

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONF. OF THE
NAACP, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-01259-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH,
et al.,

Plaintiffs,

v.

BRIAN KEMP, *et al.*,

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-01284-JPB

STATE DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION BASED
ON IMMATERIAL VOTING REQUIREMENTS

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INTRODUCTION

Despite challenging every aspect of Georgia’s verification process for absentee-by-mail ballots in their complaints, including the use of a voter’s driver’s license number, last four digits of a Social Security Number, and date of birth, Plaintiffs’ motion for a preliminary injunction [Doc. 548] challenges only the requirement that voters include their date of birth on the absentee-ballot envelope when they return their ballot to their county registrar.¹ Compare Ga. NAACP Doc. 35 ¶¶ 134-140; Sixth AME Doc. 83 ¶¶ 255-259, 278-285 *with* [Doc. 548-20, p. 2]. Plaintiffs’ motion is based on their claim that county registrars are rejecting absentee ballots because of missing or incorrect dates of birth and that this violates the “Materiality Provisions” of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B).

As discussed below, Plaintiffs lack standing against State Defendants to obtain an injunction against them. But even if they have standing, Plaintiffs cannot show a likelihood of success on the merits because they withhold evidence from the Court that undermines their claims about county rejections based on a missing or incorrect birthdate alone, misstate the role of the

¹ For purposes of this brief, the provisions of Georgia law regarding placing a date of birth on an absentee-ballot return envelope and the processing of those envelopes in O.C.G.A. §§ 21-2-384, -385, and -386 are referred to collectively as the “absentee voter verification provisions.”

Secretary, and seek relief that is prohibited by binding law. Plaintiffs also cannot show that any rejections for missing or incorrect birth years violate the Materiality Provisions. Further, Plaintiffs delayed bringing this motion and cannot show that the equities or public interest favor their motion at this stage of the case. This Court should deny the emergency relief sought, or at the very least, deny Plaintiffs' motion as to State Defendants.

ADDITIONAL FACTUAL BACKGROUND

I. Past absentee-ballot litigation and changes.

Prior to SB 202, county election officials verified the identity of the voter returning an absentee ballot by matching the signature on the ballot envelope with the signature on file with the registrar. O.C.G.A. § 21-2-386(a)(1)(B) (eff. July 1, 2012). As the 2018 election approached, Georgia and its counties faced several lawsuits about rejections of absentee ballots under this signature-matching approach to processing absentee ballots. Those lawsuits first resulted in an injunction about the process county officials had to follow before rejecting absentee ballots based on a signature mismatch. *Martin v. Kemp*, 341 F. Supp. 3d 1326, 1341 (N.D. Ga. 2018). Following the November 2018 election, the plaintiffs filed new motions and this Court entered an injunction against a single Georgia county requiring the counting of absentee ballots that were

rejected for missing or incorrect birth years.² *Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1311 (N.D. Ga. 2018). This Court then expanded the injunction about birth-year rejections to all Georgia counties by issuing an injunction in *Democratic Party of Ga., Inc. v. Crittenden*, 347 F. Supp. 3d 1324, 1347 (N.D. Ga. 2018). Both cases were later dismissed before discovery.

In the next legislative session, the General Assembly passed House Bill 316 (2019), which removed the requirement that birth years be included as part of the oath on outer envelopes, otherwise retaining the signature-matching process. But that change did not stop the litigation over how county officials process absentee ballots. Before the 2020 election, in *Democratic Party of Georgia v. Raffensperger*, Case No. 1:19-cv-05028-WMR (N.D. Ga.) (*DPG II*), Georgia faced a constitutional claim that county officials were rejecting *too many* absentee ballots for signature mismatches without a sufficient review process (*DPG II* Doc. 1, p. 37). Plaintiffs dismissed that lawsuit after a new State Election Board rule and a recommendation from the Secretary through an Official Election Bulletin (OEB)³ that counties have multiple reviewers

² Due to a change made in 2017, Georgia required the year of birth, not the full date of birth, as part of the oath of the elector on the absentee-ballot envelope at that time. O.C.G.A. § 21-2-384(c)(1) (2017).

³ OEBs are not binding, but provide an update or guidance to county officials on an issue related to elections. Secretary of State 30(b)(6) Deposition, 133:10-135:8, attached as Ex. A.

check signatures before a rejection, a process already largely in place in many counties in Georgia (*DPG II* Doc. 56-1). Following the 2020 election, Georgia faced another constitutional claim that county officials were rejecting *too few* absentee ballots for signature mismatches.⁴ *Ga. Republican Party v. Raffensperger*, Case No. 1:20-cv-05018-ELR (N.D. Ga.) (Doc. 1, ¶ 4).

In the 2021 legislative session, SB 202 overhauled the entire absentee structure, eliminating the signature-match process and replacing it with a process utilizing the voter’s state-issued identification card number (or other form of identification) and the voter’s date of birth—two sets of numbers easily available to the voter but not to others—in order to verify a voter’s identity.

II. The current absentee-voting process (post-SB 202).

For a Georgia voter to apply for an absentee ballot after SB 202, the voter fills out a standard form made available by the Secretary—the only role the Secretary plays in the entire absentee-ballot process. O.C.G.A. § 21-2-381(a)(1)(A)–(C). In order to “confirm the identity of the voter,” the application

⁴ While Plaintiffs rely on statements made in other post-2020 cases for the concept that the elimination of the birth-year requirement alone caused a decrease in absentee-ballot rejections, [Doc. 548-1, p. 11], the context of that quote demonstrates that the discussion was about the *overall* rejection rate decreasing as a result of *both* the elimination of the birth year and the institution of a cure process as opposed to the rejection rate for mismatched signatures being virtually identical to prior elections. [Doc. 548-3, 52:9-53:22].

requires a variety of personal information, including “name, date of birth, address as registered, address where the elector wishes the ballot to be mailed, and the number of his or her Georgia driver’s license or identification card” or one of several alternatives if the individual lacks an identification number that can be used on the form. O.C.G.A. § 21-2-381(a)(1)(C)(i). After the voter timely returns this form, the registrar takes steps to “verify the identity of the applicant” by comparing the “name, date of birth, and number of . . . driver’s license or identification card” with the “information on file in the registrar’s office.” O.C.G.A. § 21-2-381(b)(1). If the voter lacks an identification card, the registrar must verify the identification provided identifies the applicant. *Id.* After this verification, the registrar mails an official absentee ballot to the voter in the time permitted by statute. O.C.G.A. § 21-2-384(a)(2). Significantly, after the changes in 2019, if the identifying information on the application does not match what is on file, the registrar *still issues a ballot* to the voter—it is a provisional absentee ballot with information on how to cure the mismatch or missing information. O.C.G.A. § 21-2-381(b)(3).

After the voter fills out their absentee ballot and seals it in both the inner security envelope and the outer return envelope, the voter signs the oath on the outer envelope. O.C.G.A. § 21-2-385(a). Then, “to verify that the absentee ballot was voted by the elector who requested the ballot,” the voter prints their

Georgia identification card number. *Id.* The voter “shall also print his or her date of birth.” *Id.* That portion of the absentee-ballot return envelope specifically advises voters how the information will be used:

Voter Identification
 Print carefully. This information will be used to verify your identity before counting your ballot.

My date of birth (MM/DD/YYYY) _____

Number of my Georgia driver's license or state identification card issued by the Department of Driver Services

OR I do not have a Georgia driver's license or ID. The last 4 digits of my Social Security No. are

OR I do not have a Georgia driver's license or ID or a Social Security Number **AND** I have placed in this envelope a copy of one of the forms of identification listed in the absentee ballot instructions.

Figure 1: Return portion of absentee ballot return envelope, attached as Ex. B (CDR01322538).

When the registrar or clerk receives the returned absentee ballot, he or she writes the date and hour of receipt on the ballot, and then compares the identification number and date of birth provided (or other identifying information if the voter lacks an ID) with the information in the voter registration records. O.C.G.A. § 21-2-386(a)(1)(B). The registrar also confirms the voter signed the oath and any person assisting the voter signed the required oath. *Id.* If all required information is present and matches, the clerk certifies and adds the voter's name to the numbered list of voters so the ballot can be counted. *Id.*

If any information on the envelope is missing or incorrect, the registrar rejects the ballot. O.C.G.A. § 21-2-386(a)(1)(C). But if a ballot is rejected, the registrar must notify the voter by the next business day⁵ if the registrar has a phone number or email address and the ballot is rejected within 11 days of election day, providing an opportunity to cure the incorrect information. O.C.G.A. § 21-2-386(a)(1)(C); Ga. Comp. R. & Regs. r. 183-1-14-.13. Voters then have from the time they receive the notice (which could be substantially before the election) through three days *after* the election to cure the problem. O.C.G.A. § 21-2-386(a)(1)(C).

III. County processing of absentee ballots.

County officials are responsible for the processing of absentee ballots. O.C.G.A. § 21-2-386(a)(1)(B). The Secretary and State Election Board (SEB) members do not appoint county officials and only enforce the Election Code through civil penalties⁶ and judicial proceedings following allegations of

⁵ Multiple county election officials testified that they contact the voter by phone or email prior to a rejection to verify information if there is a mismatch on the envelope. Sosebee Dep. (Athens-Clarke), 68:17-21, 71:9-74:3, 111:25-112:6, attached as Ex. C; N. Williams Dep. (Fulton), 125:15-126:2, 202:16-203:4, attached as Ex. D; Gay Dep. (Columbia), 46:15-47:18, attached as Ex. E.

⁶ While the SEB can impose civil penalties, it is limited in how much it can impose per each violation and can only do so after notice and a hearing. O.C.G.A. § 21-2-33.1(a)(2), (b). The new provisions from SB 202 regarding oversight of county officials only allow suspension, not removal, and only after multiple years of county problems. O.C.G.A. § 21-2-33.2(c) (requiring clear and

violations. *See* O.C.G.A. § 21-2-33.1.

Plaintiffs present a chart in their brief that reflects responses from just six counties to discovery requests in this case, apparently attempting to show that counties are regularly rejecting absentee ballots for missing or incorrect birth dates. [Doc. 548-1, p. 13]. But Plaintiffs intentionally exclude the discovery responses of five additional County Defendants. The additional five county responses, which are attached as Exs. F through J, are as follows:

County	Pre- SB 202		Post-SB 202	
	Nov. 2020	Jan. 2021	Nov. 2022	Dec. 2022
Bibb	0	0	0	0
Clayton	0	0	0	0
Columbia	0	0	0	0
DeKalb	0	0	0	0
Gwinnett	0	0	0	0

Further, multiple counties testified that they use the date of birth information to verify the voter is the one returning the ballot, as the absentee-ballot envelope advises. K. Williams Dep. (Gwinnett County), 48:6-9, attached as Ex. K; Manifold Dep. (Gwinnett County) 112:22-113:2, 116:24-117:1, attached as Ex. L; Ex. E, 46:11-14, 80:3-5; Wurtz Dep. (Hall) 48:5-8, attached as Ex. M. And a voter's registration is not cancelled or affected if they fail to put their birthdate on the form or put an incorrect date. Ex. L, 116:17-23.

convincing evidence the county or municipal superintendent has, for at least two elections within a two-year period, demonstrated nonfeasance, malfeasance, or gross negligence in the administration of the elections).

IV. Plaintiffs' evidence on standing.

To bring their motion, Plaintiffs rely on a subset of the plaintiff parties in these cases. Georgia NAACP Plaintiffs only include declarations from (1) Ga. State Conference of the NAACP [Doc. 548-12], (2) Ga. Coalition for the People's Agenda [Doc. 548-16], (3) League of Women Voters of Georgia [Doc. 548-13], (4) GALEO Latino Community Development Fund [Doc. 548-14], and (5) Common Cause Georgia [Doc. 548-15]. AME Plaintiffs only submit a declaration from the Georgia Muslim Voter Project (GMVP) [Doc. 548-19]. Each declaration claims a diversion of resources related to the voter verification provisions. But each declaration that discusses these diversions places it only in the realm of voter education.

AME Plaintiffs offer no declarations or evidence about the membership of GMVP. And while each of the Georgia NAACP Plaintiffs mentions their number of members, the declarations are focused exclusively on the alleged diversions of resources as a result of SB 202.

Further, the Georgia NAACP Plaintiffs only name Cobb, Gwinnett, and Fulton counties as defendants (Doc. 35 on NAACP docket). The AME Plaintiffs name 11 counties as defendants, specifically Bibb, Chatham, Clarke, Clayton, Cobb, Columbia, DeKalb, Fulton, Gwinnett, Hall, and Richmond. (Doc. 83 on AME docket). But neither case names all counties in Georgia as defendants.

ARGUMENT AND CITATION OF AUTHORITIES

I. Legal standard for preliminary injunction.

For a preliminary injunction, Plaintiffs must clearly establish: “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that granting the relief would not be adverse to the public interest.” *Four Seasons Hotels & Resorts, B.V. v. Consorcio Barr, S.A.*, 320 F.3d 1205, 1210 (11th Cir. 2003); *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). Preliminary injunctions are designed “to maintain the status quo” pending final resolution. *Coyotl v. Kelly*, 261 F. Supp. 3d 1328, 1341 (N.D. Ga. 2017). A mandatory injunction, which Plaintiffs seek here, “is particularly disfavored.” *Martinez v. Mathews*, 544 F.2d 1233, 1243 (5th Cir. 1976).

II. Plaintiffs do not have standing against State Defendants on their sole claim.

“Federal courts are not constituted as free-wheeling enforcers of the Constitution and laws.” *Wood v. Raffensperger*, 981 F.3d 1307, 1313 (11th Cir. 2020) (cleaned up). Instead, Article III limits the subject-matter jurisdiction of federal courts to actual “Cases” and “Controversies.” U.S. CONST. art. III, § 2, cl. 1. “To have a case or controversy, a litigant must establish that he has

standing.” *Jacobson v. Fla. Sec’y of State*, 974 F.3d 1236, 1245 (11th Cir. 2020).

To show standing sufficient to obtain a preliminary injunction, Plaintiffs must show “(1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision.” *Id.* And a “plaintiff must demonstrate standing for each claim he seeks to press and for each form of relief that is sought.” *Town of Chester v. Laroe Ests., Inc.*, 137 S. Ct. 1645, 1650 (2017) (quoting *Davis v. FEC*, 554 U.S. 724, 734 (2008)). An injury cannot be speculative but must be “certainly impending.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013).

A. Organizational standing is not sufficient to challenge the absentee voter verification provisions.

All of the evidence before this Court from Plaintiffs on standing focuses on the alleged diversion of resources by Plaintiffs. And because organizations do not vote, Plaintiffs are only seeking to vindicate the rights of third parties in this action through a federal statute—specifically, the Civil Rights Act.

The Supreme Court looks upon third-party standing with disfavor. *Kowalski v. Tesmer*, 543 U.S. 125, 130 (2004) (stating that, beyond specific examples discussed herein, “we have not looked favorably upon third-party standing”). For a plaintiff to have standing to assert the rights of others not before the Court, the plaintiff must establish (1) “a ‘close’ relationship” between

a plaintiff and supposedly represented third parties, and (2) a “hindrance’ to [the third parties’] ability to protect [their] own interests.” *Id.* at 130. Plaintiffs, moreover, must allege and *prove* those elements as a factual matter, and must maintain standing throughout the pendency of the case. *See Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 9, 15 (2004) (holding third-party standing lacking based on facts raised after decision). Under these well-established principles, Plaintiffs lack standing.

In an analogous case, the Fifth Circuit recently found it likely that a plaintiff organization lacked third-party standing to challenge a provision of Texas voter-registration law under the Civil Rights Act. *Vote.org v. Callanen*, 39 F.4th 297, 305 (5th Cir. 2022). While Plaintiffs may attempt to claim that their future education efforts provide a close relationship with Georgia voters, even a future, unspecified attorney-client relationship was “no relationship at all.” *Kowalski*, 543 U.S. at 130–31. Further, Plaintiffs do not claim they fill out or return absentee ballots in Georgia, meaning that individual voters are the proper individuals to serve as plaintiffs, not the organizations.

As to the second *Kowalski* factor, nothing in Plaintiffs’ brief or declarations even attempts to show why Georgia voters cannot challenge the absentee voter verification provisions themselves. That is in sharp contrast to the cases they rely on, when individual voters and candidates challenged the

prior signature-matching regime. *Martin*, 347 F. Supp. 3d at 1311; *Dem. Party of Ga.*, 347 F. Supp. 3d at 1347.

As a result, none of the Plaintiffs have third-party standing to challenge the absentee voter verification provisions in SB 202 because—at most—they are educating voters about the requirements of Georgia law on voting absentee. Any resources that they spend fighting the provisions are self-inflicted budgetary and resource-allocation choices that cannot manufacture standing.⁷

B. Associational standing is not sufficient to challenge the absentee voter verification provision.

While Plaintiffs mention associational standing in their brief, they rely solely on the *number* of members for each organization. [Doc. 548-1, pp. 17-18]. The declarations do not “identify any of [their] members, much less one who will be injured by the” absentee voter verification provisions. *Jacobson*, 974 F.3d at 1249. And reliance on *Dem. Party of Ga.*, 347 F. Supp. 3d at 1337, does not save Plaintiffs’ claims because there is no indication that the plaintiffs failed to establish a member who would be injured, as *Jacobson* requires.

But even if Plaintiffs have provided a sufficient member for associational standing, they have not established the counties in which they have members.

⁷ Plaintiffs cannot rely on budgetary changes for any injury because they are not relying on diversion of financial resources for standing in this case. See 30(b)(6) excerpts attached as Exhibits O, P, Q, R, S, and T.

And, as indicated above, the evidence Plaintiffs obtained from at least five defendant counties shows that those counties are not rejecting *any* absentee ballots based on a missing or incorrect date of birth, which means any members in those counties are completely uninjured even if Plaintiffs' theory of the Materiality Provisions is correct—and it is not.

C. There is no traceability or redressability because county officials, not State Defendants, process absentee ballots.

Plaintiffs wave away the requirements of traceability and redressability in less than a page. [Doc. 548-1, p. 18]. But in so doing, Plaintiffs ignore binding precedent that the processing of absentee ballots has nothing to do with State Defendants, eliminating any claim against State Defendants for an injunction related to the absentee voter verification provisions. Simply put, any alleged injury by Plaintiffs is not the result of conduct of State Defendants nor of any action that this Court can order State Defendants to take.

Georgia law commits the processing and verification of absentee ballots solely to county officials. O.C.G.A. § 21-2-386(a)(1)(B). Multiple courts in this district have dismissed claims against State Defendants when the sole responsibility for a challenged election procedure was committed to counties. *See, e.g., Fair Fight Action v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261571, at *80-81 (N.D. Ga. Mar. 31, 2021) (“As counties are

statutorily responsible for counting the absentee ballots (see O.C.G.A. §§ 21-2-381, 386), Plaintiffs’ ‘misconduct in overseeing’ the rejection of the absentee ballots claims are subject to dismissal for lack of standing in light of the Eleventh Circuit’s recent holding in *Jacobson*, 974 F.3d 1256.”); *see also*, *Anderson v. Raffensperger*, 497 F. Supp. 3d 1300, 1329 (N.D. Ga. 2020) (dismissing claims when “[n]o Georgia law allows State Defendants to reach down into the county precincts and demand the relief Plaintiffs seek.”).

And not only is this the view of this Court—it is also the law of the Eleventh Circuit, which upheld the dismissal of a case against State Defendants regarding the processing of absentee ballots in the 2021 runoff: “But, just as in *Jacobson*, the absentee ballot statute puts the duty to ‘compare the signature’ and accept or reject a ballot on the ‘registrar or clerk’—not the Secretary of State.” *Ga. Republican Party, Inc. v. Ga. Sec’y of State*, No. 20-14741-RR, 2020 U.S. App. LEXIS 39969, at *5-6 (11th Cir. Dec. 20, 2020).

Plaintiffs’ request for an order that State Defendants provide “guidance” on the absentee voter verification provisions also fails. [Doc. 548-20, p. 2].

[The] ‘notice’ theory of redressability contravenes the ‘settled principle[]’ that ‘it must be the *effect of the court’s judgment on the defendant*—not an absent third party—that redresses the plaintiff’s injury.’ Any persuasive effect a judicial order might have upon the [county] Supervisors, as absent nonparties who are not under the Secretary’s control, cannot suffice to establish redressability.

Jacobson, 974 F.3d at 1253 (quoting *Lewis v. Gov. of Ala.*, 944 F.3d 1287, 1305 (11th Cir. 2019) (citations omitted and emphasis original).

Unlike the cases involving the 2018 election that were decided in a pre-*Lewis* and pre-*Jacobson* world, this Court may not bind non-party county officials by enjoining State Defendants to provide guidance, stop certification, or take other action. As with the supervisors in *Jacobson*, State Defendants do not appoint the county registrars, they are not part of state government, and State Defendants can only resort to “coercive judicial process” to enforce the Election Code if county registrars do not follow the law. *Compare* O.C.G.A. §§ 21-2-32, 21-2-33.1, 21-2-33.2, 21-2-40, 21-2-70, 21-2-71 *with* 974 F.3d at 1253. Thus, this Court must deny any injunction against State Defendants related to the absentee voter verification provisions for lack of standing.

III. The Materiality Provision creates no private right of action.

Plaintiffs seek relief only under 52 U.S.C. § 10101(a)(2)(B) and 42 U.S.C. § 1983. State Defendants assert that the Civil Rights Act provisions on which Plaintiffs rely do not provide an implied right of action. *See Vote.org v. Callanen*, 39 F.4th 297, 305 n.5 (5th Cir. 2022). Recent Supreme Court decisions confirm that the Eleventh Circuit’s decision to the contrary in *Schwier v. Cox*, 340 F.3d 1284, 1297 (11th Cir. 2003), was incorrect because

“Section 1983 does not provide an avenue for relief every time a state actor violates a federal law.” *Vega v. Tekoh*, 142 S. Ct. 2095, 2106 n.6 (2022) (quoting *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 119 (2005)) (cleaned up).

And even if *Schwier* were correctly decided, Plaintiffs’ attempt to invoke a private right of action under 52 U.S.C. § 10101(a)(2)(B) through 42 U.S.C. § 1983 still fails. In order “to sustain a § 1983 action, the plaintiff must demonstrate that the [underlying] federal statute creates an individually enforceable right in the class of beneficiaries *to which he belongs*.” *City of Rancho Palos Verdes*, 544 U.S. at 120 (emphasis added). Thus, “even if § 1971 provides an enforceable private right to *individuals* [through a § 1983 suit,] that does not mean [an organization] may invoke that right.” *Vote.org*, 39 F.4th at 305 n.5 (emphasis added). The beneficiaries of 52 U.S.C. § 10101(a)(2)(B) are *individuals* who have been *denied the right to vote* because of an immaterial error or omission of the sort described in the statute. Unlike the plaintiffs in *Schwier*, who were individual voters, 340 F.3d at 1286, Plaintiffs are not. Plaintiffs have not been denied the right to vote because they cannot vote—they are organizations and have no private right of action to invoke.

