularly young people of color.¹⁸ The recommendations here would implement the Executive Order and serve the Department’s mission to “to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.”¹⁹

We urge you to consider our recommendations for implementation of the Executive Order on Promoting Access to Voting. If you have any questions, you may contact Valencia Richardson at vrichardson@campaignlegalcenter.org.

Sincerely,

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Cc: Suzanne Goldberg
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¹⁶ See Alexandria Symonds, *Why Don’t Young People Vote, and What Can Be Done About It?*, N.Y. TIMES (Oct. 8, 2020), <https://www.nytimes.com/2020/10/08/upshot/youth-voting-2020-election.html>; *infra*, note 17.

¹⁷ See Greta Anderson, *Students Push for Canceled Classes on Election Day*, INSIDE HIGHER ED. (Oct. 22, 2020), <https://www.insidehighered.com/news/2020/10/22/movement-no-class-election-day-gains-steam>.

¹⁸ See, e.g., Alex Ura, *Texas’ Oldest Black University Was Built on a Former Plantation. Its Students Still Fight a Legacy of Voter Suppression*, TEXAS TRIBUNE (Feb 25, 2021), <https://www.texastribune.org/2021/02/25/waller-county-texas-voter-suppression/>.

¹⁹ DEPT. OF EDUCATION, *Overview and Mission Statement*, available at <https://www2.ed.gov/about/landing.jhtml#:~:text=ED's%20mission%20is%20to%20promote,excellence%20and%20ensuring%20equal%20access>.