IV. Even if Plaintiffs had standing, they are not likely to succeed on the merits of their claim.

Even if Plaintiffs have standing, this Court still must deny their

requested mandatory injunction. Beginning with the text, 52 U.S.C. § 10101(a)(2)(B) has five elements:

(1) the proscribed conduct must be engaged in by a person who is acting under color of law; (2) it must have the effect of denying an individual the right to vote; (3) this denial must be attributable to an error or omission on a record or paper; (4) the record or paper must be related to an application, registration, or other act requisite to voting; and (5) the error or omission must not be material in determining whether such individual is qualified under State law to vote in such election.

Ritter v. Migliori, 142 S. Ct. 1824, 1825 (2022) (Alito, J., dissenting from the denial of the application for stay) (cleaned up). In *Ritter*, the Third Circuit determined that the failure to include the date an absentee ballot was filled out was immaterial and required the counting of ballots missing that information. *Id.* But Justices Alito, Thomas, and Gorsuch (without objection) noted that several of these five statutory factors were missing. *Id.*

The same failure infects Plaintiffs' claim here, demonstrating they cannot succeed on the merits. If a registrar rejects an absentee ballot based on a missing or incorrect date of birth, the voter has not been denied their right to vote (element 2)—instead their absentee ballot was not counted because they did not follow the process outlined in Georgia law for casting an absentee-by-mail ballot. And “[c]asting a vote, whether by following the directions for using a voting machine or completing a paper ballot, requires compliance with

certain rules.” *Brnovich v. Dem. Nat’l Comm.*, 141 S. Ct. 2321, 2338 (2021). As Justice Alito explained, “the failure to follow those rules constitutes the *forfeiture* of the right to vote, not the *denial* of that right.” *Ritter*, 142 S. Ct. at 1825 (Alito, J., dissenting) (emphasis added).

It is also wrong to suggest that the date-of-birth requirement implicates the fourth element, that the “record or paper relates to any application, registration, or other act requisite to voting.” Something is “requisite” if it is “required” or “necessary.” *Requisite*, *Black’s Law Dictionary* (11th ed. 2019). Providing a date of birth on an absentee-ballot envelope is not required or necessary for *voting*. It is required or necessary to properly return an *absentee ballot*, and Georgia voters have a number of ways to cast their ballot apart from returning an absentee ballot. *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1281 (11th Cir. 2020); *see also Vote.org*, 39 F.4th at 306.

Finally, a date of birth on an absentee-ballot envelope does not determine the voter’s *qualifications* to vote in the election. 52 U.S.C. § 10101(a)(2)(B) (element 5). The date of birth is used, as the envelope advises voters, to *verify* the identity of the person who voted the ballot (and who is not physically present). Ex. B; O.C.G.A. § 21-2-386(a)(1)(B). Thus, county registrars “may consider” exactly this type of information when processing absentee ballots. *Diaz v. Cobb*, 435 F. Supp. 2d 1206, 1214 (S.D. Fla. 2006) (checkboxes that

duplicated oath information were material); *see also Howlette v. Richmond*, 485 F. Supp. 17, 23 (E.D. Va. 1978) (individual notarization of signatures was material).

The prior decisions in *Martin* and *Democratic Party* are inapposite here because those cases were decided under Georgia's previous method of absentee voter verification. Following those cases, the Georgia General Assembly removed the year of birth from the signature-matching absentee-ballot verification process. But in SB 202, following claims from both political parties that signature-matching was a subjective, untrustworthy mechanism for verifying voters, the General Assembly moved to an objective standard that included both identification number and date of birth. SB 202, § 2, ¶ 2. As a result, cases evaluating Georgia's old system of absentee voter-verification are not helpful to evaluating the current system. And Georgia's new system of absentee voter verification performed well in the 2022 election for voters and election officials, with some observers noting that the new methodology of voter verification was much more efficient than the previous methodology.⁸

Plaintiffs also attempt to confuse the *qualifications* to vote listed in

⁸ *2022 General Election Observation: Fulton County, Georgia* (The Carter Center), attached as Ex. N, p. 16 ("Election law changes in SB202 . . . [have] streamlined the process and made it easier for election officials since they can simply check that all the necessary information is present and correct.").

O.C.G.A. § 21-2-216(a) with the *requirements* to vote, but those things cannot be the same. For example, to vote in person on Election Day, a voter must go to the correct precinct on the correct day between the hours of 7am and 7pm, present photo identification, follow the instructions on the voting machine, and place her ballot in the scanner. That voter could not claim that, merely because she possesses the correct qualifications, she can vote in whatever manner she chooses—just as an absentee voter does not have his or her *qualifications* to vote improperly determined for an immaterial reason when he or she fails to follow the *instructions* on how to properly return an absentee-ballot envelope. *Ritter*, 142 S. Ct. at 1825-26 (Alito, J., dissenting).

This is also why State Defendants’ discovery responses correctly identify that the date of birth is not used to determine whether a voter is *qualified*. [Doc. 548-5, p. 4]. And multiple county election officials testified that they use the date of birth for the purpose listed on the envelope and in the statute—*verifying* the voter’s identity for purposes of counting their ballot, not determining their qualifications to vote. Ex. K, 48:6-9; Ex. L, 112:22-113:2, 116:24-117:1; Ex. E, 46:11-14, 80:3-5; Ex. M, 48:5-8.

Plaintiffs’ reliance on the prior signature-matching cases, including *Jones v. Jessup*, 279 Ga. 531, 533 n.5 (2005), fails to recognize that Georgia did not merely “reinstate” a date-of-birth requirement while maintaining

signature matching—SB 202 completely overhauled the method of verifying a voter’s identity on a returned absentee ballot. Without a signature match, the legislature concluded that another method of verification was needed.⁹ And states may always take action to avoid potential fraud in the election process—especially in the absentee-voting process. *Brnovich*, 141 S. Ct. at 2340, 2347.

Both the Supreme Court and the Eleventh Circuit have “unambiguously held that the right to vote *absentee* is not a fundamental interest that triggers Fourteenth Amendment protections.” *New Ga. Project*, 976 F.3d at 1288 (Lagoa, J., concurring). To interpret 52 U.S.C. § 10101(a)(2)(B) so that it applies to a verification requirement that is part of the process for properly returning an absentee ballot would be to allow Congress to legislate in areas far beyond enforcing the right to vote and would essentially create the right to vote *absentee*. The Georgia General Assembly has chosen to continue offering absentee voting to all voters without a reason. But if federal law dictates how

⁹ Indeed, other states require much more on an absentee ballot envelope. Several require witness signatures and others require the voter to send back a *notarized* signature—more steps than writing a date of birth that appears on the same driver’s license used by most voters. *See* Ala. Code §§ 17-11-7(b), 17-11-10(b)(2) (Alabama: two witnesses or notary); A.S. § 15.20.203 (Alaska: witness or notary); LSA-R.S. § 18:1306(E)(2) (Louisiana: witness); Miss. Code Ann. §§ 23-15-633, -635, -639, -641 (Mississippi: witness signature); V.A.M.S. §§ 115.283, 115.295 (Missouri: notary); N.C.G.S.A. § 163-231(a)(6) (North Carolina: two witnesses or notary); 26 Okl. St. §§ 14-108, -108.1, -123 (Oklahoma: notary); S.C. Code §§ 7-15-220, -230 (South Carolina: witness).

absentee by mail ballots can be verified, it is entirely likely the legislature may make further changes to the absentee-voting process. For all these reasons, Plaintiffs have not shown they are likely to succeed on the merits of their claim, and their motion should be denied for this reason alone.

V. Plaintiffs have not adequately shown an irreparable harm.

In addition to Plaintiffs' failure to demonstrate a likelihood of success on the merits, Plaintiffs cannot demonstrate any irreparable harm. Plaintiffs only claim that they will have a continuing frustration of purpose and diversion of resources. [Doc. 548-1, p. 24]. Plaintiffs also attempt to bootstrap their associational-standing claims into a purported irreparable harm, but the restrictions challenged do not threaten the right to vote, but rather the right to vote by absentee ballot in a particular manner.¹⁰ And because there is sufficient time to properly submit an absentee ballot (by filling in the correct date of birth) or voting through other means, Plaintiffs are not irreparably harmed. *New Ga. Project*, 976 F.3d at 1283-84. This is even more true when any voter who has their ballot rejected due to failure to include a date of birth is given notice and an opportunity to cure that defect. O.C.G.A. § 21-2-

¹⁰ Plaintiffs' sole appellate citation for the proposition that irreparable harm is presumed when the right to vote is involved is to a dissenting opinion involving the 2000 presidential election. *Touchston v. McDermott*, 234 F.3d 1133, 1158-59 (11th Cir. 2000) (Birch, J., dissenting).

386(a)(1)(C).

Moreover, Plaintiffs cannot demonstrate irreparable injury because they have waited for more than two years after filing this case to seek a preliminary injunction. *Wreal, LLC v. Amazon.com*, 840 F.3d 1244, 1248 (11th Cir. 2016). Indeed, “the very idea of a *preliminary* injunction is premised on the need for speedy and *urgent* action to protect a plaintiff’s rights before a case can be resolved on the merits.” *Id.* (emphasis added). Thus, “a party’s failure to act with speed or urgency in moving for a preliminary injunction necessarily undermines a finding of irreparable harm.” *Id.* (citations omitted).

SB 202 was enacted on March 25, 2021, and Plaintiffs filed their complaints on March 28 and 29, 2021, making the same claims as in the currently pending motion. *Ga. NAACP* Case No. 1:21-cv-01259-JPB [Doc. 1] (March 28, 2021); *Sixth District AME* Case No. 1:21-cv-01284-JPB [Doc. 1] (March 29, 2021). While Plaintiffs put forward some evidence from counties in their brief, they make primarily legal arguments, relying on discovery responses from nearly six months ago, [Doc. 548-2, ¶¶ 5-10], and a single county deposition from April 2023, [Doc. 548-2, ¶ 3]. By failing to act “with speed and urgency,” Plaintiffs have not shown a likelihood of irreparable harm. *Wreal*, 840 F.3d at 1248; *Siegel*, 234 F.3d at 1176.

VI. The equities and public interest do not favor an injunction.

The Court should also deny Plaintiffs' motion because the harm it would cause the State and the public outweighs any harm Plaintiffs might face absent an injunction. First, a state is irreparably harmed when it is unable to enforce its statutes. *New Ga. Project*, 976 F.3d at 1283; *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 734 F.3d 406, 419 (5th Cir. 2013).

Second, even if Plaintiffs have shown some harm, the impact on the public and the State weighs against an injunction. Eliminating a tool for verifying the identity of voters who cast absentee ballots lowers the overall integrity of the election and risks introducing fraudulent ballots that would dilute lawful votes cast by Georgia voters, in addition to the necessity of making significant revisions to forms. *Brnovich*, 141 S. Ct. at 2340, 2347.

Third, removing a portion of the verification tools from county election officials undermines the confidence in elections that is desperately needed and could prompt the legislature to take further efforts to add security measures to absentee ballots. *Id.*

CONCLUSION

In short, Plaintiffs have failed to establish any of the requirements for a preliminary injunction. Accordingly, this Court should deny Plaintiffs' motion and allow Georgia's absentee voter verification provisions to remain in effect.

Respectfully submitted this 22nd day of June, 2023.

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Elizabeth Vaughan
Assistant Attorney General
Georgia Bar No. 762715
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

Gene C. Schaerr*
Special Assistant Attorney General
Erik Jaffe*
H. Christopher Bartolomucci*
Donald M. Falk*
Brian J. Field*
Cristina Martinez Squiers*
Edward H. Trent*
Nicholas P. Miller*
Joshua J. Prince*
Annika Boone Barkdull*
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, DC 20006
(202) 787-1060
gschaerr@schaerr-jaffe.com
**Admitted pro hac vice*

/s/ Bryan P. Tyson

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com

Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenghish.com

Diane Festin LaRoss
Georgia Bar No. 430830
dlaross@taylorenghish.com

Donald P. Boyle, Jr.
Georgia Bar No. 073519
dboyle@taylorenghish.com

Deborah A. Ausburn
Georgia Bar No. 028610
dausburn@taylorenghish.com

Daniel H. Weigel
Georgia Bar No. 956419
dweigel@taylorenghish.com

Tobias C. Tatum, Sr.
Georgia Bar No. 307104
ttatum@taylorenghish.com

Taylor English Duma LLP
1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7249

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing brief was prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/Bryan P. Tyson
Bryan P. Tyson

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONF. OF THE
NAACP, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-01259-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH,
et al.,

Plaintiffs,

v.

BRIAN KEMP, *et al.*,

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-01284-JPB

STATE DEFENDANTS' INDEX OF EXHIBITS TO RESPONSE TO
MOTION FOR PRELIMINARY INJUNCTION ON MATERIALITY
PROVISIONS

Exhibit	Title	Details
A	Excerpts of Secretary of State 30(b)(6) Deposition (Germany)	Page 133-135
B	Return portion of absentee-ballot envelope	CDR01322538
C	Excerpts of Athens-Clarke County Board of Elections and Voter Registration 30(b)(6) Deposition (Sosebee)	Pages 68, 71-74, 111-112
D	Excerpts of Fulton County Board of Registration and Elections 30(b)(6) Deposition (N. Williams)	Pages 125-126, 202-203
E	Excerpts of Columbia County Board of Elections 30(b)(6) Deposition (Gay)	Pages 46-47, 80
F	Excerpts of Bibb County Responses to Interrogatories	Response to Interrogatory No. 3
G	Excerpts of Clayton County Responses to Interrogatories	Response to Interrogatory No. 3
H	Ex. 246 of Columbia County Board of Elections Deposition	Absentee ballot statistics as produced by county
I	Excerpts of DeKalb County Responses to Interrogatories	Response to Interrogatory No. 3 and Ex. A
J	Excerpts of Gwinnett County Responses to Interrogatories	Response to Interrogatory No. 3
K	Excerpts of Gwinnett County Board of Registrations and Elections 30(b)(6) Deposition (K. Williams)	Page 48
L	Excerpts of Gwinnett County Board of Registrations and Elections 30(b)(6) Deposition (Manifold)	Pages 112-113, 116-117
M	Excerpts of Hall County Board of Elections and Registration 30(b)(6) Deposition (Wurtz)	Page 48
N	2022 General Election Observation: Fulton County Georgia (prepared by the Carter Center)	

Exhibit	Title	Details
O	Excerpts of Georgia State Conference of the NAACP 30(b)(6) Deposition (Griggs)	Pages 12-13
P	Excerpts of League of Women Voters of Georgia 30(b)(6) Deposition (Scott)	Pages 9-10
Q	Excerpts of GALEO Latino Community Development Fund 30(b)(6) Deposition (Gonzalez)	Pages 6-7
R	Excerpts of Common Cause Georgia 30(b)(6) Deposition (Dennis)	Page 7
S	Excerpts of Georgia Coalition for the People's Agenda 30(b)(6) Deposition (Butler)	Pages 6-7
T	Excerpts of Georgia Muslim Voter Project 30(b)(6) Deposition (Khabani)	Page 7

EXHIBIT A

In the Matter Of:

IN RE GEORGIA SENATE BILL 202

1:21-MI-55555-JPB

C. RYAN GERMANY

April 13, 2023

30(b)(6)



ESQUIRE
DEPOSITION SOLUTIONS

800.211.DEPO (3376)
EsquireSolutions.com

1 THE WITNESS: Could you -- I guess
2 I'm -- I think I'm kind of picturing two
3 different things here. Could you --

4 BY MR. DIMMICK:

5 Q Sure, yeah. I'm trying to just figure
6 out sort of how the structure works. I understand
7 there may be policies on employment and ethics and
8 other things that don't really specifically address
9 voting.

10 But in terms of like rules or policies
11 for how your office, you know, addresses voting
12 issues, are there any sort of written policies
13 addressing that or is there just not anything?

14 A No, I see. I think the written policies
15 for that -- because, you know -- because, you know,
16 voting and elections are administered at the county
17 level. So I think the policies are really written in
18 kind of Georgia law, in the statute. And then kind
19 of the step below that is the State Election Board
20 rules. And then there's aspects of both of those
21 that talk about voters with disabilities and
22 providing accessible voting.

23 And then I think the final kind of, you
24 know, most formal of the informal policies is going
25 to be our Official Election Bulletins. And, you

1 know, those are more things that come up. Something
2 that we want to find an update on or something that's
3 come up that we feel needs to be told to all
4 counties. I do feel like some of those have maybe
5 touched on issues affecting voters with disabilities.

6 And then when you get below that, it's
7 going to be training documents. Then below that
8 you're going to have kind of more just individualized
9 communication or conversations with individual
10 counties.

11 Q So in terms of sort of formal written
12 policies, you're saying that comes from State law or
13 from State Election Board, not your office, correct?

14 A Correct.

15 Q Okay. Does your office have any
16 practices or procedures, even if not in a formal
17 policy, for how you will comply with the ADA when it
18 comes to voting?

19 A No, I would say we don't have anything
20 kind of specific to that purpose.

21 Q Okay. Do you have any written policies
22 or procedures related to absentee voting other than
23 what's in State law and the State Election Board
24 rules?

25 A I mean, the things that we would have

1 would be things like Official Election Bulletins
2 where we're providing guidance to counties, and then
3 things like training documents that we're providing
4 guidance to counties. So then the county is going to
5 have to figure out, okay, how specifically -- you
6 know, what is their kind of policy or practice going
7 to be, and then carry out that guidance. That's
8 where that action occurs.

9 Q Okay. Does your office implement the
10 rules put in place by the Georgia State Elections
11 Board?

12 A It depends. You know, sometimes the
13 State Election Board rule would require some
14 implementation. Sometimes it might be -- if it's
15 something that requires an update to the voter
16 registration system, then that's something that we
17 would work with the vendor to do. If it requires
18 some changes to forms, that's something that we would
19 do. It might -- it might require that, it might not.
20 It depends on the specific regulation.

21 Q But there are some circumstances in which
22 you -- your role is to implement the rules and
23 policies set by the Board?

24 A I would say it like there are certain
25 rules that the State Election Board passes that the

EXHIBIT B

OFFICIAL ABSENTEE BALLOT
BOARD OF REGISTRARS



Official absentee ballot

Return envelope

First class postage required. Place correct postage here.



From _____

For official use only Date/time received Certified and approved by

If someone helped you vote your ballot

Oath of person assisting voter

I, the undersigned, do swear (or affirm) that I assisted the voter named on this envelope in marking their absentee ballot as they personally communicated their preferences to me; and that the voter is entitled to receive assistance in voting under provisions of subsection (b) of Code Section 21-2-385. I acknowledge that assisting a voter who is not eligible for assistance in completing this application violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Reason for assistance

- Unable to read the English language
- Requires assistance due to physical disability

Signature of person assisting the voter

Date (MM/DD/YYYY)

X

Printed name of person assisting the voter

Return your ballot promptly

Your ballot must be **received** at the County Elections Office by 7:00 PM on Election Day.

You can

- Mail it (be sure you have enough postage).
- Drop it at an authorized drop box in your county.
- Deliver it yourself to your county elections office.

Check carefully! Did you...

- Read and sign the voter oath?
- Enter your date of birth?
- Check that your identification information is entered accurately and written clearly?
- Put your ballot in the privacy envelope and place it inside this envelope?

Oath Envelope.2021

This proof is submitted for your review and approval. It is supplied for content, layout, and version review and does not reflect paper or ink match. Please review your proof carefully.

This proof is submitted for your review and approval. It is subject to content, layout, and version review and does not reflect paper or ink match. Please review your proof carefully.

Voter Oath

I, the undersigned, do swear (or affirm) that

- I am a citizen of the United States and of the State of Georgia.
- I am not currently serving a sentence for conviction of a felony.
- I reside at the address where I am registered to vote.
- I am eligible to vote by absentee ballot.
- I have not marked or mailed any other absentee ballot, nor shall I vote in person.
- I have marked and sealed this ballot in private and have not allowed any unauthorized person to observe me voting or how the ballot was voted.
- I will not give this ballot to any person not authorized by law to deliver or return ballots.

I understand the instructions and that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

You must personally sign this oath. Signing this oath on behalf of another voter and/or providing false information on this envelope violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Voter, sign here

X

Printed name of the voter

Voter Identification

Print carefully. This information will be used to verify your identity before counting your ballot.

My date of birth (MM/DD/YYYY) _____

Number of my Georgia driver's license or state identification card issued by the Department of Driver Services

OR I do not have a Georgia driver's license or ID. The last 4 digits of my Social Security No. are

OR I do not have a Georgia driver's license or ID or a Social Security Number **AND** I have placed in this envelope a copy of one of the forms of identification listed in the absentee ballot instructions.

BACK; HEAD TO HEAD

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

MASTER CASE
FILE NUMBER
1:21-MI-55555-JPB

CERTIFIED COPY

VIDEOCONFERENCE VIDEOTAPED

30(B)(6) DEPOSITION OF

ATHENS-CLARKE COUNTY BOARD
OF ELECTIONS & VOTER REGISTRATION
THROUGH CHARLOTTE SOSEBEE

September 23, 2022

10:05 a.m.

One Press Place

Suite 200

Athens, Georgia

Tom Brezina, CRR, RMR, CCR-B-2035

11:29:49 1 It might be that a voter left off their
11:29:51 2 date of birth or their address is not the same as on
11:29:57 3 our voter registration system, and the law says that
11:30:00 4 if a voter is -- the only way a voter can receive an
11:30:05 5 absentee ballot within the county from a different
11:30:08 6 address than what's on the voter registration
11:30:11 7 system, only a voter who is elderly can receive that
11:30:16 8 ballot. No, I'm sorry. Disabled. Only a disabled
11:30:21 9 voter.

11:30:22 10 So there's a lot -- there's a lot that
11:30:26 11 happens to this absentee ballot application before
11:30:28 12 we actually mail the ballot, but we give ourselves
11:30:32 13 two days to do follow-ups on any voter, whether it's
11:30:36 14 the date of birth that was missing or for now with
11:30:39 15 the Senate Bill 202, they didn't provide the
11:30:43 16 identification information.

11:30:44 17 We do all our follow-ups first. If we
11:30:46 18 have phone numbers for the voter, we contact the
11:30:49 19 voter by phone. If we have e-mail information, we
11:30:53 20 contact them by e-mail, and we continue doing that
11:30:56 21 for two days.

11:30:57 22 After two days it goes up to our
11:30:59 23 elect -- absentee ballot election assistant, who
11:31:03 24 handles our absentee ballots, and she does another
11:31:06 25 follow-up, and then if she can't get that

11:33:48 1 Bill 202 allows us to do a cure, so we will go ahead
11:33:52 2 and process, and there's a cure affidavit where a
11:33:57 3 voter can clear up, you know, the request, I'm going
11:34:00 4 to say, and provide the information that is needed
11:34:04 5 to process the absentee ballot application.

11:34:08 6 **Q Is any of this information as you**
11:34:10 7 **verify the registration or the next steps that you**
11:34:14 8 **take, logged onto ENET?**

11:34:19 9 A We don't log it into ENET, but the
11:34:22 10 information is in ENET that we verify, along with
11:34:26 11 the identification information. We've had
11:34:28 12 applications where voters would transpose their year
11:34:33 13 of birth or their date of birth, and we'll make a
11:34:36 14 phone call and say, you know, we got your
11:34:38 15 application; just wanted to verify, you know, that
11:34:41 16 this information is correct. We notice your
11:34:44 17 birthday was different. We just want to verify it.

11:34:46 18 We've had people to transpose their
11:34:48 19 identification numbers. We'll call and do that as
11:34:51 20 well. We don't want to tie that up, you know. We
11:34:53 21 could send it back, and, you know, that -- we don't
11:34:57 22 want to do that. We want to be quick on our
11:35:00 23 turnaround process.

11:35:03 24 **Q Do you record -- at some point if you**
11:35:05 25 **cannot verify this voter's registration, do you**

11:35:08 1 reject the absentee ballot application?

11:35:12 2 A I'm going to say yes, but we try not
11:35:14 3 to.

11:35:18 4 Q And then you mentioned then after you
11:35:21 5 checked the verification -- sorry. After you verify
11:35:24 6 the registration, you check the voter's precinct and
11:35:32 7 put together the -- which applic -- ballot they
11:35:35 8 should receive. You'd also mentioned that elderly
11:35:40 9 and disabled voters get additional ballots for the
11:35:44 10 year. Tell me more about that.

11:35:46 11 A So, yes. There is provisions for
11:35:51 12 voters with disability and elderly that if you
11:35:57 13 complete an application you have the option of
11:36:03 14 receiving ballots for the entire year. So on the
11:36:07 15 back of the absentee ballot application there is a
11:36:12 16 section where a voter can indicate that and as an
11:36:16 17 option receive ballots for the entire year and not
11:36:19 18 have to submit an application for every single
11:36:23 19 election for the year.

11:36:26 20 Q Do you record this information of those
11:36:30 21 -- if I say rollover ballots, will you understand
11:36:33 22 that these are voters receiving ballots for the rest
11:36:36 23 of the year?

11:36:37 24 A Yes.

11:36:37 25 Q Do you record that information for

11:36:39 1 rollover ballots anywhere?

11:36:42 2 A It is recorded in the election -- in
11:36:44 3 ENET, ElectioNet, in the Georgia -- yeah, the
11:36:48 4 Georgia voter registration system, but that is it.
11:36:52 5 So we have a list that we can print every -- you
11:36:55 6 know, prior to each election, who those voters are
11:36:58 7 on that rollover list.

11:37:01 8 Q And ENET is the system that is hosted
11:37:04 9 by the Secretary of State?

11:37:06 10 A That's correct.

11:37:07 11 Q So the Secretary of State has this
11:37:10 12 information of all rollover ballot recipients?

11:37:13 13 A That's correct.

11:37:16 14 Q Then you mentioned that you check for
11:37:18 15 kind of elements of the absentee ballot application,
11:37:20 16 if you will: Signature, date of birth. Are there
11:37:24 17 any other elements that you checked for in terms of
11:37:26 18 the application contents?

11:37:28 19 A Yes. Identification information.
11:37:34 20 That's about it.

11:37:35 21 Q And if something is missing or
11:37:39 22 incorrect, what happens then?

11:37:44 23 A Then we go through the process of
11:37:46 24 reaching out to the voter, either by phone or by
11:37:49 25 e-mail, whatever information we have, to rectify

11:37:54 1 what might be holding up us processing their
11:37:58 2 absentee ballot application or the absentee ballot
11:38:00 3 itself.

11:38:01 4 **Q And you mentioned identification. What**
11:38:03 5 **are the types of identification you verify?**

11:38:07 6 A So a Georgia driver's license or
11:38:12 7 Georgia ID is one of the IDs that we can accept or a
11:38:19 8 copy of, let's see, a utility bill, a bank statement
11:38:28 9 that shows a voter's name and address or a paycheck
11:38:33 10 or other government document. And then of course
11:38:36 11 the other acceptable forms of ID that can be used if
11:38:39 12 a voter votes in person, and that would be, again,
11:38:44 13 in addition to the driver's license and Georgia ID,
11:38:47 14 any other state ID.

11:38:51 15 If it's a driver's license from another
11:38:52 16 state, it has to be valid, but for Georgia it can be
11:38:55 17 a -- a driver's license that has expired, military
11:39:00 18 ID, employee ID from any government. And we have
11:39:05 19 our Georgia voter ID cards, the tribal ID, and
11:39:11 20 passport are the IDs that are acceptable.

11:39:14 21 **Q So your -- if I got this right, your**
11:39:18 22 **office checks to make sure that those contents are**
11:39:20 23 **on the absentee ballot application. How does your**
11:39:23 24 **office verify the truth or the veracity of these**
11:39:29 25 **elements like date of birth and ID?**

01:18:12 1 now, based on your observations, because of the
01:18:14 2 envelope ID requirement?

01:18:17 3 A I think there are less concerns now
01:18:19 4 because of the -- the way the envelope is made now.
01:18:24 5 That has that covering that covers up the personal
01:18:28 6 information that we have to, of course, remove to
01:18:31 7 verify that it is valid, a valid absentee ballot.

01:18:36 8 Q Are you aware of any data or evidence
01:18:39 9 as to why placing the ID information on the outside
01:18:43 10 of the envelope will address voter fraud?

01:18:47 11 A No. No, I'm not.

01:18:51 12 Q Are you aware of the requirement under
01:18:54 13 SB 202 that each -- that election officials check
01:18:56 14 each piece of the information on the outside of the
01:18:58 15 absentee ballot envelope and reject any ballots that
01:19:01 16 don't match their records?

01:19:02 17 A No.

01:19:06 18 Q Do you agree that the envelope ID
01:19:07 19 requirement creates more opportunities for votes to
01:19:10 20 be rejected due to simple typographical errors or
01:19:14 21 spelling errors?

01:19:15 22 A No.

01:19:17 23 Q And why is that?

01:19:19 24 A Again, it -- I think it was specific to
01:19:24 25 our county. We don't reject such information.

01:19:29 1 Again, it's contacting the voter if the information
01:19:33 2 is incorrect or if there may be some errors or if
01:19:37 3 it's the same error that was made on the
01:19:39 4 application, and it could just be a habit of
01:19:44 5 transposing numbers or of -- we just notice if it's
01:19:48 6 a habit.

01:19:50 7 **Q Based on your experience were you in**
01:19:52 8 **favor of the envelope ID requirement?**

01:19:57 9 A I wasn't for or against. I didn't have
01:19:59 10 any opinion on it.

01:20:00 11 **Q Did you speak with any legislator about**
01:20:03 12 **this provision, the envelope ID requirement?**

01:20:05 13 A No.

01:20:06 14 **Q Do you know if GAVREO spoke about --**
01:20:09 15 **spoke to any legislator about this provision?**

01:20:11 16 A I'm not sure.

01:20:13 17 **Q If the envelope ID requirement were**
01:20:16 18 **lifted, meaning that not all of the pieces that were**
01:20:20 19 **added to SB 202 would be required on the outside of**
01:20:24 20 **the absentee ballot, would your office need to**
01:20:28 21 **undertake any changes to make that listing of the**
01:20:32 22 **requirement effective?**

01:20:33 23 A No.

01:20:37 24 **Q I'll move on to drop box restrictions**
01:20:39 25 **next. SB 202 limits the number of drop boxes**

EXHIBIT D

NADINE WILLIAMS 30(b)(6)
IN RE GEORGIA SENATE BILL 202

April 05, 2023

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	Master Case No.
)	
GEORGIA SENATE BILL 202)	1:21-MI-55555-JPB
)	
)	

- - - - -

RULE 30(b)(6) DEPOSITION OF FULTON COUNTY BOARD OF
REGISTRATION AND ELECTIONS

BY NADINE WILLIAMS, a Witness,

Taken by Counsel for the Plaintiffs

Before Richard Bursky, RMR, CRR

Certified Court Reporter

At the Offices of the Fulton County Attorney

141 Pryor Street, SW, Atlanta, Georgia

On April 5, 2023, commencing at 10:05 a.m.

- - - - -

1 ballot itself rather than also provide identification
2 information?

3 A Correct.

4 Q Do you think that this additional requirement
5 that voters include their identification information
6 reduces the use of absentee ballots?

7 A Yes.

8 Q Do you believe that to the extent voters lack
9 identification, for example, drivers' licenses, that
10 would also reduce their ability to vote by absentee?

11 A Yes.

12 Q If there are racial groups that are less
13 likely to have identification requirements, would that
14 also reduce their ability to vote by absentee?

15 A Yes.

16 Q Does your office notify voters if they do not
17 meet the identification requirements for signing and
18 including information, identification information on
19 the outside of the envelope?

20 A Yes.

21 Q How does your office notify them?

22 A It will be a phone call or email. Well,
23 actually both, we do both.

24 Q How soon after a determination is made would
25 that call or notice go out?

1 A On the day of, when they receive it,
2 immediately.

3 Q Who is the individual or who are the
4 individuals who are verifying the ballots and the
5 identification requirements?

6 A The Absentee Division.

7 Q What information is communicated in the
8 notice?

9 A Just it informs them how to cure the ballot.
10 I don't have them in front of me, but it's the
11 procedure to cure, so they know exactly what to do to
12 make sure their vote counts.

13 Q Are voters notified in any language other than
14 English with respect to the failure to meet
15 identification requirements on absentee ballots?

16 A No.

17 Q Is there a process to cure a ballot that has
18 been rejected for identification reasons?

19 A A process to cure?

20 Q Yes, to cure a ballot.

21 A There is a process to cure if it has been
22 rejected and then -- yes. I don't have it from of me
23 but there is a process, yes.

24 Q Do you know if it is possible to cure a ballot
25 by emailing the County, for example?

1 absentee ballot, how does it determine if the voter is
2 qualified to vote?

3 A Again, checks their voter registration
4 history.

5 Q How does Fulton County confirm the identity of
6 the voter?

7 A They match signatures on the actual envelope
8 and what's in the system.

9 Q I understand you are testifying that they
10 match the signatures. Are there other things they
11 match as well?

12 A All the other things that are filled out on
13 the application. The envelope only asks for the
14 signature and some other identifying information. And
15 they confirm all those, they verify all those things.

16 Q One of those things on the envelope, there is
17 a place for voters to write their date of birth; is
18 that correct?

19 A Yes.

20 Q If that date of birth line were left blank,
21 would the County still be able to confirm the identity
22 of the voter?

23 A No, they would actually have to reach out to
24 the voter to have them cure that ballot. They would
25 have to reach back out.

1 They usually ask for, they usually have the
2 voter's email address and phone number, and they call
3 them through both means to confirm and have them send
4 some type of identification.

5 Q That's because that's what SB202 requires,
6 correct?

7 A Correct.

8 Q But if SB202 did not require it, would the
9 County still be able to confirm the identity of the
10 voter if just if date of birth line was left blank?

11 A I believe they still would do that before
12 SB202.

13 Q Was there any problem with confirming the
14 identity of the voter?

15 A No, I don't believe so.

16 Q I gave you an example, if it was left blank.
17 Similarly, if there was a mistake, the voter wrote down
18 the wrong year on the date of birth, for example,
19 otherwise everything was filled out correctly, would
20 there be any problem confirming the identity of the
21 voter?

22 A They would follow the same strategy to reach
23 out to that voter to have him cure it.

24 Q The same strategy was used before SB202 before
25 this was required?

EXHIBIT E

NANCY GAY
IN RE: GEORGIA SENATE BILL 202

March 23, 2023

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

IN RE:)
GEORGIA SENATE BILL 202,)
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) CASE NUMBER:
) 1:21:MI-55555-JPB
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The following deposition of Nancy Gay was taken pursuant to stipulations contained herein, the reading and signing of the deposition reserved, before Stephen Mahoney, Certified Court Reporter, 4921-4880-0199-0656, in the State of Georgia, at 801 Broad Street, 7th Floor, Augusta, Georgia 30901 on March 23, 2023 at 9:30 a.m.

Stephen Mahoney, CVR, CCR
Esquire Deposition Solutions
1500 Centre Parkway,
Suite 100
Atlanta, GA 30344
(404)495-0777

1 MR. BELL: Objecting because I think it's
2 compound.

3 THE WITNESS: Yes, I mean, it's kind of
4 covered up with a flap, but yes, all that
5 information is.

6 BY MS. BROOKS:

7 Q. What is Columbia County's role in
8 enforcing all of these voter identification
9 requirements for absentee ballots?

10 A. What do you mean?

11 Q. So does Columbia County determine whether
12 to accept an absentee ballot based on whether it
13 meets all these requirements?

14 A. That's correct.

15 Q. How does the verification process work for
16 checking that an absentee ballot meets all these
17 requirements?

18 A. Can I just, like, go through the process?
19 Because -- so if -- when an absentee ballot is
20 received back into our office, the absentee clerk
21 will take it, she will verify that the information
22 -- the required information is there.

23 She will look at -- compare the driver's
24 license to see what's on file, and make sure that
25 that matches, the date of birth matches, and that

1 it's signed. And if one of those aren't, then
2 there's steps and process.

3 Q. Yes, I'd like to get into those steps and
4 process. How is the voter notified if one of those
5 requirements is not met?

6 A. Any way possible. By writing, but we do
7 try to call, we do try to e-mail. Any method that we
8 have, we exasperate, and we use.

9 Q. So what would you typically do first?

10 A. First, would call that same day we send
11 out the letter because that's what's required.

12 Q. So -- sorry, you would call, or you send
13 out a letter?

14 A. We do both. We do try -- we try to do
15 anything to get in touch with the voter.

16 Q. And you said that the notice is typically
17 mailed the same day as the determination?

18 A. Mm-hmm. To send out the cure affidavit.

19 Q. And what's the process for the cure
20 affidavit?

21 A. What do you mean?

22 Q. So what would the voter have to do, or how
23 would that work?

24 A. For example, if they left off their
25 driver's license number, then they would be -- the

1 on it, that the name and address are what's on the
2 voter registration.

3 Q. And she's comparing the license number and
4 the date of birth to information in your system?

5 A. The voter registration system.

6 Q. If an applicant does not have a driver's
7 license number or official state ID number, they --
8 and they don't have access to a photocopier, under
9 SB 202's requirements, that person is just not able
10 to vote absentee; correct?

11 MR. BELL: Objection as to form.

12 MS. LAROSS: Objection as to form.

13 THE WITNESS: They would -- no, if they
14 didn't have -- repeat that. I'm sorry.

15 BY MS. BROOKS:

16 Q. That so they -- they don't have a driver's
17 license number or official state ID number, and they
18 also don't have access to a photocopier.

19 A. But they still have their social.

20 Q. So how would that allow them to vote
21 absentee?

22 MR. BELL: Objection as to form.

23 THE WITNESS: They would provide their
24 social.

25 BY MS. BROOKS:

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202	*	
	*	CIVIL ACTION FILE NO.
	*	
	*	1:21-MI-55555-JPB
	*	
	*	
SIXTH DISTRICT OF THE	*	
AFRICAN METHODIST	*	
EPISCOPAL CHURCH, a Georgia	*	CIVIL ACTION FILE NO.:
nonprofit organization, et al.	*	
	*	1:21-CV-01284-JPB
Plaintiffs,	*	
vs.	*	
	*	
BRIAN KEMP, Governor of the State	*	
of Georgia in his official capacity, et	*	
al.,	*	
Defendants.	*	

MACON-BIBB COUNTY DEFENDANTS' RESPONSE TO AME
PLAINTIFFS' FIRST INTERROGATORIES TO BIBB COUNTY
DEFENDANTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Macon-Bibb County Board of Elections; Mike Kaplan, Herbert Spangler, Joel Hazard; Karen Evans-Daniel, and Darius Maynard, Members of the Macon-Bibb County Board of Elections, in their official capacities; Jeanetta R. Watson, Macon-Bibb County Elections Supervisor, in her official capacity; and Veronica Seals, Macon-Bibb County Chief Registrar, in her official capacity, hereby serve their responses and objections to AME Plaintiffs' First Interrogatories to

c. 2022 General Election:

- i. Received: 4885
- ii. Accepted: 4885
- iii. Rejected: 0
- iv. Cancelled: 0

d. 2022 General Runoff Election:

- i. Received: 4046
- ii. Accepted: 4046
- iii. Rejected: 0
- iv. Cancelled: 0

INTERROGATORY NO. 3.

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;

- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by election at the end. If you have information for the number of ballots initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE:

- a) the number of absentee ballots rejected because they were received after the deadline:
 - a. 2020 General Election: 0
 - b. January 2021 General Runoff Election: 0
 - c. 2022 General Election: 0
 - d. 2022 General Runoff Election: 32
- b) the number of absentee ballots rejected for missing a birthdate:
 - a. 2020 General Election: 0

- b. January 2021 General Runoff Election: 0
 - c. 2022 General Election: 0
 - d. 2022 General Runoff Election: 0
- c) the number of absentee ballots rejected due to a signature mismatch:
- a. 2020 General Election: 0
 - b. January 2021 General Runoff Election: 6
 - c. 2022 General Election: 0
 - d. 2022 General Runoff Election: 0
- d) the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification; and,
- a. 2020 General Election: 0
 - b. January 2021 General Runoff Election: 0
 - c. 2022 General Election: 0
 - d. 2022 General Runoff Election: 0
- e) the total number of absentee ballots (1) received, (2) accepted, (3) rejected, and (4) cancelled by Macon-Bibb County.
- a. 2020 General Election:
 - i. Received:22,141

- ii. Accepted: 19,808
 - iii. Rejected: 5
 - iv. Cancelled: 2,232
- b. January 2021 General Runoff Election:
- i. Received: 17,715
 - ii. Accepted: 16,401
 - iii. Rejected: 42
 - iv. Cancelled: 1260
- c. 2022 General Election:
- i. Received: 4883
 - ii. Accepted: 4632
 - iii. Rejected: 82
 - iv. Cancelled: 159
- d. 2022 General Runoff Election:
- i. Received: 4046
 - ii. Accepted: 3775
 - iii. Rejected: 105
 - iv. Cancelled: 161

4.

Describe in detail YOUR response, including all specific remedial steps

EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, Governor of the State of
Georgia, in his official capacity, *et al.*,

Defendants,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.
1:21-cv-01284-JPB

**DEFENDANT CLAYTON COUNTY BOARD OF ELECTIONS AND
REGISTRATION'S RESPONSES AND OBJECTIONS TO AME
PLAINTIFFS' FIRST INTERROGATORIES**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Clayton County Board of Elections & Registration; Members of the Clayton County Board of Elections and Registrations, in their official capacities; and Shauna Dozier,

f. Total Received	45,678	4,336	6,052	4,146
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INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by election at the end. If you have information for the number of ballots initially

rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Defendants further object to this interrogatory on the grounds that it seeks information that is not relevant to any party's claims or defenses and is not proportional to the needs of the case. Subject to and without waiving the foregoing objections, Defendants state the following:

	November 2020	January 2021	November 2022	December 2022
a. Received After the Deadline	73	156	42	53
b. Missing DOB	0	0	0	0
c. Signature Mismatch	88	88	0	2
d. ID Requirement	30	1	29	35
e. Total Received	31,985	27,355	5,126	3,304

INTERROGATORY NO. 4

Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical

EXHIBIT H

Rejection Reason	12/6/22 General Runoff	11/8/22 General Election	1/5/21 Runoff	11/3/20 General Election	Total
Received after deadline	54	30	94	89	267
Missing birthdate	N/A	N/A	N/A	N/A	0
Signature Mismatch	1	N/A	40	14	55
Failure to meet ID req.	7	5	N/A	N/A	12
Calculated Total Rejected	62	35	134	103	334
County's Total Rejected	62	35	134	103	334
Total mail ballots accepted+	3226	3483	15133	18010	39852
Percent rejected	1.92%	1.00%	0.89%	0.57%	

Notes: Spreadsheet for rejected ABM provided by the County also shows people flagged in the system as elderly/disabled: '22 Runoff - 9 rejected; '22 GE - 6 rejected.

EXHIBIT

246

exhibitserver.com

EXHIBIT I

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

<p>IN RE GEORGIA SENATE BILL 202,</p> <p>SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>BRIAN KEMP, Governor of the State of Georgia, in his official capacity, et al.,</p> <p style="text-align: center;">Defendants,</p> <p>THE REPUBLICAN NATIONAL COMMITTEE, et al.</p> <p style="text-align: center;">Intervenor-Defendants.</p>	<p>Civil Action No.: 1:21-CV-01284- JPB</p>
<p>IN RE GEORGIA SENATE BILL 202</p>	<p>Master Case No.: 1:21-MI- 55555-JPB</p>

**DEKALB COUNTY DEFENDANTS' RESPONSE TO AME
PLAINTIFFS' FIRST INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (“Rules”), Defendants DeKalb County Board of Registration and Elections (“DeKalb BRE”), the members¹ of the DeKalb BRE in their official capacities,

¹ Anthony Lewis, Susan Motter, Dele L. Smith, Nancy Jester, and Karli Swift.

INTERROGATORY 3: Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

RESPONSE NO. 3: The DeKalb Defendants object to Interrogatory No. 3 on the grounds that it seeks to impose discovery obligations on the DeKalb Defendants outside of the scope of discovery permitted by the Federal Rules of Civil Procedure and is unduly burdensome to the extent it purports to require information which the DeKalb Defendants do not track, and further purports to require the information to

be produced in a specific format. Subject to and without waiving this objection, the DeKalb Defendants respond as follows: Please see the information contained in Exhibit A, ABM Ballots.

INTERROGATORY 4: Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations.

RESPONSE NO. 4: The DeKalb Defendants object to Interrogatory No. 4 on the grounds that it is overly broad, unduly burdensome, and vague because it seeks information which is unlimited in time. Subject to and without waiving this objection, the DeKalb Defendants respond as follows: When securing voting locations, ensuring all polling locations are ADA-compliant is on the top of our list of priorities. For example, Department staff uses the attached polling place survey labeled as Exhibit B to help evaluate whether a potential site is suitable for use as a polling location.

The DeKalb Defendants are not aware of any potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations in DeKalb County. If potential or

INTERROGATORY #3 - 2020 General Election

Rejection Reason - ABM Ballots	Number of Voters
Received After the Deadline	437
Missing DOB	0
Invalid Signature	10
Signature Missing	114
Didn't Meet ID Requirements - MIDR ID not Provided	18
Totals	
ABM Ballots Received	129,531
ABM Ballots Accepted	128,952
ABM Ballots Rejected	579
Cancelled/Spoiled	33,528

INTERROGATORY #3 - 2021 General Election RO

Rejection Reason - ABM Ballots	Number of Voters
Received After the Deadline	775
Missing DOB	0
Invalid Signature	62
Signature Missing	199
Didn't Meet ID Requirements - MIDR ID not Provided	18
Totals	
ABM Ballots Received	113,191
ABM Ballots Accepted	112,137
ABM Ballots Rejected	1,054
Cancelled/Spoiled	18,538

INTERROGATORY #3 - 2022 General Election

Rejection Reason - ABM Ballots	Number of Voters
Received After the Deadline	299
Missing DOB	0
Invalid Signature	10
Missing Signature	54
Didn't Meet ID Requirements	78
Totals	
ABM Ballots Received	24,148
ABM Ballots Accepted	23,707
ABM Ballots Rejected	441
Cancelled/Spoiled	1,938

INTERROGATORY #3 - 2022 General Election RO

Rejection Reason - ABM Ballots	Number of Voters
Received After the Deadline	392
Missing DOB	0
Invalid Signature	10
Missing Signature	38
Didn't Meet ID Requirements	54
Totals	
ABM Ballots Received	16,562
ABM Ballots Accepted	16,078
ABM Ballots Rejected	484
Cancelled/Spoiled	2,174

EXHIBIT J

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH, et al. v. BRIAN KEMP, et al.	Civil Action No.: 1:21-CV-01284- JPB
IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI- 55555-JPB

**GWINNETT COUNTY DEFENDANTS' RESPONSES TO
PLAINTIFFS' FIRST INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, the Gwinnett County Board of Elections and Registration, Alice O' Lenick, Wandy Taylor, Stephen Day, George Awuku and Anthony Rodriguez and Zachary Manifold as Elections Supervisor each in their official capacity (hereinafter referred to collectively as "Gwinnett County Defendants" or "Defendants"), hereby serve their responses and objections to Plaintiff's First Interrogatories, served on December 12, 2022, in the above-styled matter as follows:

Defendants do not maintain information by race for any of the categories listed above.

INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by

election at the end. If you have information for the number of ballots initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE

a. 2020 General Election – 487

2021 General Election Runoff- 486

2022 General Election – 247

2022 General Election Runoff – 531

b. 2020 General Election – 0

2021 General Election Runoff- 0

2022 General Election – 0

2022 General Election Runoff – 0

c. 2020 General Election – 359

2021 General Election Runoff- 370

2022 General Election – 0

2022 General Election Runoff – 0

d. 2020 General Election – 0

2021 General Election Runoff- 0

2022 General Election – 348

2022 General Election Runoff – 323

e. 2020 General Election – 155,052

2021 General Election Runoff- 101,491

2022 General Election – 22,321

2022 General Election Runoff – 15, 785

Defendants do not maintain information by race for any of the categories listed above.

INTERROGATORY NO. 4

Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations.

RESPONSE: The Defendants object to Interrogatory No. 4 to the extent that it requires disclosure of information protected by the attorney-client privilege and seeks information obtained or created in anticipation of litigation. Defendants

EXHIBIT K

KELVIN WILLIAMS 30(b)(6)
IN RE GEORGIA SENATE BILL 202

March 01, 2023

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No:
1:21-mi-55555-JPB

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30(B)(6) VIDEOTAPED DEPOSITION OF  
GWINNETT COUNTY BOARD OF REGISTRATIONS AND ELECTIONS

(MR. KELVIN WILLIAMS)

March 1, 2023

10:39 a.m.

75 Langley Drive, 3rd Floor

Lawrenceville, Georgia 30046

Marcella Daughtry, RPR, RMR

Georgia License No. 6595-1471-3597-5424

California CSR No. 14315

1 based on S.B. 202?

2 A On the application or the ballot?

3 Q Let's start with the application.

4 A Prior to S.B. 202, with the application we  
5 would use the voter signature to confirm their identity.  
6 After the passage of Senate Bill 202, we are now using  
7 the voter's date of birth, as well as their driver's  
8 license or Social Security number to confirm their  
9 identity.

10 Q And what about the absentee ballot envelope?  
11 Let's start with before S.B. 202.

12 A Before S.B. 202, we were, again, using the  
13 voter's date of birth, or I believe it was the month and  
14 the day, as well as the voter's signature to confirm  
15 their identity.

16 After S.B. 202, we are now using the voter's  
17 driver's license number in lieu of the signature or the  
18 individual's Social Security number. If the individual  
19 indicates that they don't have those, they are able to  
20 provide a copy of another acceptable form of  
21 identification in the envelope.

22 Q Okay. Do you recall if there was a change on  
23 the requirement for date of birth on the absentee ballot  
24 envelope in the 2018 election cycle?

25 A At -- at the moment, I am not able to remember

# EXHIBIT L

ZACHARY MANIFOLD  
UNITED STATES vs THE STATE OF GEORGIA

January 12, 2023

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

|                         |   |                   |
|-------------------------|---|-------------------|
| IN RE                   | ) |                   |
|                         | ) |                   |
| GEORGIA SENATE BILL 202 | ) |                   |
|                         | ) |                   |
| Plaintiff,              | ) |                   |
| vs.                     | ) | Civil Action No.  |
|                         | ) | 1:21:MI-55555-JPB |
|                         | ) |                   |
| Defendants.             | ) |                   |
|                         | ) |                   |
| -----                   | ) |                   |

VIDEOTAPE DEPOSITION OF  
ZACHARY MANIFOLD

Thursday, January 12, 2023, 9:46 a.m.(EST)

HELD AT:

Justice Administration Center  
75 Langley Drive, Room C, 2nd Floor  
Lawrenceville, Georgia 30046

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WANDA L. ROBINSON, CRR, CCR, No. B-1973  
Certified Shorthand Reporter/Notary Public



1 absentee voting process in Gwinnett County.

2 A Okay.

3 Q First, are you familiar with the changes  
4 in SB 202 regarding the use of an absentee ballot  
5 applicant's date of birth on the absentee ballot  
6 application and envelope?

7 A Correct.

8 Q And what is your understanding of those  
9 changes?

10 A It's my understanding that was not a  
11 requirement for SB 202.

12 Q So to clarify for the record, this date of  
13 birth requirement did not apply before SB 202?

14 A That is what I heard from the staff.  
15 Again, I wasn't here pre-SB 202, but that's what I  
16 heard.

17 Q Did you get this information from Kelvin  
18 Williams?

19 A No. I think just absentee staff has, has  
20 brought up to me at times the date of birth not  
21 being a requirement before.

22 Q How does your office use the date of birth  
23 information to process the application for an  
24 absentee ballot?

25 A Just they're verifying -- they're checking

1 that date of birth against the voting record and  
2 E-Net.

3 Q So then is the voter's date of birth  
4 typically in the voter file in E-net when your  
5 office reviews that voter's absentee ballot  
6 application?

7 A Correct.

8 Q And is the voter's date of birth typically  
9 in the voter file in E-Net when your office reviews  
10 that voter's ballot envelope?

11 A Yes.

12 Q And you mentioned a moment ago about  
13 verification of identity. Is that correct?

14 A Yeah. ID requirement, correct.

15 Q So even as it relates to verifying  
16 identity, you have other sources of information that  
17 you rely on to do that as well?

18 A Correct.

19 Q And what other pieces of information do  
20 you use, aside from the date of birth, to verify the  
21 voter's identity?

22 A Yeah. As you mentioned, probably the most  
23 common, the driver's license number is what most  
24 people or state ID number.

25 Then I think on the envelope, I believe,

1 Q So the process for the voter then is to  
2 cast a provisional ballot and cure the date of birth  
3 information?

4 A The application, correct.

5 Q But they're still able to cast a ballot?

6 A Correct.

7 Q And with respect to the absentee ballot  
8 envelope, is that process the same?

9 A Absentee ballot envelope? Yes, they would  
10 receive a cure if -- yeah, if date of birth isn't  
11 there, they would receive a cure letter, correct.

12 Q Does your office cancel a voter's  
13 registration because of missing or incorrect date of  
14 birth information on the absentee ballot  
15 application?

16 A Say that again.

17 Q Does your office cancel a voter's  
18 registration because of incorrect or missing date of  
19 birth information on the absentee ballot  
20 application?

21 A I don't believe so.

22 Q And what about the ballot envelope?

23 A No.

24 Q So to confirm, the date of birth  
25 requirement is to verify the identity of the voter?

1 A Correct.

2 Q Not to determine an absentee ballot  
3 applicant's eligibility to vote?

4 A I'm not sure I'm getting the -- say that  
5 again. I'm sorry.

6 Q Sure. I'll repeat the question again.  
7 The date of birth requirement is not used  
8 to determine an absentee ballot voter's eligibility  
9 to vote?

10 A It is a requirement -- we have to have  
11 that date of birth, an exact match, for the ballot  
12 to count.

13 Q So then your office uses this information  
14 to check their identity, but it does not use this  
15 information to determine that a voter cannot vote at  
16 all?

17 A Yeah, that's -- it's not related to voter  
18 registration, I guess is what -- because you asked  
19 if we cancel a registration. No.

20 Q Okay. So it's not related to the voter's  
21 registration?

22 A No.

23 Q Okay. To your knowledge, how many  
24 absentee ballots were not counted due to missing or  
25 incorrect date of birth information in the May 2022

# EXHIBIT M

LORI WURTZ 30(b)(6)  
IN RE GEORGIA SENATE BILL 202

March 09, 2023

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No:  
1:21-MI-55555-JPB

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30(B)(6) DEPOSITION OF
HALL COUNTY BOARD OF ELECTIONS AND REGISTRATION

(LORI WURTZ)

March 9, 2023

9:35 a.m.

2875 Browns Bridge Road
Gainesville, Georgia 30504

Marcella Daughtry, RPR, RMR
Georgia License No. 6595-1471-3597-5424
California CSR No. 14315

1 the voter ID is presented.

2 Q Okay. So to make sure that the identification
3 information that's presented is correct?

4 A Yes.

5 Q Who in your office determines whether to accept
6 or reject an absentee ballot based on the identification
7 information?

8 A It begins with our absentee ballot coordinator.

9 Q Okay. And that person has the first -- is sort
10 of the first line of the response to see whether it needs
11 to --

12 A Yes.

13 Q Okay. How does the verification process work?

14 A On the ballot or the application?

15 Q Let's start with the application.

16 A Okay. So the application is received in our
17 office, and the absentee ballot coordinator and her team
18 will pull that voter up in what most recently has been
19 ENet and verify their information against the records
20 there.

21 Q Okay. So you are verifying the information
22 provided against what's in ENet; is that correct?

23 A Yes, against the voter registration record.

24 Q Okay. So for the -- okay, let's stay with
25 applications for a second. How is the voter notified if

EXHIBIT N

2022 General Election Observation: Fulton County, Georgia

Prepared by The Carter Center for the Fulton County Board of Elections and Registration and the Georgia State Election Board's Performance Review Board on Dec. 15, 2022.

THE
CARTER CENTER



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Summary and Key Takeaways

The Carter Center, which has observed more than 100 elections in 39 countries since 1989, was invited by the Georgia State Election Board-appointed Performance Review Board (PRB) and the Fulton County Board of Elections and Registrations (BOER) to observe the Nov. 8, 2022, general election. This observation fell under the framework of the performance review provisions of a state law known as SB202. Although this observation was conducted at the invitation of both the Performance Review Board and the Fulton County Board of Elections and Registration, The Carter Center conducted its observation as an independent organization, and the conclusions herein are its own.

Carter Center nonpartisan observers collected firsthand data on early voting and election day processes, as well as processes within the Fulton County election offices. This report summarizes the findings of The Carter Center and is intended to assist Fulton County in the continued improvement of its election administration processes and to inform the report of the Performance Review Board as it completes the performance review of Fulton County.

Based on its observation of the November 2022 general elections, The Carter Center considers Fulton County to have successfully implemented the key aspects of the elections that it observed. Within the parameters of its observation efforts, The Carter Center did not observe any election administration irregularities that would call into question the ability of the Fulton County Department of Registrations and Elections to administer secure and accessible elections for the citizens of Fulton County. Indeed, the Center noted that the Nov. 8, 2022, election showed many improvements in Fulton County's election administration practices compared to those noted during 2020.¹ Election workers paid particular attention to reconciliation processes, quality assurance checks, and security measures like chain-of-custody documentation, which made a marked improvement on the overall trustworthiness of the election.

Recognizing that Fulton County strives for continuous improvement of its election administration processes, The Carter Center offers the following summary of our observations and recommendations for future elections:

Contextualized Training for Election Workers: Carter Center observers noted that Fulton County election workers are generally well-trained, as demonstrated by the effective and consistent implementation of most procedures. While some variation in the application of procedures is to be expected given the temporary nature of the workforce, this can be minimized through poll worker training that not only focuses on the steps of the process, but also helps workers understand the big-picture “why” of what they are doing. At times, it seemed that election workers didn't have a full understanding of the importance of particular administrative steps (checking seals, for example, or providing provisional ballots) to the overall security and accessibility of the election. A better understanding of how each step in the process fits into the multiple layers of safeguards could ensure more consistent application.

Training should also emphasize the following procedures:

- Announcing each step of the opening and closing processes, particularly for ballot security and chain-of-custody steps, to enhance transparency and public confidence;
- Optimal placement of voting equipment containers to ensure ballot secrecy;
- Processes associated with nonstandard situations (e.g., provisional balloting or challenged voters);
- Pulling seals tight and immediately recording seal numbers; and,
- Reminding voters to check their paper ballots before placing them in the scanner.

¹ Seven Hills Strategies, LLC (SHS) was contracted by the State Election Board (SEB) to serve as an independent, nonpartisan monitor for the pre-electoral processes in Fulton County leading up to the Nov. 3, 2020, general election and January 2021 runoffs. The report from that observation can be found here: <https://www.documentcloud.org/documents/20484973-fulton-county-state-election-board-report> (accessed Dec. 10, 2022).

- Training audit boards on the proper procedures before beginning the risk-limiting audit, ideally in the presence of observers.

Staffing: Overall, Carter Center observers reported that Fulton County staff and temporary election workers were enthusiastic, took their roles seriously, and wanted to provide voters with a good voting experience. The Carter Center notes that Fulton County met its staffing needs to administer the election, although the Thanksgiving holiday made it more challenging to recruit for advance voting for the Dec. 6 runoff election, as did confusion over whether Saturday voting would be allowed. Despite a long voting calendar that took its toll on election workers, Fulton County staff demonstrated a deep commitment to the process and the voters of Fulton County.

Voter Education about Voting Locations: On election day in both November and December, Carter Center observers noted many instances in which voters showed up to vote at the wrong voting location. In some cases, this resulted from confusion about the difference between voting during advance in-person voting (at vote centers) versus election day (at assigned precincts). In others, it appeared to be the result of changes to voting locations following redistricting. Fulton County mailed voters information about their correct voting location, but The Carter Center suggests that more be done by the county, the political parties, and others who conduct voter education to encourage voters to check their voting location in advance of going out to vote on election day.

Runoff Advance Voting Locations and Check-in Processes: During advance voting for the Nov. 8 elections, Carter Center observers generally reported smooth and efficient voting processes and short wait times. Advance voting for the Dec. 6 runoff, however, was characterized by wait times of over an hour. A number of factors likely contributed to the length of the lines (see below for additional detail). Going forward, the Center recommends that Fulton County open additional advance voting locations and have additional check-in stations inside early-voting locations for federal and statewide runoffs to facilitate faster movement of voters through the process.

Standard Operating Procedures: As Fulton County Registrations and Elections moves into its new facility in 2023, The Carter Center encourages the department to take the opportunity to revisit and update its standard operating procedures to help ensure consistency in procedure implementation. This was a priority already identified by the Fulton County Department of Elections for 2023.

Sequestration During Advance Vote Tabulation: Sequestration rules for early tabulation, governing the practice of restricting movement and communication of persons who could have knowledge of early vote totals prior to close of polls, were not effectively enforced during the Carter Center's observation. While we have no reason to think this affected the election, once Fulton County's purpose-built election space is complete next year, a dedicated space to sequester staff and observers should be made available for this purpose. Elections staff should also be trained to enforce the rules directly, rather than relying on temporary security staff.

Background and Context on the Carter Center's Fulton County Observation

In August 2021, in response to a request from the Georgia General Assembly, the Georgia State Election Board appointed a Performance Review Board (PRB) to conduct a performance review of the Fulton County Board of Elections and Registration (Fulton BOER) pursuant to OCGA § 21-2-106. The duty of the PRB is to make a thorough and complete investigation and issue a written report of its findings to the Secretary of State (SOS), the State Election Board (SEB), and the local governing authority that shall

include such evaluations, judgments, and recommendations as it deems appropriate. See OCGA § 21-2-106.

As part of the performance review process, the PRB conducted interviews of Fulton BOER staff and observed election processes, absentee ballot processing, early voting, and election day voting. To fulfill its duties under Georgia law, the PRB wanted to conduct further observation and analysis during the November 2022 general election in Fulton County. This observation effort would allow the PRB to complete its report by the end of the 2022 calendar year.

Recognizing the Carter Center's decades of experience with independent and impartial analysis of elections and election observation, the PRB, SEB, and Fulton BOER agreed that the Carter Center's independent and objective analysis would be beneficial to all parties within the framework of the ongoing performance review. To that end, and at the invitation of the PRB and Fulton BOER, The Carter Center agreed to conduct independent, nonpartisan observation of the Nov. 8, 2022, general election. This invitation was formalized in a memorandum of understanding (MOU) that was entered into on Oct. 13, 2022, following a 4-1 vote of approval by the Fulton BOER.

The Carter Center did not conduct this observation on behalf of the PRB, SEB, or Fulton BOER; this report makes its observations and analysis available to the PRB so that additional independent and objective analysis can inform the PRB's report to the SEB.

Under the MOU (see Appendix 1), the Carter Center's specific scope of work for this observation effort included observation of early voting, election day polling places, and procedures at the Fulton County election office before and after election day. Carter Center observation efforts began on Oct. 17, 2022, and continued through the Dec. 6 runoff. The Carter Center agreed to make its final report available to both the PRB and the Fulton BOER simultaneously on Dec. 15, 2022.

In conducting this observation effort, The Carter Center received the full cooperation of the Fulton County Department of Registrations and Elections. In particular, the Fulton County interim director of registrations and elections, Nadine Williams, and her deputy, Patrick Eskridge, made themselves and other staff available to The Carter Center team to respond to any and all questions.²

Observation Methods

Nonpartisan election observation is an impartial process where observers systematically gather data to determine whether an election was fair, peaceful, and credible. Unlike partisan observers — also called “challengers” or “poll watchers” — who generally look for activity that could undermine their own party's or candidate's interests, nonpartisan observers have no stake in the election outcome. They do not interfere in the election day process, even if they see something take place that should not happen. They are trained to understand the election process as specified by law and report on whether election day procedures are being correctly followed.

The Carter Center has observed more than 100 elections in 39 countries since 1989 and was a pioneer in establishing the election observation methods now widely used around the world. The Carter Center's election observation approach focuses not only on areas for improvement but also on strengths that should be replicated in the future to ensure the validity, fairness and accuracy of an election process that is secure and accessible for voters.

² Nadine Williams has served as the interim elections director since the departure of Richard Barron from the post on April 1, 2022.

The Carter Center's analysis is based on direct observation, desk analysis of documents provided by Fulton County, and conversations with Fulton County elections staff. This report captures the analysis of data collected over the eight weeks between Oct. 17 and Dec. 12, 2022.³

Observer Recruitment and Training

The Carter Center's election observation efforts were supported both by subject matter experts in the field of elections and election administration and by volunteers. Subject matter experts (often former election administrators or individuals who have worked closely with election administrators) observed processes within Fulton County's election office as well as some aspects of the voting process. Carter Center volunteer observers watched processes at voting locations only.

Carter Center volunteer observers were recruited through several channels, including from among the Carter Center's staff, volunteers, and interns; the Carter Center's Board of Councilors (made up of community and business leaders in the Atlanta area); the Democracy Resilience Network (a Georgia-based cross-partisan group of community leaders); and faculty and students from Atlanta area colleges and universities, including Emory, Georgia Tech, Georgia State, and Morehouse.

The Carter Center required all observers to attend training, virtually or in person, sign a code of conduct for nonpartisan election observers (see appendices), and receive proper observation credentials. Observer training focused on polling place procedures, data collection methods, the roles and responsibilities of nonpartisan observers, and the observer code of conduct. All Carter Center observers were U.S. citizens.

Polling Place Observer Deployment/Coverage

During the early voting period for the Nov. 8 election, The Carter Center deployed 64 observers to all 36 early voting locations (vote centers) and the four "outreach" advance voting locations, collecting over 330 observation reports on early voting. Each early voting center was observed at least six times. Each outreach location was observed at least once during early voting. Observers were deployed in approximately six-hour shifts to a cluster of four voting locations organized by geographic proximity to one another.⁴ Carter Center observers were not able to observe opening through closing of the polls in every location for every day of early voting or election day.⁵

On Nov. 8, the Center deployed 104 observers to 217 of 249 Fulton County polling locations. Each observer was assigned two to three polling places grouped by geographic proximity to one another. Of the 32 election day polling places not observed, 12 were early voting locations The Carter Center had already observed numerous times, leaving only 20 polling places unobserved.

Two Carter Center observers also attended the Nov. 17 risk-limiting audit in Fulton County.

For the Dec. 6 runoff, the Center's observation footprint was much smaller, with eight observers who followed up on a small number of preliminary findings from the Nov. 8 election observation effort. This smaller-scale effort was in part necessitated by the completion of this report by the Dec. 15 deadline.

³ The Carter Center notes that by Oct. 17, many preelection processes were already complete or near complete. As such, the Center is unable to offer an assessment of those processes. If similar observations are undertaken in the context of future reviews, an earlier start date for the effort is recommended to allow for additional areas of observation.

⁴ The Carter Center deployed observers every day of early voting, except for Oct. 18. This was due to volunteer shortages that day.

⁵ Carter Center observers were present for poll opening at 26 early voting locations and 63 election day locations and at poll closing at 23 early voting locations and 61 election day locations.

Data Collection

Carter Center election observers always use data collection instruments to ensure the systematic collection of information about the processes observed. For the Fulton County observation, Carter Center volunteer observers used paper checklists to avoid the use of mobile telephones in polling places. The checklists included questions about the exterior and interior of polling places, accessibility, staffing, equipment, voting procedures, efficiency, special circumstances, and a space for additional notes. Subject matter experts also collected qualitative information about the processes that they observed.⁶ The Carter Center also held multiple virtual debriefing sessions following both early voting and election day to collect more qualitative data about observation. This report summarizes and synthesizes the data collected through these methods.

Observations on Voting (Oct. 17 – Nov. 8, 2022)

Advance voting for the November general election took place in 36 early voting centers across Fulton County from Oct. 17 through Nov. 4, 2022. In addition, the county opened four outreach locations on college campuses. These outreach locations were open for two days each during the 19 days of early voting. Voting took place at 249 polling places on election day.

As outlined above, The Carter Center observed advance voting at each of the advance voting locations on multiple days in advance of the Nov. 8 elections, and at about 87% of election day locations. The Carter Center observations recorded here draw from data collected during the Oct. 17-Nov. 8 period. Observations regarding the runoff are included below.

General Atmosphere

Carter Center observers noted the calm and peaceful atmosphere that characterized both the early voting and election day processes. There were no reports of systematic voter intimidation or anyone blocking access to the polls. During early voting, there was only one report of unusual or potentially disruptive activity outside the early voting locations observed, and election workers promptly addressed the issue. Similarly, on election day, observers noted one instance of poll workers disrupting operations and arguing with a poll manager, but the offending parties were quickly removed and replaced. A security presence was standard across the majority of polling places both during early voting and on election day.

Voting Locations

Voting took place in a variety of locations in Fulton County, from schools to churches to art museums. The Carter Center observers noted that each location affected the voter experience differently.

Early voting locations were often public libraries, community or senior centers, gyms, government facilities, or public spaces (e.g., the High Museum). Carter Center observers reported that some locations were more suitable for use as voting locations than others. In some cases, there was adequate space to accommodate election equipment and facilitate the movement of voters; in other cases, the space was more restricted. Gyms and government buildings provided more space for voting, while libraries tended to be more challenging. Observers noted that the space in eight of the 17 libraries used for early voting affected the flow and movement of voters around the polling place but did not appear to deter voters from casting their ballots.

In some cases, the small space available for early voting limited the ability of party poll watchers and nonpartisan observers to easily observe the voting process, as they had to be seated out of the way. In a small number of cases, it was also noted that the space restrictions could make it more difficult for voters

⁶ Observations were entered into an Excel form in a secure environment (through Microsoft forms) for analysis by the Carter Center team.

in wheelchairs to maneuver around a polling place. Parking was noted as a specific challenge at a few locations, either because the lot was small or because there was a parking structure or other facility that was challenging to navigate or required parking validation.

On election day, two locations were highlighted as being especially hard to find: The Center for Civil & Human Rights and the Sandtown Middle School. Where only a portion of the area/campus is being used, especially an area away from the main access point, additional signage would be helpful. Observers reported adequate parking capacity in over 95% of locations but noted that three locations (West Manor Road Recreation Center, Dogwood Senior Center, and the Center for Civil & Human Rights) lacked capacity.

Locations using paid parking lots or garages for voter or poll worker parking on election day were uniquely problematic, with observers noting that it was often unclear whether free parking was available and where it was available. Observers also reported cars being booted or towed at two locations, requiring election officials to take time away from their duties to address the situation and, in at least one case at Morehouse College's Archer Hall, incur costs to retrieve their vehicles.

Accessibility of Voting Locations

Overall, the locations selected for voting appeared to be accessible for persons with disabilities. Clearly marked accessible parking, an easily accessible entrance, and a clear path to allow voters with disabilities access to the location were present at over 90% of voting locations observed on election day, and those percentages were even higher during advance voting. For urban locations using garages, Fulton County could consider temporary street parking right in front of the building as an alternative.

Most sites used the main entrance to the building as the accessible entrance. However, when separate entrances were used, observers noted that additional signage directing voters to the accessible entrance would have been useful (e.g., Dad's Garage Theater, Bethune Elementary, Birmingham Falls Elementary, New Prospect Elementary). Approximately 13% of election day sites lacked a working automatic door opener and had doors too heavy to open comfortably from a seated position; for these reasons, The Carter Center suggests propping exterior doors open (weather permitting) or stationing a poll worker at the entrance to assist voters.

Signage and Campaigning Outside the 150-foot Boundary

Most advance voting and election day locations for the Nov. 8 election were clearly marked with exterior signage. In a small number of early voting locations, signage was missing. The 150-foot boundary was marked in most locations during early voting and on election day. However, it was noted that the 150-foot campaigning boundary sign was sometimes hard to find and even harder to read. The Center recommends the state review the design of the sign, and Fulton County move to using lawn or A-frame signs to indicate the boundary.

Of the more than 330 observations over the 19 days of early voting, observers only noted eight instances of campaign materials being placed within the 150-foot boundary. During subsequent observation at those locations, the campaign materials were moved back outside the 150-foot radius, indicating that election teams were monitoring this and taking measures to ensure that rules were followed.

On election day, signs at locations where precincts had changed were helpful but also may have caused misunderstandings, with observers noting that it sometimes appeared that a location was not in use rather than simply being used for a different precinct. For the future, signs stating the precincts served at each location, in addition to any that are no longer in use, would be ideal.

Lines

During early voting for the Nov. 8 elections, lines were generally short at locations observed by the Center. Wait times varied from none to a maximum of 25 minutes at a handful of locations across the early voting period. The last day of early voting saw longer lines, with Metropolitan Library experiencing particularly long lines. This may have been exacerbated by a get-out-the-vote event nearby which was reportedly driving voters to that location to vote. Voters over the age of 75 and those with disabilities were consistently allowed to move to the front of the line.

Wait times observed at election day sites on Nov. 8 generally stayed under 15 minutes throughout the day, apart from lines at the beginning and end of the day. Most voters waited far less than 15 minutes, with 57% of sites observed having no wait at all and another 38% at five minutes or less during observation. Lines at opening were manageable at all locations observed on Nov. 8, with the longest line at 43 people, and observers reported that lines cleared quickly.

The voter throughput for polling places on Election Day was an average of 36 voters per hour, with an hourly distribution shown in Figure 1. This is faster than voting progressed during advance voting, which averaged around 32 voters per hour (Figure 2), chiefly due to the simplified check-in process on election day: no application requirement to vote in-person absentee; voter confirmation via ID scan rather than manual entry; and no precinct configuration requirement when programming ballot activation cards.

Figure 1

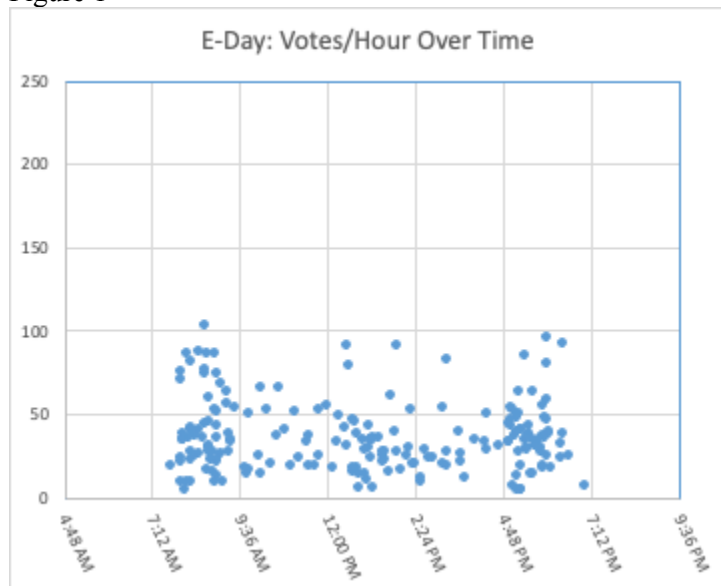
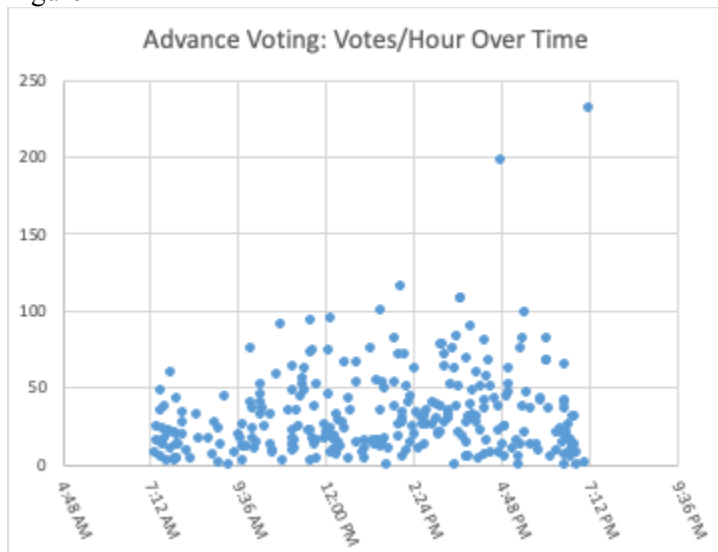


Figure 2



Staffing

Voting locations were staffed by teams that included a poll manager, assistant poll manager(s), clerks, a technician, a line manager, and a compliance officer. A public safety officer was present and visible at most locations observed.

Observers noted the friendly and enthusiastic attitudes of election workers at many voting locations, that they were helpful and supportive of voters, and that there was a strong emphasis on customer service. Observers commented that election administration staff took their roles seriously and recognized the significance of their work.

During advance voting, Carter Center observers found that many poll managers had considerable experience working the polls and that this was particularly beneficial in ensuring the smooth operation of advance voting centers — a difference from election day, when many more inexperienced staff were working. Even with the mix of experience among election workers on election day, the consistent grasp of their various tasks across locations indicated a successful training program. The emphasis placed on training workers for particular roles, rather than cross-training every worker in everything, paid dividends.

In particular, the presence of two specific roles — early voting compliance officers, tasked with performing quality assurance measures like ballot reconciliation throughout the day, and technical personnel, trained to troubleshoot machines — were especially helpful in streamlining processes and enhancing efficiency. On election day, several observers noted that locations reporting IT problems during setup waited for technical support when voting began. The Carter Center understands that Fulton County's goal is to have a trained technician at every voting location and agrees that having more technical personnel available, especially early on election day, would be helpful.

In almost all cases, the early voting locations had sufficient staff to ensure the smooth operation of the voting center. Likewise, the number of poll workers recruited for election day was adequate. Over 90% of locations observed had all assigned staff in attendance on Nov. 8, and the county ensured that replacements were available and ready to fill gaps where needed.

The use of staffing agencies for election worker recruitment continues to pose challenges regarding temporary election staff retention. This election, an increase in pay (minimum \$15/hour) for early voting

and election day workers appears to have helped to attract temporary workers. However, the 14-hour workdays over 19 days of early voting did take a toll. In addition, recruiting staff for the runoff was a challenge given the Thanksgiving holiday.

The Fulton County call center was staffed by 20-30 people (depending on whether it was the early voting period or election day). The call center appeared to be responsive to the needs of poll managers.

As noted above, Fulton County opened outreach locations on college campuses during early voting. Of the advance voting locations observed, the outreach locations appeared to have the most significant staffing challenges. Experienced poll managers were working with inexperienced staff — often students — at times giving them on-the-job training. At two outreach locations, observers reported that the flow of voters was confusing. Additional training for student poll workers would be helpful, with an emphasis on directing traffic in the polling location.

Poll Openings

The Carter Center observed 47 openings of advance voting locations across the county and 63 openings on Nov. 8. In several cases, observers arrived at the advance voting locations at 6:15 a.m. to find that the advance voting center was already set for the opening. Like the experience during early voting, observers arriving at 6 a.m. on election day often found voting sites already set up, as poll workers had arrived at 5 a.m.⁷

Ballot chain of custody and machine security measures, like checking and recording seal numbers, were generally consistent. However, it was clear that poll workers did not understand why these steps were required. They were simply focused on completing their paperwork and, without an understanding of why they were recording numbers on various “recap” sheets, often took simplifying shortcuts. For example, practices like cutting all the seals off at once and recording the seal numbers afterward, or recording the seal numbers before putting the seals on, streamline the process but also separate the act of checking/recording the seal number from opening/closing the machines. If an incorrect seal number had been found under these circumstances, for example, it might not have been discovered until after the seal was cut and the machine opened, which defeats the purpose. Additionally, poll workers need to pull the zip-tie-style seals tight, closing the loop of the seal as much as possible, to minimize the opportunity for tampering. Placing more emphasis on the purpose of recap paperwork and seal procedures during training would help poll workers better understand their role in the election security process.

In many instances, election workers moved through the opening procedures to maximize efficiency, following procedures but not taking the time to explain what they were doing to party poll watchers or observers. This would be a valuable and simple way to increase transparency in the process.

Wall space was often inadequate for the number of signs required, and election workers struggled to find space. Since many of the state-mandated signs are clearly perfunctory, with text that is both too small and too lengthy to read in the context of voting (see appendices), we recommend that the state reassess signage requirements in view of what is both practical and useful. Including nonessential signage may train voters to ignore signage altogether, missing notices that are necessary to read.

Over 80% of early voting locations and 90% of election day polling places were rated by Carter Center observers as “good” or “very good” on their opening procedures, and none were ranked below “average.”

⁷ In these cases, observers backfilled by asking questions where procedures appeared to have been completed before their arrival.

Voting Operations

Carter Center observers reported that early voting was largely well-run, with only one observation noting below-average ratings during the time of observation.⁸ Fulton County’s election day voting locations were consistently well run, with 93% of observed locations rated as “very good” or “good” by Carter Center observers and no location rated below “average.”

Check-in processes

During advance voting, Carter Center observers noted that check-in procedures were followed. There were a few instances where voters expressed confusion about the paper absentee ballot application form that needs to be completed during advance voting check-in. Election officials were generally able to explain the process to voters.

On election day, general procedures for voter check-in, including verifying voters’ identity, confirming eligibility, and preparing a ballot activation card, were completed smoothly and consistently across the board.

Voting

Voting processes generally unfolded smoothly at locations where The Carter Center observed. Voters appeared able to use the ballot marking devices (BMDs) and ballot scanners without confusion — observers noted that there is now a level of familiarity with the equipment for many voters. Indeed, on election day, 95% of observers reported that both BMDs and scanners were used without confusion by voters, and poll workers were available to help answer questions that did arise. It was noted that at times acceptance of the ballot by scanners took several tries.

Carter Center observers noted that the equipment containers used by Fulton County made voting location setup efficient and easy for election workers. While equipment containers have many benefits with regard to ease of transportation and setup, observers also noted several challenges:

- The size of the containers in the smaller voting locations made the locations especially cramped (see points on size of locations — particularly for early voting — above);
- The height and angle of the BMD screen within the equipment container inadvertently undermined the secrecy of the voting process, especially in locations where tight space did not allow for optimal placement of the equipment containers (see voting location diagrams in Appendices). Voters’ bodies could not always adequately shield the screen while they were voting, though Carter Center observers noted that this did not appear to deter voters from participating. Going forward, the doors to the containers should be more consistently used as privacy screens to block visibility from the side and, if possible, the angle of the screen adjusted to help increase voter privacy. Privacy filters for the screens could also be considered, although they would need to be tested to ensure that they did not negatively impact overall usability.

During early voting, Carter Center observers reported several instances where election workers quickly addressed voter cell phone usage inside the early voting locations. Unrestricted phone usage was much higher during election day than during early voting, with 43% of observers reporting that phones were used at their location.

Carter Center observers noted that election workers rarely verbally prompted voters to review their paper ballots before inserting them into the scanner, although they noted that some voters did so anyway. Forty

⁸ The below average rating was for the outreach location referenced above where there was more confusion about processes than at other locations observed. This did not appear to deter voters from voting or have other effects on the process.

percent of observations from early voting and 49% of election day observations record that voters were never asked to review their ballots. Given that voter review of the human-readable text on the paper ballot is essential to ensuring an auditable paper trail and codified by administrative rule,⁹ The Carter Center strongly recommends re-emphasizing this point in poll worker training and ensuring that this becomes a standard part of procedure for the staff working the scanner. (It should be noted that signage to this effect was present but has been shown to be relatively ineffective; verbal prompts, generally by the poll worker at the ballot scanner, are considered best practice.)

Nonstandard Processes

Nonstandard processes like voter challenges, provisional ballots, and canceling mail absentee ballots were rare, but the process widely varied from place to place. Many poll workers were unsure of how to proceed even after reviewing documentation and simply called their regional manager for guidance. The Carter Center recommends implementing that escalation path as the standard practice, as those who tried to complete these procedures alone were not always successful. In addition, providing very clear step-by-step checklists/decision trees for each scenario would be helpful.

Provisional ballots, in particular, create a burden for poll workers. Training on the subject was made significantly harder by SB202, which added complexity to the circumstances under which a provisional ballot should be completed. Despite these challenges, provisional ballots provide one of the best stopgaps against administrative problems that could otherwise disenfranchise voters. Fulton County can and should place greater emphasis on provisional ballot procedures and importance during poll worker training, to ensure that provisional ballots are readily available when voters need them.

Accessibility of Voting Procedures

In all locations, accessible BMDs and lower scanners were available for use by people with disabilities, though the angle of the screen at the accessible BMD was described as difficult for some as it required raising one's arm to head height or higher to vote.

Observers noted several instances of voters requiring assistance to vote. Election workers followed the procedures, requiring those giving assistance to sign the appropriate assistance form. In addition, during advance voting, observers reported a few instances where language assistance was requested. After a phone call and a short wait, an interpreter would arrive to help. On election day, language assistance was requested in 11 locations and generally provided. In a single instance, the poll manager expressed the view that voters didn't need translated ballots since it was "just names" that they needed to read (though we note that the general election ballot also contains instructions and ballot initiative text that should be translated).

Closings

The Carter Center collected 41 observations on the closing process during early voting for the Nov. 8 election and 61 on election day. Carter Center observers rated all advance voting closings but one as "average," "good," or "very good." On election day, all but three were rated at least "average," with the three locations rated negatively suffering from inexperienced poll managers who had difficulty completing the closing procedures in a timely manner after polls closed at 7 p.m.

As with openings, in many cases observers noted election workers moved through the closing process with efficiency as a key consideration. However, they often did not take the time to explain what they were doing as they moved through the closing process, making it difficult for party poll watchers and Carter Center observers to follow along. Where observers could follow the process more closely, they noted that while

⁹ Rule 183-1-12-.11 (8)

there was some variability in the implementation of closing procedures, steps related to the chain of custody and the integrity of the election equipment were generally consistently followed.

Transparency and Observer Access

Carter Center observers noted party poll watchers in about one-third of early voting observations for the Nov. 8 election. During advance voting, Democratic Party monitors were observed almost twice as frequently as Republican Party monitors. In less than 10% of reports did Carter Center observers note the presence of both parties. On election day, the number of Democratic and Republican party monitors was more even, but both parties were present in just 6% of polling places observed. In a small number of locations, representatives of third parties were present.

Throughout the process, party poll watchers largely conducted themselves according to Fulton County's observer guidelines at almost all locations observed. In three cases during early voting, Carter Center observers noted that poll watchers were disruptive — in particular, speaking loudly in the quieter environment of the polling location and sometimes promoting partisan views. Poll watcher credentials were not consistently checked in places where the Center observed.

As many as 12% of early voting observation reports mentioned some limitation on the ability of observers to watch the process. Often this was because party poll watchers and observers were seated in spaces that restricted their ability to observe key procedures due to space constraints. In these cases, observers were often allowed to move around and check scanner numbers etc. when there were no voters present.

In a few instances, Carter Center observers were not initially granted access to observe early voting by the poll manager. This was generally addressed by a phone call to the poll manager from the Fulton County interim elections director. On election day, poll workers were not always aware that observers were allowed to witness the voting location setup procedures and seemed uncomfortable allowing access to polling locations before 7 a.m., even to observers with credentials and badges. Several observers were denied entry and so were unable to observe opening procedures. In all cases, observer access was resolved.

Other Observations of Note

Wrong Locations

On election day, Carter Center observers at specific locations noted significant numbers of voters turned away because they were not at their correct polling place, including: Buckhead Library, North Fulton Annex, St. James UM Church, Adams Park Library, Therrell D.M. High School, Love T. Nolan Elementary, Springfield Missionary Baptist Church, Metropolitan Library, East Point First Mallalieu UM Church, and Roswell Library. Some confusion is generally present when moving from vote centers during early voting, where voters can choose to vote at any location, to assigned polling places on election day. However, the fact that this was a significant problem for large numbers of voters beyond the sites also in use for early voting indicates a larger issue. The most logical explanation is that changes to assigned locations due to redistricting were to blame. Redistricting after the 2020 census occurred between the primary and general elections this year, and we note that Fulton County notified voters whose precincts had changed via postcards mailed prior to the election. However, the impact of redistricting seemed to be largely ignored by the political parties. Parties provided the most widespread communications prior to the election but failed to warn voters that their assigned location may have changed.

Voter Credit Error

In one location, a Carter Center observer noted that poll workers had an “Application to Vote Early In-Person” form that they could not finish processing as the statewide voter registration database indicated the voter had already voted the day before at a different early voting location. The poll worker did not note the presence of an earlier ballot record during the check-in process for the voter (during which they added a

new ballot record in the statewide voter registration database but did not finish processing it), so the voter was allowed to vote. Only when poll workers did final data entry for that application later in the night, checking they had entered information correctly and processing the added ballot records in the database, did the system prevent them from entering a duplicate record. The poll manager at the early voting location responded quickly and effectively and immediately called her supervisors for assistance. The Carter Center also raised this case with the Fulton County Elections Department and was subsequently informed that the case had been elevated to the Office of the Secretary of State for further investigation (which is ongoing at the time of writing this report).

The Carter Center cannot confirm that this was a case of double voting. It could have been the result of data entry error at either of the early voting locations. The poll manager should be commended for identifying the error during her reconciliation process and taking the appropriate steps to ensure timely resolution of the issue through the correct channels. Looking forward, ensuring that the ballot record for the voter is completely created during voter check-in, with voter credit assigned is critical. The introduction of new early voting check-in practices (to be rolled out statewide in 2023 in advance of the 2024 elections) may also help reduce the opportunity for error.

The Runoff

The Carter Center deployed a smaller number of observers for the runoff to follow up on outstanding questions from the Nov. 8 observation effort. Carter Center observers found many aspects of the process on Dec. 6 to be like those observed in November. The principal difference, well reported in the press, was the longer wait times at early voting locations.

Early voting for the Dec. 6 runoff election took place in 24 locations around the county and at three outreach locations on college campuses. The outreach locations were open for two to three days during the seven days of early voting. According to Fulton County, the reduction in locations was the result of budgetary constraints and the considerable challenge of recruiting sufficient staff over the Thanksgiving holiday (the latter shared by other counties). Runoffs also tend to have significantly lower voter turnout, which may also have been a factor in deciding to open fewer locations.

During early voting for the Dec. 6 runoff election, lines were considerably longer than in November, with wait times of an hour or more at many of the locations on multiple days during the seven-day voting period. This may be explained by a number of factors, including: voter enthusiasm (news outlets reported voters lining up hours in advance of polls opening); the shorter timeframe for early voting for the runoff (seven days as opposed to 19 days); and the reduced number of early voting locations.¹⁰ It should be noted that several of the more populous counties around Georgia experienced longer wait times for the runoff than for the Nov. 8 elections.

Observers noted that the check-in process caused a bottleneck within polling places, as election workers completed the multistep process for a high volume of voters during the condensed early voting timeframe. Locations observed addressed this problem differently; some locations allowed voters to fill in most of the form while waiting in line, which allowed voters to move through the check-in process much more quickly. In other locations, the voters completed the form at the check-in table; observers noted that this slowed the check-in process considerably. The new check-in process to be rolled out statewide in 2023 should help address these delays by streamlining the process.¹¹ The Center also recommends that additional early voting

¹⁰ 188,003 people voted early in person for the Dec. 6, 2022, runoff election (<https://sos.ga.gov/data-hub-december-6-2022-runoff> accessed Dec. 11, 2022)

¹¹ For example, Cobb County, which piloted the use of the new check-in process in the 2022 midterm elections, appeared to have consistently shorter wait times at early voting locations.

locations be opened for federal and statewide runoffs in the future, and that appropriate budgetary allocations be made to accommodate this need.

Election day was markedly different from the early voting experience. Voters were processed quickly and seldom had to wait more than a few minutes.

Internal County Operations

Absentee ballot applications

Absentee ballot processing began with the applications, which were received from five different sources. Observers witnessed paper applications received by the mailroom, timestamped, opened, and batched in groups of 50 for processing. Batch cover sheets were used to track each group of 50 through the process, recording the total accepted or rejected, and counts were reconciled each night. Electronic applications were also printed, and all applications were scanned, ensuring both a paper and electronic record. Totals of applications received and processed were reconciled to the voter registration database each night.

Fulton County, like some other counties in Georgia, uses a process where rejected absentee ballot applications are returned to the voter with a provisional ballot included in addition to the paperwork needed to cure the application. This streamlines the process considerably as a voter can complete the cure paperwork and return a marked provisional ballot in a single step. Assuming the cure of the application is successful and no further errors are found, the provisional ballot can be counted.

Absentee Ballot Processing

Fulton County took full advantage of the opportunity to process absentee ballots prior to election day, beginning the process on Monday, October 31, after issuing a notice of its intent to do so. Carter Center observers and party poll watchers were in attendance during the process. This extra processing time ensured that mail ballots did not accumulate and could be dealt with promptly.

Observers witnessed absentee ballot processing from initial receipt, logging, and storage to the verification, opening of envelopes, ballot extraction and flattening, vote review and duplication (where necessary), and eventual tabulation. Best practices were evident at each step in the process, including using small batches (50 ballots), tracking each batch via a cover sheet that logged any ballots that were removed for further processing (e.g., rejected during verification, or needing to be duplicated before tabulation), and reconciling counts of ballots at various stages throughout the process.

Election law changes in SB202, requiring that both absentee applications and completed ballots include a driver's license/state ID number or other acceptable photo ID as proof of identity, have eliminated the need for election officials to match signatures. This has streamlined the process and made it easier for election officials since they can simply check that all the necessary information is present and correct.

Vote review panels, comprised of both a Republican and a Democrat, were comfortable with the process used to duplicate unreadable ballots and were able to review and interpret ballots efficiently. While most panels were following the standard procedure, having both members look at each vote on the ballot and both members confirm that it matched the vote entered on screen, a few teams had only one person reading the ballot and the other only entering data. Reminding panels of the importance of checking each other's work will ensure that each duplicated ballot goes through consistent checks and balances.

Election Night Drop-off

On election night, nine intermediate drop-off locations throughout the county were set up to receive materials from the precincts. Not only did this prevent a high number of people and cars at the main Election Preparation Center warehouse, but it also allowed for a detailed inventory of materials to be compiled very quickly after polls closed. Fulton County split the deliveries from the precincts into two groups; runners from each voting location, responsible only for the memory cards from the scanners, were dispatched to the drop-off location as soon as possible. All the other materials, including completed ballots, followed in a separate delivery. Once all the memory cards had been received at a particular drop-off location, they could be transferred to the Election Preparation Center — escorted by police — without delay. For the most part, this system worked well. Observers noted that some precincts went to the wrong drop-off location, so providing a phone list for the precincts would have been helpful in coordinating the proper destinations.

Sites consistently had problems with the handheld scanners used to log materials into the electronic inventory system, perhaps due to limited internet connectivity, but they had ample paper records as an alternative. Different drop-off sites also had varying procedures for fixing problems (e.g., a bag accidentally sealed inside another bag. Some site managers would break seals, noting the action on the chain-of-custody forms, remedy the situation, reseal the container, and note the new seal number on the form. Others were adamant about not breaking seals to fix anything, simply recording the problems on the chain-of-custody forms. Retraining personnel on which method is preferred would be helpful for future elections.

Early Tabulation & Sequestration

Sequestration — the practice of restricting movement and communication for those who could have knowledge of early vote totals until the close of polls when totals can legally be released — during early tabulation of absentee ballots on election day (required by O.C.G.A. § 21-2-386 (a)(6)) is one of the few areas where Fulton County could make considerable improvements. Due to space constraints, early tabulation was done in one section of the main floor at the Election Preparation Center warehouse rather than in an enclosed space. No attempt was made to sequester staff, and they were using cell phones throughout the day, often walking in and out of the tabulation area to attend to other duties. Observers were similarly not constrained and were allowed to use cell phones and walk in and out freely for most of the day. One member of the public was even soliciting in the area during the general election, handing business cards to observers and vote review panelists. A modest attempt was made to limit observers' cell phone use after a complaint was made, but unfortunately, the security guard informed observers that they could simply leave the room if they wanted to make a call.

During the runoff election, the processes improved somewhat, as cell phones were taken from observers before entering the room. However, both observers and staff were still allowed in and out of the sequestered area and able to retrieve and use their phones anytime they stepped outside. It should be noted that Carter Center observers did not report any ill-effects from this lapse in sequestration, and there is no evidence that any vote totals were revealed prematurely. Still, the public perception of such lapses is problematic and should be addressed when Fulton County moves to its new warehouse in 2023.

Observers also witnessed members of the public and party poll watchers at the Election Preparation Center being given name tags that said “Election Official” at the top, presumably because these were what the county had available. There was no evidence that inappropriate access was granted based on these name tags, but in the future, it would be best to avoid labeling anyone as an election official if they are not.

Results Reporting

Results reporting was efficient and orderly, with memory cards processed as soon as they arrived at the Election Preparation Center warehouse from the drop-off locations. Three tables of staff, set up in view of observers, logged receipt of each location's sealed transfer bags and had the transport team sign chain-of-custody paperwork. Staff then proceeded to inventory each returned bag, checking to see that each arrived appropriately sealed, with all the necessary memory cards, and contained the correct cards for the scanners in that location. Memory cards were then walked over to the election management server, housed in a corner of the warehouse's main room, and results were loaded onto the server. Results of all ballots tabulated through election night were available by midnight. Given the interest in this process from party poll watchers, it would be helpful to have an election staff member tasked with explaining the process stationed with the observers in the future.

Risk-limiting Audit

Fulton County participated in the Nov. 17, 2022, risk-limiting audit (RLA) of the secretary of state contest.¹² The audit began at 8 a.m., proceeded smoothly, and was completed by 10a.m.

Audit Premises

The Fulton County audit was conducted at the Georgia International Convention Center. There was ample space for the audit operations (17 audit boards, one vote review panel, ballot storage, a ballot check-in/check-out station, and data entry). There was a clearly defined space for public observers. The audit floor was well organized, with plenty of room for monitors to move around without crowding the audit boards. The ballot storage area was always secure and guarded and ballot containers were well organized in the storage area. Election workers checked batches in and out of storage, and runners carried containers between storage and audit boards.

Training for Audit Boards

No audit board training took place during the time observers were present; it is unknown whether any training was held earlier or whether audit board members were election staff familiar with handling ballots. The secretary of state's training video, which focused on counting procedures, was displayed (without audio) on two screens. Observers reported that audit boards asked supervisors many questions while auditing the first batches, and fewer questions as the day progressed. This training strategy was adequate for conveying "sort and stack" counting, and supervisors could easily handle questions, given the lack of time constraints and the small number of ballots to be audited. The Carter Center recommends that training be conducted before auditing begins to prepare auditors and election staff for their tasks.

Vote Review Panels

Fulton County staffed one bipartisan vote review panel, but there was nothing to adjudicate, since voter intent issues occur only on handwritten mail ballots. Of the audit boards observed, only one had a mail ballot batch, consisting of eight ballots. Most of the observed audited ballots were advance voting (2,302 ballots assigned to one audit board) and election day (847 ballots).

Data Entry

Tally sheets completed by audit boards were entered as soon as auditing was complete. Data entry was generally done by a team of two, with one checking the other, but observers were not consistently able to view the computer data entry screens. Best practice calls for both the tally sheet and computer screen to be readily viewed by observers. In some jurisdictions, this is done by overhead screen projection so that anyone

¹² The Carter Center deployed observers to 34 Georgia counties during the statewide RLA, including Fulton County.

can confirm the accuracy of data entry without interfering with the operators. Again, the process was adequate for the small amount of data to be entered, but future audits may be more challenging.

In sum, Fulton County conducted its RLA carefully, smoothly, and expeditiously. These findings should support citizen confidence in the reported outcome. Increased attention to systematizing procedures would ensure smooth audit operations should more challenging conditions occur in the future.

Conclusion

Overall and within the parameters of its observation efforts, The Carter Center did not observe any election administration irregularities that would call into question the ability of the Fulton County Department of Registrations and Elections to administer secure and accessible elections for the citizens of Fulton County. The minor issues observed and noted in this report are consistent with the kinds of small hiccups that occur within any complex election administration process; Fulton County residents should feel confident these snags did not affect the election results. The aspects of the election process the Center observed were clearly improved from 2020 and demonstrated the implementation of best practices (for example, frequent reconciliation and prioritization of chain of custody and security).

Election processes are complex logistical exercises. As such, there are always opportunities for continuous improvement of processes to bolster efficiency and maximize appropriate and contextualized transparency. This process of continuous improvement relies on the observation of systems and processes and the creation of monitoring feedback loops so that lessons from one election can be integrated into systems to improve future elections. It is in this spirit that the Center has offered recommendations and suggestions for improvement throughout this report.

Finally, The Carter Center notes that the Fulton County Department of Registrations and Elections cooperated fully with the observation effort and demonstrated an openness to transparency and learning that is to be commended. The Carter Center thanks the Performance Review Board and Fulton County Board of Elections and Registration for the invitation to observe the 2022 general election.

Appendices

1. Memorandum of Understanding
2. Sample Observer Checklists – Election Day
3. Code of Conduct of Nonpartisan Election Observers
4. Signage within the Polling Place
5. Voting Location Diagrams

**MEMORANDUM OF UNDERSTANDING
BETWEEN
PERFORMANCE REVIEW BOARD,
FULTON COUNTY BOARD OF ELECTIONS AND REGISTRATION,
AND
THE CARTER CENTER**

In August 2021, pursuant to a request from the Georgia General Assembly, the State Election Board appointed a Performance Review Board ("PRB") to conduct a performance review of the Fulton County Board of Elections and Registration ("Fulton BOER") pursuant to OCGA § 21-2-106. The duty of the PRB is to make a thorough and complete investigation and issue a written report of its findings to the Secretary of State ("SOS"), the State Election Board ("SEB"), and the local governing authority which shall include such evaluations, judgments, and recommendations as it deems appropriate. See OCGA § 21-2-106.

To date, the PRB has conducted interviews of Fulton BOER staff, observed election processes, observed processing of absentee ballots, observed early voting, and observed Election Day voting. To fulfill its duties under Georgia law, the PRB would like to conduct further observation and analysis during the 2022 November General Election in Fulton County ("Election"). The Carter Center ("TCC") has a well-deserved reputation for independent and objective observation and analysis of election administration. Within the framework of the ongoing performance review, the PRB and Fulton BOER believe that the independent and objective analysis and observation that TCC is known for would be beneficial to all parties. The PRB would like to complete its report by the end of calendar year 2022 and believes that TCC observation will help the effort to finalize the performance review by that time. To that end, at the invitation of the PRB and Fulton BOER, TCC has agreed to conduct independent, non-partisan observation of the Election. TCC does not conduct this observation on behalf of the PRB, SOS, SEB, or Fulton BOER, but will make its observations and analysis available to the PRB so that additional independent and objective analysis can inform the PRB's report to the SEB.

Therefore, PRB and Fulton BOER invite TCC to conduct independent, non-partisan observation and analysis of the Election. TCC agrees that it will follow all guidelines and respect any restrictions, as determined by the parties, appropriate for an accredited independent non-partisan observation effort. TCC will also follow instructions given by Fulton BOER while observing the election process to ensure the observation does not interfere with day-to-day election activities.

As an accredited observer, TCC will be provided with adequate and meaningful access to all stages of the work involved in the election, so that TCC's observers can credibly report on the process, including:

- access to relevant training materials and training sessions, either for poll-workers or staff;

- access to speak with PRB and Fulton BOER officials about their work and processes;
- access to internal documentation and records about the elections process, including but not limited to chain-of-custody documentation, recap sheets, drop box ballot transfer forms etc.
- ability to observe and accompany Fulton BOER officials and staff through their work process from start to finish.

Observation by The Carter Center will begin on October 14, 2022 and will terminate on December 15, 2022 unless an extension of the observation effort is agreed by all parties.

The specific scope-of-work for this observation effort includes:

- Observation of pre-Election procedures at the Fulton County election office
- Observation of absentee ballot issuance and receipt procedures
- Observation of equipment preparation
- Observation of early voting
- Observation of Election Day polling places
- Observation of Election Day procedures at the Fulton County election office
- Observation of post-Election procedures
- Delivery of a final report of observations by December 15, 2022. The final report will be delivered to both the PRB and Fulton BOER simultaneously.

The Carter Center will deploy a sufficient number of observers to adequately assess the aforementioned processes. All Carter Center observers will receive training on Georgia's election rules and procedures.

TCC reserves the right to:

- Select the dates, times, and locations of the observation, subject to the availability of Fulton BOER officials.
- Provide all parties a preliminary statement about the observation by November 30, 2022 and a more detailed final report, including key findings and recommendations for future efforts, no later than December 15, 2022.
- In coordination with the PRB and Fulton BOER, release public statements in advance of the election to announce our observation efforts and educate the public on the purpose of nonpartisan election observation and the role of TCC in this effort.

TCC will not:

- Attempt observation beyond the specific scope included here
- Violate the Observer Code of Conduct included here
- Divulge any information protected from disclosure by state law
- Interfere in the elections process

- Handle ballots or other sensitive materials
- Divulge any documents or confidential information shared with them about the election process without approval from the PRB and Fulton BOER.
- Divulge any documents or confidential information to any person regarding the election process or observation if that person is adverse in litigation to the State of Georgia or any county elections office

Observer Code of Conduct

The purpose of election observation is to help ensure the integrity of the election process, by witnessing and reporting accurately and impartially on each aspect of the process to evaluate whether it is conducted in an open and transparent manner and in conformance with applicable laws and electoral regulations. Election observation and monitoring also seeks to ensure the integrity of the election process by calling on all electoral actors (including the candidates, political parties, those supporting or opposing referendum initiatives, election officials, other governmental authorities, mass media, and voters) to respect the laws and election-related rights of all citizens and to hold accountable those who violate the law or any person's election-related rights.

While serving as an election observer, I will:

- **Be an informed observer**
 - I will attend all required election observation training sessions and familiarize myself with relevant election law and processes prior to the election
- **Be an objective observer**
 - Report what I see – whether positive or negative - impartially, accurately, and in a timely manner, and include sufficient documentation of serious problems to allow for verification
- **Respect the election process**
 - I will respect state and federal laws governing elections, follow the instructions of election officials, and maintain a respectful attitude at all times
- **Remain politically neutral**
 - I will not publicly express any preference for or against any candidate, political party, or initiative, in accordance with laws prohibiting electioneering
- **Protect the integrity of the election**
 - I will not interfere unlawfully or inappropriately with election processes or procedures; where I have objections or concerns, I will elevate them through established channels

Appendix 2 – Sample Observer Checklist

Fulton County Election Day Observation Checklist – Cover Sheet

Instructions:

Please fill in Part A as soon as you reach the voting location where you are observing, and fill out Part B as you are leaving the voting location. You will need a separate checklist for each location you observe throughout the day. Please fill out only the parts applicable to the processes you observed, and thank you!

PART A: Observer Info

Your Name: _____

Voting Location Name/Address: _____

Today’s date (e.g. 10/31/22): _____

Time you arrive at the voting location (e.g. 2:30 PM): _____

Public count of votes cast on the scanner(s) when you arrive: _____

PART B: Post-observation Questions

Time you leave the voting location (e.g. 2:30 PM): _____

Public count of votes cast on the scanner(s) when you leave: _____

(If you answer “no” to any of these, please explain on the “Notes” form)

B1	Were you allowed to observe?	<input type="radio"/> Yes <input type="radio"/> No
B2	Were you able to observe all procedures without restrictions?	<input type="radio"/> Yes <input type="radio"/> No
B3	Did the pollworkers cooperate with you?	<input type="radio"/> Yes <input type="radio"/> No
B4	Were party pollwatchers able to observe in accordance with pollwatcher rules?	<input type="radio"/> Yes <input type="radio"/> No

I have, to the best of my ability, conducted myself in accordance with the Carter Center’s Code of Conduct for Observation and provided truthful, complete answers to these questions

(Sign on the above line)

PART C: Physical Space (Exterior)*(If you answer "no" to any of these, please explain on the Notes form)*

C1	Is there adequate parking in the parking lot? (i.e. spaces are available if more voters arrive right now)	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C2	Is the required exterior signage present? <i>This includes:</i> <ul style="list-style-type: none"> • A sign identifying the voting location ("Vote Here" etc.) • A sign marking the 150ft electioneering boundary 	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C3	Are there clearly-marked accessible parking spots? (i.e. blue lines and obvious signage)	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C4	Is there an accessible path from the parking space to the building entrance (paved and clear of stairs, narrow doorways, and physical obstacles that would make it hard for a wheelchair user or visually-impaired person to enter)?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C5	Is the wheelchair-accessible entrance to the building the main entrance or a side/back entrance?	<input type="radio"/> Main <input type="radio"/> Side/back
C6	Is the wheelchair-accessible entrance clearly marked?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C7	Is the wheelchair-accessible entrance unlocked?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C8	Are the doors light enough to open easily *OR* have button-activated openers? (Either option is acceptable)	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C9	Are there campaign materials or campaign activity <u>outside</u> the 150-foot radius of the voting location?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C10	Are there campaign materials or campaign activity visible <u>inside</u> the 150-foot radius of the voting location?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C11	Is there tension or unrest in the area around the voting location? (If yes, please describe in Notes section)	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C12	Is there any indication of pressure/intimidation of voters in the area around the voting location? (If yes, please describe in Notes section)	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
C13	Are people blocking access to the voting location or acting violently?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

	<i>(If yes, please describe in Notes section)</i>	
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PART D: Physical Space (Interior)

(If you answer “no” to any of these, please explain on the Notes form)

D1	Is there an accessible path through the building from the exterior door to the voting location? (e.g. smooth and clear of stairs, narrow doorways, and physical obstacles that would make it hard for a wheelchair user or visually-impaired person to navigate)	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D2	How many check-in stations are set up?	Count:
D3	How many voting stations are set up (including accessible stations)?	Count:
D4	How many scanning stations are set up?	Count:
D5	Is a separate station set up to process voters who need provisional ballots (separate from the normal check-in table)?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D6	Is there a clear flow indicated in the room – where voters should go 1 st , 2 nd , 3 rd etc?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D7	Are people able to move smoothly around the room to complete each step of the voting process?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D8	Is there enough space for a wheelchair to maneuver through each station to complete the voting process?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D9	Is a lower-height accessible voting station, suitable for a chair or wheelchair, available for use?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D10	Are all voting stations, including the accessible station, placed to ensure ballot secrecy (no one should see the screen)?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D11	Are accessibility aids (headphones, accessible keypads, etc) available at the accessible station?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
D12	Is all appropriate signage present? <i>This includes:</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

	<p><i>(Outside Voting Location)</i></p> <ul style="list-style-type: none"> a. <i>Vote Here signs</i> b. <i>150 ft No Campaigning</i> c. <i>Accessible parking signs</i> <p><i>(Inside Voting Location)</i></p> <ul style="list-style-type: none"> d. <i>Poll Worker Area</i> e. <i>No Leaving With Ballot</i> f. <i>Large Print Viewing</i> g. <i>Voter Notice (Wrong/Incorrect Ballot)</i> h. <i>Ballot Review</i> i. <i>Georgia Voting Information</i> j. <i>Card of Instructions</i> k. <i>Identification Required</i> l. <i>Notice of Penalties</i> m. <i>Sample Ballots (2)</i> n. <i>Prohibition of Electronics Notice</i> o. <i>Magnified Ballot Request</i> p. <i>Notice to Voters 75 Years & Older</i> q. <i>Acceptable Proof of Citizenship</i> r. <i>Video Surveillance</i> <p><i>(At Each Voting Station)</i></p> <ul style="list-style-type: none"> s. <i>Voting Instructions</i> t. <i>Large Print Viewing</i> u. <i>Voter Notice</i> v. <i>Return Voter Card</i> 	
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D13: Draw the approximate layout of the voting area. Example:

Use arrows to indicate voter flow, be sure to mark entrances/exits, and indicate which voting booths are lower/accessible. If a drop box or separate provisional ballot processing station are used, draw those.

PART F: Pollworkers & Others

F1	How many pollworkers are present, including the head pollworker? <i>[2-digit number]</i>	Count:
F2	How many party pollwatchers did you observe while you were there?	Count:
F3	If pollwatchers are present, what parties did they represent (if you can tell)? <i>(Circle all that apply)</i>	DEM REP
F4	Did a pollworker check the credentials of all pollwatchers present?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
F5	Were any pollwatchers disruptive?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
F6	Did pollwatchers attempt to challenge any voters?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
F7	Are media present at this voting location?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
F8	IF YES: what media outlet do they represent?	Outlet:
F9	Are uniformed law enforcement or security present?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
F10	Did anyone report a problem to you that you did not directly observe? <i>(If yes, describe on the Notes sheet)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
F11	Did you witness anyone being removed from the voting location for any reason? <i>(If yes, describe on the Notes sheet)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

PART G: Voting Procedures

G1	Are voters being asked to present valid photo ID at check-in (or providing one without being asked)?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G2	Are pollworkers scanning the voter's ID into the Poll Pad OR manually entering their name to find the voter's record and verify that they are on the voter list?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never

G3	Are voters being asked to check their current information on the Poll Pad and then signing their name onscreen?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G4	Are voters able to use the BMD without confusion/questions? <i>(If no, describe in the Notes section)</i>	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G5	Are voters being prompted to check their printed summary ballot before inserting it into the scanner?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G6	Are voters checking their summary ballot (any time after printing but before placing it into the scanner)?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G7	Are voters placing their own ballot in the ballot scanner?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G8	Are voters able to use the ballot scanner without confusion/questions? <i>(If no, describe in the Notes section)</i>	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G9	How many times did you see the ballot scanner return a ballot to the voter/fail to scan the first time a ballot is inserted?	Count:
G10	Are voters returning their voter card to a pollworker before leaving?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never
G11	How many times did a voter exit the voting location with either their paper summary ballot or their voter card instead of turning it in?	Count:
G12	Are voters offered an "I Voted" sticker before they leave?	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never

G13	How many times did a voter ask for language assistance?	Count:
G14	How many times did a voter ask for a caretaker or helper to assist with voting?	Count:
G15	Did any voter(s) ask to spoil their ballot and start over after printing? <i>(If yes, describe why on Notes form – voter mistake, voter thinks printout is wrong, etc.)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
G16	Did the scanner ballot box fill to capacity/need to be emptied at any point?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
G17	IF YES, did pollworkers do the following in view of the public: announce what was happening, break the seal on the ballot box, remove ballots to the black ballot transport bag, seal the black ballot transport bag, seal the ballot box, and fill out the 'Voted Ballot Removal Form' and the 'Scanner Recap Sheet' with the new seal numbers and other appropriate information?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
G18	Did any voter use their phone in the voting location?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
G19	Is anyone using derogatory or abusive language towards pollworkers or voters? <i>(If yes, describe the situation in Notes)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
G20	Did anyone attempt to inappropriately access, manipulate, or otherwise interfere with any voting equipment? <i>(If yes, describe the situation in Notes)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
G21	Were any voters above 75 years of age or voters with disabilities invited to skip the line?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
G22	Did anyone lodge an official complaint with the pollworkers while you were there?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
G23	The overall voting process in this voting location is:	<input type="radio"/> Very Good <input type="radio"/> Good <input type="radio"/> Average <input type="radio"/> Bad <input type="radio"/> Very Bad

PART H: Voting Procedures for Special Circumstances

H1	<p>VOTER NOT ON LIST: Are voters not on the voter list (either via the Poll Pad or on the supplemental list) being redirected to the provisional ballot station and offered a provisional ballot?</p>	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A
	<p>VOTER IN WRONG PLACE: Are voters being redirected to the correct location or, if they want to vote at this location:</p> <ul style="list-style-type: none"> - BEFORE 5 PM, being told that they can cast a provisional ballot but it will not count - AFTER 5 PM, being told that they can cast a provisional ballot and the contests that they are eligible to vote in will count 	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A
H2	<p>NO ACCEPTABLE ID: Are voters who are told they lack acceptable ID being offered a provisional ballot?</p>	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A
H3	<p>VOTER SENT MAIL BALLOT: If the Poll Pad shows voters were sent a mail ballot, are pollworkers asking voters to surrender/cancel their mail ballot before being allowed to vote?</p>	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A
H4	<p>VOTER SENT MAIL BALLOT – CANNOT SURRENDER: If voters who were sent a mail ballot do not have their ballot with them, are pollworkers:</p> <ul style="list-style-type: none"> - confirming that the county has not received the mail ballot before allowing the voter to vote as normal, or - if the county has received the ballot/is not available, only allowing a voter to vote a provisional ballot (if they wish)? 	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A
H5	<p>VOTER ALREADY VOTED IN PERSON: If the Poll Pad shows voters have already voted early in-person, are pollworkers asking the voter whether they have already voted and:</p> <ul style="list-style-type: none"> - If the voter says yes, refusing them any ballot and providing contact information for the county to answer any questions 	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A

	- If the voter says no, only allowing the voter to vote a provisional ballot (if they wish)?	
H6	<p>CHALLENGED VOTER: If the Poll Pad shows voters have been challenged, are voters offered the chance to cure via an affidavit or, if they cannot cure, redirected to the provisional ballot station and offered a challenged provisional ballot?</p>	<input type="radio"/> Always <input type="radio"/> Mostly <input type="radio"/> Sometimes <input type="radio"/> Never <input type="radio"/> N/A

PART J: Efficiency

J1	<p>How long did a typical voter have to wait in line before voting? <i>(To measure, pick a voter who has just entered the line and time how long it takes until they reach the front of the line. E.g. "10 minutes")</i></p>	Time:
J2	<p>How long did it take a typical voter to complete the voting process? <i>(To measure, pick a voter who has just started to check in and time how long it takes until they cast their ballot and exit. E.g. "10 minutes")</i></p>	Time:
J3	<p>What was the longest line you saw, and at what time did this occur? <i>(e.g. "23 people, 7 am")</i></p>	Length: Time:
J4	Was the number of pollworkers sufficient for a timely and orderly process?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

PART X: Notes and Other Observations

Use these pages to either:

- Give more detail on your answers to any question earlier on the form
- Describe other observations you feel are important to record

For each comment, include a reference to the **question ID** from the form. Start a **new row for each question**.

For comments **not related to any specific questions in the form, put “0” in the question ID column.**

EXAMPLE:

G13 10:30-11:00. Long discussions with challengers from another nonpartisan organization about the location of this polling station. It is located in a building owned by one of the candidates.

Question ID	Comments

Fulton County Election Day Checklist – OPENING THE POLLS**PART E: Opening the Polls***(If you answer “no” to any of these, please explain on the Notes form)*

E1	Are all poll workers in attendance?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E2	Are all poll workers sworn in?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E3	Are all poll workers wearing name badges?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E4	<i>(Check-in station)</i> Do poll workers check that the serial numbers on Poll Pad case and tablet match?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E5	<i>(Check-in station)</i> Do poll workers check that the Poll Pad tablet is turned on and functioning correctly?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E6	<i>(Check-in station)</i> Do poll workers check that the Poll Pad is set for the correct polling location?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E7	<i>(Check-in station)</i> Do poll workers check that the check-in count reads zero?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E8	<i>(Check-in station)</i> Is the supplemental voter list present?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E9	<i>(Check-in station)</i> Is the paper backup voter list present?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E10	<i>(Equipment carriers)</i> Do poll workers verify the seal numbers on the doors of the equipment carriers match the numbers on the “Equipment Carrier/Voting Booth Security Seals Form” before seals are broken/doors are opened? <i>(This refers to the grey doors into the supply/scanner areas of the carriers, not the black doors over the voting stations)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

E11	<i>(Scanner in equipment carrier)</i> Do poll workers verify that the seals on the Emergency Ballot Box door (above the scanner) and the Ballot Box door match the number on the “Scanner/Ballot Box Recap Form,” before opening both boxes, confirming that they are empty, resealing them, and noting the new seal numbers on the recap forms?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know
E12	<i>(Scanner in equipment carrier)</i> Do poll workers verify that the two seals on the front of the scanner are intact, and match the numbers on the Scanner/Ballot Box recap form?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know
E13	<i>(Voting Stations)</i> Do poll workers verify the seal numbers on the black doors securing the BMDs in the equipment carriers match the numbers on the “Equipment Carrier/Voting Booth Security Seals Form” before seals are broken/doors are opened? <i>(This refers to the black doors that enclose the touchscreens in the carriers, not the grey doors)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know
E14	<i>(Voting Stations)</i> Once the black doors are opened, do poll workers check the seal/serial numbers on the sides of the BMDs – <u>WITHOUT OPENING SEALS</u> - and record them on the recap sheet? <i>(two seals on the left side of the touchscreen, top and bottom, and one on the upper right side)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know
E15	<i>(Voting Stations)</i> Do poll workers check that the voting machines are turned on and functioning correctly?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know
E16	<i>(Voting Stations)</i> Do poll workers check that the date/time on each machine is correct?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know
E17	<i>(Voting Stations)</i> Do poll workers check that the public counter on each machine reads zero?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don’t know

E18	<i>(Standalone Scanning Station)</i> Do poll workers check the seals on both the Ballot Box and the Emergency Ballot Box match the recap form before opening both boxes, confirming that they are empty, resealing them, and noting the new seal numbers on the recap form?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E19	<i>(Standalone Scanning Station)</i> Do poll workers check the rest of the existing seal numbers on the scanner – <u>WITHOUT OPENING THEM</u> - and record them on the recap sheet? <i>(Admin & Poll Worker memory card slots, scanner lock)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E20	<i>(Standalone Scanning Station)</i> Do poll workers check that the date/time is correct?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E21	<i>(Standalone Scanning Station)</i> Do poll workers check that the ballot counter is zeroed, and the two zero reports are printed & stored?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E22	Are poll workers comfortable with the technology & setup process?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E23	If poll workers had a problem, did they know how to contact HQ and resolve it? <i>(Please describe any issues on Notes form: missing materials, machine malfunctions, procedural confusion etc.)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E24	Did the voting location open on time at 7 AM?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
E25	IF NO: at what time did the voting location open for voting?	Time:
E26	If the voting location opened <u>late</u> , what was the cause?	<input type="radio"/> Missing materials <input type="radio"/> Absent pollworkers <input type="radio"/> Locked facility

		<input type="radio"/> Not set-up <input type="radio"/> Unrest <input type="radio"/> Other (add Notes) <input type="radio"/> N/A
E27	How many people were in line at polls open?	Count:
E28	The overall conduct of the opening of this voting location was:	<input type="radio"/> Very Good <input type="radio"/> Good <input type="radio"/> Average <input type="radio"/> Bad <input type="radio"/> Very Bad

Fulton County Election Day Checklist – CLOSING THE POLLS

PART I: Closing the Polls

(If you answer “no” to any of these, please explain on the Notes form)

11	<p>At 7 PM, do pollworkers:</p> <ul style="list-style-type: none"> - announce that polls are closed, - position a pollworker at the end of the line to ensure that no one in line after 7 pm is allowed to vote, and - allow voters already in line to vote? 	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
12	If the county notifies pollworkers that a court has ordered polls to stay open longer, do the pollworkers comply?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
13	<p>At what time did the last voter cast their ballot? <i>(e.g. “7:04 pm”)</i></p>	Time:
14	(Check-in Stations) Do pollworkers note the final check-in number for each Poll Pad on the Poll Pad Recap Sheet before turning them off and storing them?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
15	(Voting Stations) Do pollworkers record the total count of voters for each voting machine on the	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

	Touchscreen Recap Sheets before turning off the machines?	
16	(Voting Stations) Do pollworkers recheck and/or replace the necessary seals and record seal numbers on the Touchscreen Recap Sheets when sealing the black doors in front of the touchscreens?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
17	(Scanning Stations) Do pollworkers unseal the emergency ballot box on the scanner, scan any ballots found there through the scanner, and then reseal the emergency ballot box, noting the new seal number on the Scanner/Ballot box Recap Form? <i>(This must be done prior to printing the results tape)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
18	(Scanning Stations) Do pollworkers record the public count on the Scanner/Ballot Box Recap Form and the Ballot Recap Sheet before printing the results tape and turning off the scanners?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
19	(Scanning Station) Do pollworkers close polls and print 3 copies of the results tape, posting one copy on the door/window of the polling place?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
110	(Scanning Station) Do pollworkers unseal & remove the memory card(s) from the scanner(s), sealing it in the yellow memory card transport bag and resealing the memory card slot on the scanner?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
111	Do pollworkers unseal & remove ballots from the ballot box in the scanner(s), sealing them in the black ballot transport bag?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
112	Did the sealed ballot bag and all other materials to be transferred remain in sight of the pollworkers until they were loaded into a vehicle for transfer?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
113	Was the yellow memory card bag dispatched to a team of (2) runners to return to the election office?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know

I14	Are any spoiled or unaccompanied ballots documented on the Spoiled and Unaccompanied Ballot Recap Sheet and properly stored?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
I15	Are any provisional ballots documented on the Provisional Ballot Recap Sheet and properly stored?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
I16	Are Poll Pads, unused paper ballots, recap sheets and the numbered list of voters, the supplemental voters list and the backup paper voters list, spoiled/provisional/unaccompanied ballots and other materials securely sealed and stored?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
I17	Do pollworkers check to make sure that the number of check-ins from the Poll Pad(s) matches the public count on the BMDs and the public count on the scanner? <i>(Note that spoiled, emergency, & unaccompanied ballots may also need to be factored in.)</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
I18	Did the pollworkers have difficulties in completing the closing procedure and paperwork?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Don't know
I19	The overall closing process in this voting location is:	<input type="radio"/> Very Good <input type="radio"/> Good <input type="radio"/> Average <input type="radio"/> Bad <input type="radio"/> Very Bad

Appendix 3 – Nonpartisan Observer Code of Conduct

Election Observer Code of Conduct

The purpose of election observation is to help ensure the integrity of the election process, by witnessing and reporting accurately and impartially on each aspect of the process to evaluate whether it is conducted in an open and transparent manner and in conformity with applicable laws and electoral regulations. Election observation and monitoring also seeks to ensure the integrity of the election process by calling on all electoral actors (including the candidates, political parties, those supporting or opposing referendum initiatives, election officials, other governmental authorities, mass media, and voters) to respect the laws and election-related rights of all citizens and to hold accountable those who violate the law or any person's election-related rights.

While serving as a Nonpartisan Election Observer, I will:

- **Be an informed observer**
 - I will complete all required election observation training, familiarize myself with relevant election law and processes prior to the election, and adhere to the observation methods used by The Carter Center.
- **Be an objective observer**
 - I will report what I see – whether positive or negative – impartially, accurately, and in a timely manner. I will adhere to the highest standards of accuracy of information and impartiality of analysis. I will document my observations and return this documentation to The Carter Center. If I report a serious problem, I will include documentation sufficient to allow for verification.
- **Respect the election process**
 - I will respect state and federal election laws, follow the instructions of election officials, and maintain a respectful and professional attitude at all times.
- **Remain politically neutral**
 - I will not publicly express or exhibit any preference for or against any candidate, political party, initiative, or public official.
- **Protect the integrity of the election**
 - I will not interfere with election processes or procedures. If I have objections or concerns, I will elevate them using the methods from my training.
- **Follow the rules and guidance of the observer organizations**
 - I will follow this code of conduct, and any written or verbal instructions given by the Carter Center's observation effort leadership. I will report any conflict of interest that I may have and report any improper behavior that I see conducted by any other observers that are part of this effort.

- **Refrain from speaking about the observation process on social media, to the media or to the public**
 - I will refrain from making any personal comments on my observations to the media or members of the public (including through social media). I will refer all media enquiries to The Carter Center leadership team.

I understand that my violation of this Code of Conduct may result in my accreditation as observer being withdrawn and my dismissal from the observation effort.

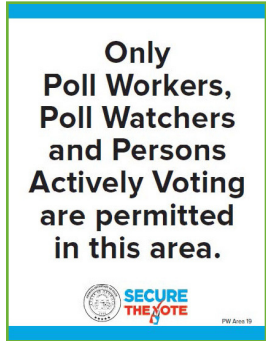
NAME (please print):

Signature:

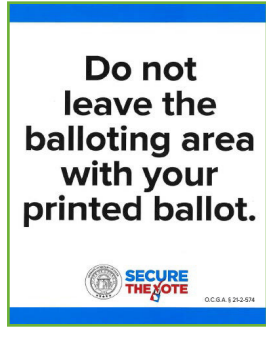
Date:

Voting Area Posters and Signs

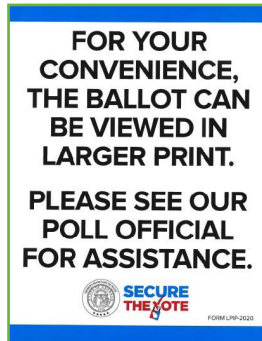
Signs to be placed **INSIDE POLLING SITE:**



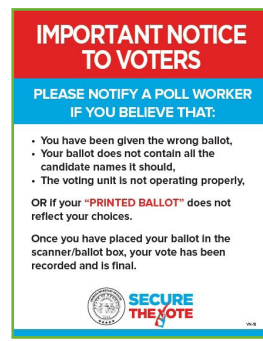
POLL WORKER AREA



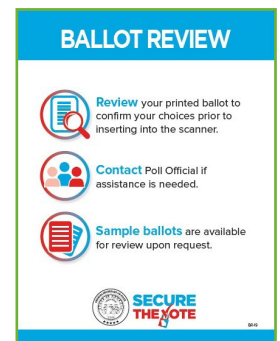
NO LEAVING WITH BALLOT



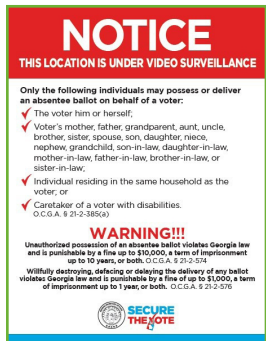
LARGE PRINT VIEWING



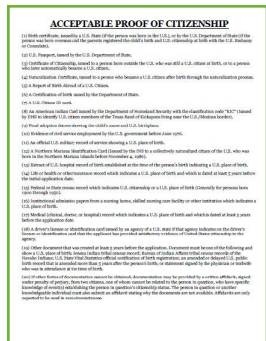
VOTER NOTICE



BALLOT REVIEW



VIDEO SURVEILLANCE



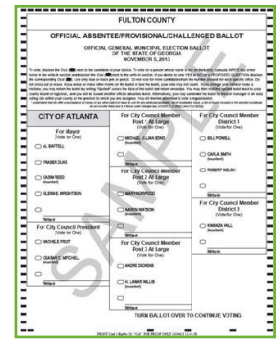
PROOF OF CITIZENSHIP



NOTICE OF PENALTIES

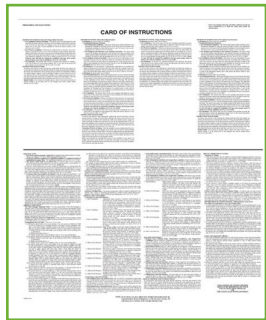


GEORGIA VOTING INFORMATION

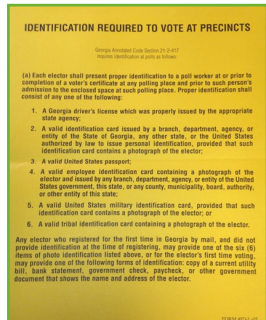


SAMPLE BALLOT - WALL POSTERS

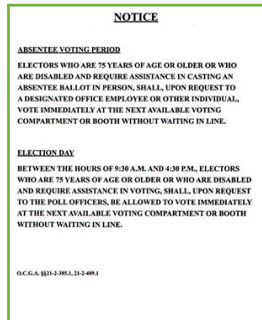
Sample Ballot flyers will also be provided for distribution to voters



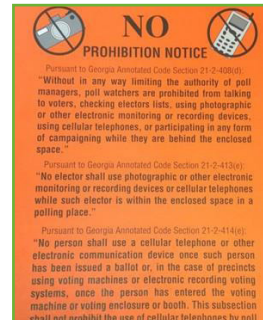
CARD OF INSTRUCTIONS



IDENTIFICATION REQUIRED



NOTICE TO VOTERS 75 OR OLDER

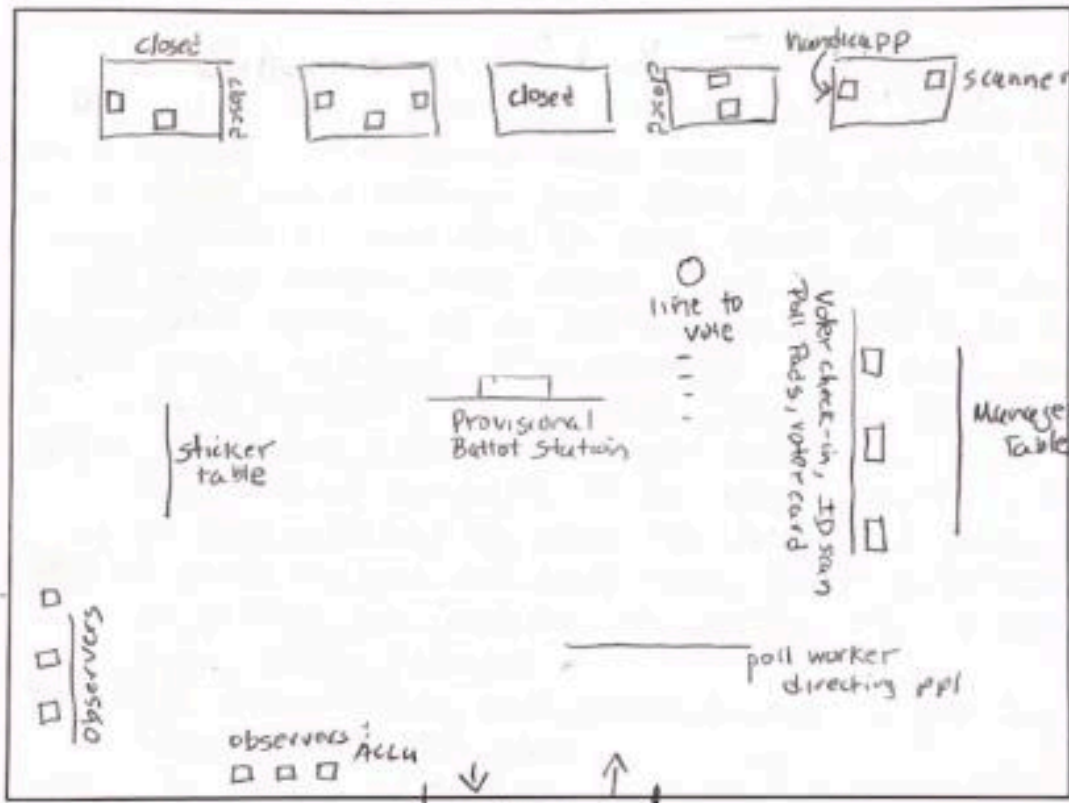


PROHIBITION OF ELECTRONICS

Appendix 5: Voting Location Diagrams

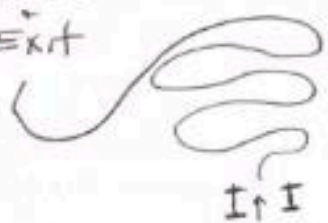
As part of their checklist, observers were asked to make a rough sketch of the layout of each voting location they observed. They are included here to show variation in layout and placement of the equipment containers. From top to bottom, the diagrams show: Sutton Middle School, Roswell High School, and Buckhead Library.

Use arrows to indicate voter flow, be sure to mark entrances/exits, and indicate which voting booths are lower/accessible. If a drop box or separate provisional ballot processing station are used, draw those.



walk to gym

Voting stations
 at opening: 7am
 9 closed -
 power outages
 7 opened



I I I
 entrance into back of school
 into gym - long walk to gym

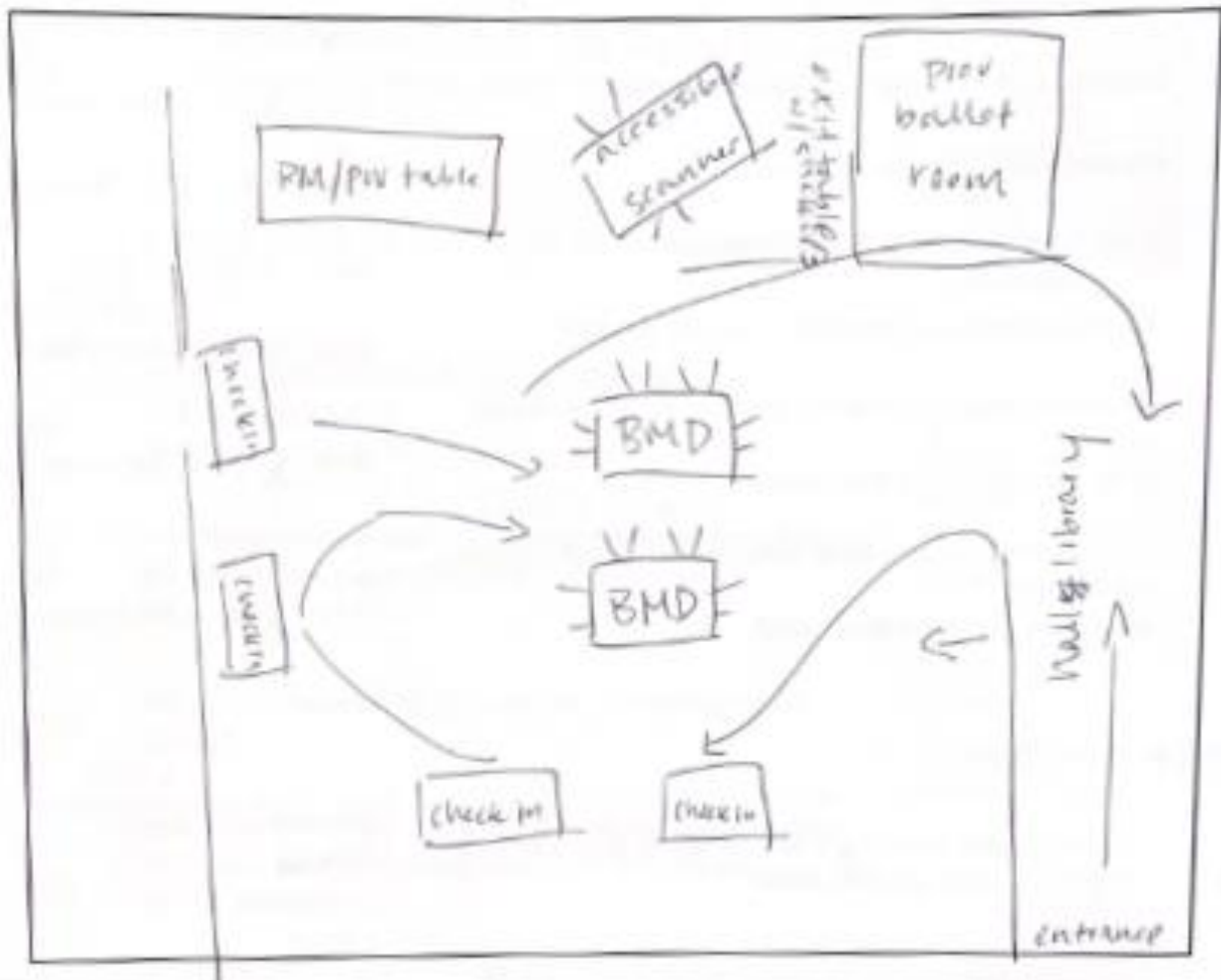
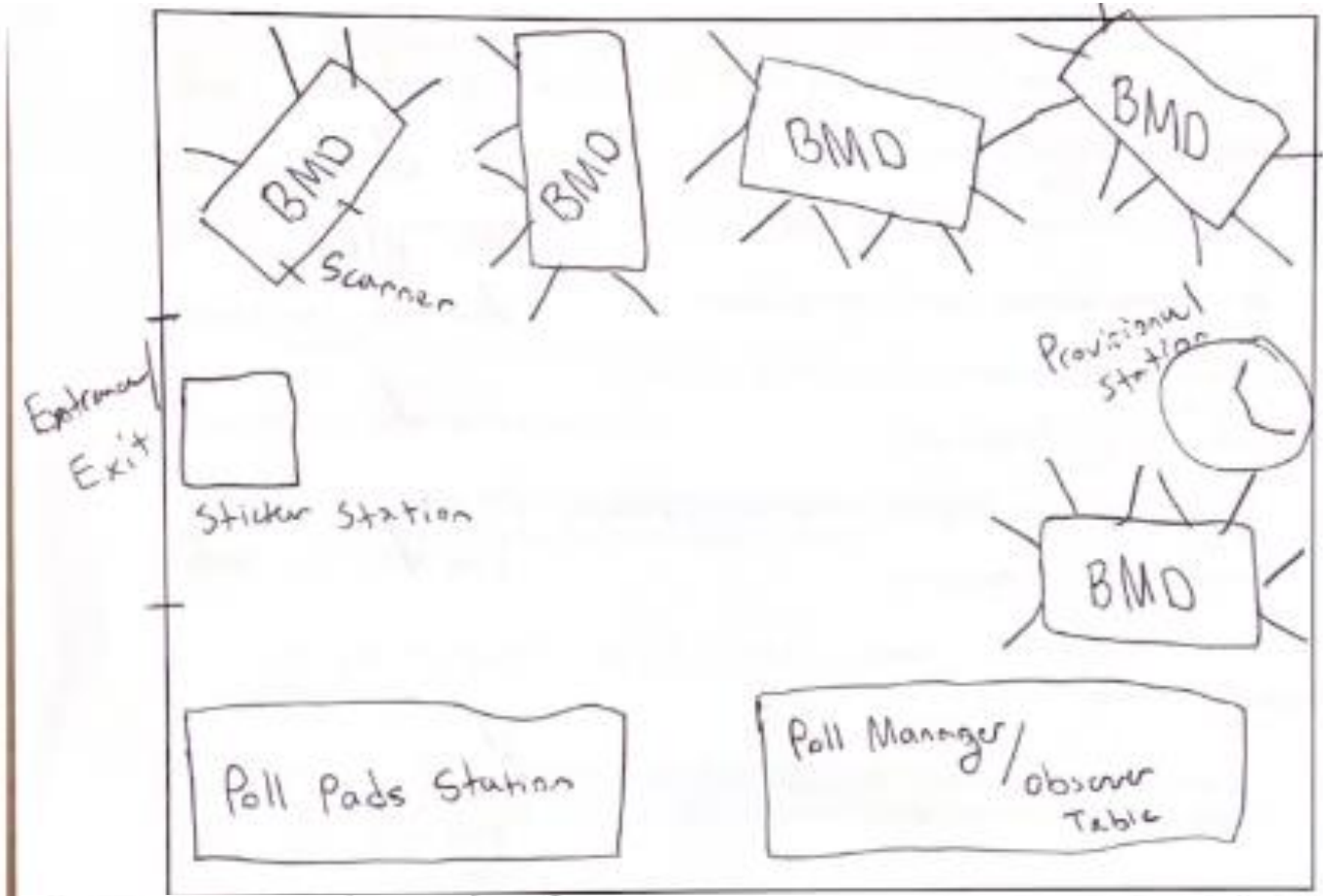


EXHIBIT O

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA GEORGIA

4 IN RE:)
5)
6 GEORGIA SENATE BILL 202) Master Case No.:
7)
8) 1:21-MI-55555-JPB
9)

10 VIDEOTAPED 30(B)(6) DEPOSITION OF
11 THE GEORGIA STATE CONFERENCE OF THE NAACP
12 GERALD GRIGGS, Representative
13 February 21, 2023
14 9:39 a.m.

15 Taylor English Duma, LLP

16 1600 Parkwood Circle, SE

17 Suite 200

18 Atlanta, Georgia

19
20
21
22
23
24
25 Reported by: Marsi Koehl, CCR-B-2424

1 A. Yes. I've seen this document before.

2 Q. And did you read it?

3 A. Yes.

4 Q. If you could look at the third paragraph,
5 which I guess is on Page 2, where it says that: The
6 person must be -- person designated shall be prepared
7 to testify as to matters within their knowledge and
8 matters known by or reasonably available to the
9 organization, which is the Georgia State Conference.

10 Are you that person?

11 A. I am that person.

12 MR. PULGRAM: And I should note, as you
13 know, Counsel, we have served objections to
14 the Notice. And so Mr. Griggs, exactly as
15 he testified, is that person subject to the
16 objections.

17 BY MR. FALK:

18 Q. That was my next question.

19 Are you designated a witness for every topic
20 apart from those that we have -- there are
21 objections -- parts of those that your counsel's
22 objected to. And I think we've agreed not to talk
23 about any financial -- the financial aspects, which
24 takes several topics and parts of topics off the
25 table.

1 Are you designated to everything else?

2 A. Subject to the objection, yes.

3 Q. Of course.

4 MR. PULGRAM: Counsel, if you'd like, we
5 can mark the objections, but you have them.

6 MR. FALK: I have the objections and I'm
7 going to ask the questions and some may
8 or may -- I mean, some I'm just not going to
9 ask.

10 I think that we've agreed there's no
11 reason to get into them. And some of them
12 you'll object to and I think we'll just --
13 we'll just work from there. But we have the
14 objections and my questions will be
15 calculated either to avoid them or to get
16 them on the record.

17 BY MR. FALK:

18 Q. Now, you understand as the -- I'm going
19 to -- if it's okay with you, I'm going to probably
20 call the organization either NAA Georgia or the State
21 Conference. Is that --

22 A. Either one is fine.

23 Q. Either one? Okay.

24 As the designee for the State Conference,
25 you're testifying about what information is known or

EXHIBIT P

Georgia Senate Bill 202, In Re

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 IN RE GEORGIA SENATE BILL 202 MASTER CASE No:
5 1 : 21 - MI - 55555 - JPB

6
7 TAKEN BY REMOTE VIDEO-CONFERENCE
8 VIDEOTAPED 30(b)(6) DEPOSITION OF
9 LEAGUE OF WOMEN VOTERS OF GEORGIA, INC.

10 SUSANNAH SCOTT

11 March 22, 2023

12 10:04 a.m.

13
14 Carolyn J. Smith, CCR, RPR, RMR, CCR-A-1361
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1 Defendants.

2 And if no one else wants to introduce
3 themselves for the record, I can just begin, um,
4 with my read-on. And then we can swear the witness,
5 if that works for everybody.

6 This will be the 30(b)(6) deposition of
7 Susannah Scott, um, representing the League of Women
8 Voters of Georgia. Before proceeding to questions,
9 I did want to put onto the record and ask counsel to
10 confirm that the League of Women Voters is not
11 claiming an injury for the diversion of financial
12 resources in this case and that, based on that
13 representation, uh, the State Defendants are
14 withdrawing any topics included in the 30(b)(6)
15 notice that seek testimony about diversion of
16 financial resources; is that correct?

17 MS. MCCORD: Yes. The League of Women
18 Voters of Georgia will not rely on diversion of
19 financial resources as a basis for (inaudible,
20 cutting out) --

21 THE COURT REPORTER: I'm sorry, I --

22 MR. JACOUTOT: Excellent.

23 THE COURT REPORTER: -- I didn't get all
24 of that. The last part was garbled.

25 THE VIDEOGRAPHER: Yes.

1 MS. MCCORD: Oh, I was just agreeing that
2 the League of Women Voters of Georgia will not rely
3 on diversion of financial resources as a basis for
4 organizational damage.

5 MR. JACOUTOT: Okay. If the court
6 reporter is prepared to swear the witness, please go
7 ahead.

8 SUSANNAH SCOTT, as 30(b)(6) Representative of
9 League of Women Voters of Georgia, Inc.
10 having been first duly sworn, was examined and
11 testified as follows:

12 EXAMINATION

13 BY MR. JACOUTOT:

14 Q Ms. Scott, have you ever had your
15 deposition taken before?

16 A I have.

17 Q Okay. So I might reread some ground that
18 you already are aware of. But just so that we're
19 clear, the purpose of this deposition is not to
20 confuse you in any way.

21 So if I ask a question that -- that you
22 don't understand or is -- is poorly worded, would
23 you agree that you can just go ahead and let me
24 know, and I'll try and rephrase it a little bit
25 better?

EXHIBIT Q

Georgia Senate Bill 202, In Re

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No. :
1:21-MI-55555-JPB

30(b)(6) VIDEO DEPOSITION OF
GALEO LATINO COMMUNITY DEVELOPMENT FUND
(Jerry Gonzalez)
February 20, 2023
9:50 a.m.
1600 Parkwood Circle, Suite 200
Atlanta, Georgia

Carolyn M. Carboni, RPR, RMR, CCR-B-878
Bryan Robinson, Videographer

1 Shelly with Elias Law Group on behalf of the NGP
2 Plaintiffs.

3 THE VIDEOGRAPHER: Thank you, Counsel.

4 The court reporter may swear in the
5 witness.

6 JERRY GONZALEZ,
7 being first duly sworn, was examined and deposed as
8 follows:

9 EXAMINATION

10 BY MR. FIELD:

11 Q All right. Good morning. Mr. Gonzalez,
12 can you please provide your name for the record.

13 A Sure. My legal name is Gerardo Eleazar
14 Gonzalez. And --

15 Q Can you spell that also for the court
16 reporter.

17 A Yeah. It is G-e-r-a-r-d-o. Middle name
18 is Eleazar, E-l-e-a-z-a-r. And last name is
19 Gonzalez, G-o-n-z-a-l-e-z.

20 Q Thank you.

21 MR. FIELD: And this is the 30(b)(6)
22 deposition of the GALEO Latino Community
23 Development Fund. And before I proceed with
24 questions, I just want to put on the record and
25 have counsel confirm what we've exchanged emails

1 about that. The GALEO Latino Community Development
2 Fund is not claiming an injury from the diversion
3 of financial resources in this case, and based on
4 that representation, the state defendants have
5 withdrawn the topics or questions related to
6 diversion of financial resources. Is that correct?

7 MS. NWACHUKWU: Yes, that's correct.

8 MR. FIELD: Thank you, Counsel.

9 BY MR. FIELD:

10 Q So Mr. Gonzalez, I want to -- my name is
11 Brian Field, and I represent the state defendants
12 in this case.

13 Before we begin with questions, I want to
14 go over a few of the ground rules. As you just
15 took an oath, so you understand your testimony
16 today is under oath, correct?

17 A Yes, I do.

18 Q Okay. And it will be important for the
19 purposes of the transcript today that you and I
20 don't talk over each other or your counsel. So if
21 I'm speaking, just allow me an opportunity to
22 finish, and I will do the same with you, give you
23 an opportunity to finish, so that the transcript
24 doesn't get confusing.

25 And it will be important also to make sure

EXHIBIT R

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4

5 IN RE GEORGIA SENATE BILL 202

6 Master Case No. :
7 1:21-MI-55555-JPB
8
9

10 30(b)(6) VIDEO DEPOSITION OF COMMON CAUSE

11 (Treaunna Dennis)

12 February 21, 2023

13 9:30 a.m.

14 1600 Parkwood Circle, Suite 200

15 Atlanta, Georgia
16

17 Carolyn M. Carboni, RPR, RMR, CCR-B-878

18 Duke Stephenson, Videographer
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1 Q My name is Brian Field, as I just
2 mentioned, and I represent the state defendants in
3 this case.

4 Today is what's called a Rule 30(b)(6)
5 deposition, and we'll go through that a little bit
6 and what that means and we'll ask some questions --
7 talk about a few questions, but I want to begin by
8 putting on the record and ask your counsel to
9 confirm something for us.

10 MR. FIELD: So that is that Plaintiff
11 Common Cause in this case is not claiming an injury
12 from the diversion of financial resources in this
13 case, and based on that representation, the state
14 defendants are withdrawing any topics included in
15 the Rule 30(b)(6) notice that seek testimony about
16 a diversion of financial resources. Is that
17 correct, counsel?

18 MS. NWACHUKWU: Yes, that's correct.

19 MR. FIELD: Thank you.

20 BY MR. FIELD:

21 Q So I represent the state defendants, and
22 as you understand, you just took an oath, correct?

23 A Yes, sir.

24 Q You understand that everything you say
25 today will be under oath, correct?

EXHIBIT S

Georgia Senate Bill 202, In Re

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In Re: GEORGIA SENATE BILL 202

Virtual Videotape Deposition of
Helen Butler
April 6, 2023
At 10:38 a.m.

Reported by LeShaunda Cass-Byrd, CSR, RPR

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Page 6

1 My name is Diane LaRoss, and we've already
2 met. And just I'm going to make a few statements for
3 the record.

4 This will be the 30(b)(6) deposition of the
5 Georgia Coalition for the People's Agenda, taken by
6 the Secretary of State and members of the state board
7 of selection for purposes of discovery and all other
8 purposes allowed under the Federal Rules of Civil
9 Procedure.

10 We will reserve all objections except those
11 going to the form of the question and responsiveness
12 of the answer until first use of the deposition if
13 that is okay with counsel.

14 MS. McCORD: I'm sorry, could you
15 repeat that last part?

16 MS. LaROSS: Sure. We're -- so we're
17 reserving all objections except as going to
18 the form of the question or the
19 responsiveness of the answer until trial or
20 first use of the deposition.

21 MS. McCORD: Okay.

22 MS. LaROSS: Okay. And I'd also like
23 to put on the record, I understand that the
24 witness is here to testify on behalf of the
25 Georgia Coalition People's Agenda. I will

Georgia Senate Bill 202, In Re

Page 7

1 also have some questions at the end, just a
2 few, in her personal capacity, though with
3 her testimony on behalf of the Georgia
4 Coalition, I understand that she is here to
5 testify as to resources of the organization
6 but not financial resources. And that
7 claim for diversion of financial resources
8 has been withdrawn by counsel and is not
9 part of this case on behalf of the
10 plaintiffs, and as a result, we are
11 withdrawing any topics in our notice that
12 pertain to financial resources.

13 Is that agreeable, counsel?

14 MS. McCORD: Yes, Georgia Coalition
15 for the People's Agenda will not rely on
16 diversion of financial resources for the
17 purpose of organizational standing.

18 BY MS. LaROSS:

19 Q. Just a few preliminary things. I know -- I
20 know you've had your deposition taken before, and you
21 may have heard this before, but I'm going to go over
22 it again just for our record today.

23 So we'll need you to speak loudly and
24 clearly. And also, if you could have your
25 responses -- make sure they are verbal so that then

EXHIBIT T

Georgia Senate Bill 202, In Re

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No. :
1:21-MI-55555-JPB

30(b)(6) VIDEO DEPOSITION OF
GEORGIA MUSLIM VOTER PROJECT
(Shafina Kabani)
February 22, 2023
9:30 a.m.

1600 Parkwood Circle, Suite 200
Atlanta, Georgia

Carolyn M. Carboni, RPR, RMR, CCR-B-878
Summer Menkee, Videographer

1 EXAMINATION

2 BY MS. LaROSS:

3 Q Ms. Kabani, my name is Diane LaRoss, and I
4 represent the state defendants in this case. I'll
5 be taking your deposition today. And so before we
6 begin the questioning, I did want to just make a
7 statement on the record about the deposition.

8 MS. LaROSS: As I understand it, the
9 Georgia Muslim Voter Project is not asserting any
10 claims for diversion of financial resources, and
11 based upon that representation, we will withdraw
12 the topics of those aspects of the deposition that
13 pertain to the diversion of financial resources.

14 And Counsel, does that sound correct? Is
15 that a correct statement?

16 MS. BENNETTE: Yes, that's correct. I
17 believe specifically topics 1 and 2. And then
18 other topics are okay with the understanding that
19 they aren't relying on financial diversion. So as
20 long as we limit those questions, we're okay with
21 going into any type of human resources.

22 MS. LaROSS: Okay, great.

23 And I would just also like to say that
24 I'll be taking your deposition today for purposes
25 of discovery and all other purposes allowable under