



Edgardo Cortés, Commissioner
Virginia Department of Elections
Washington Building, First Floor
1100 Bank Street, Richmond 23219

Co-Chairs

John M. Nonna
James P. Joseph

Secretary

Eleanor H. Smith

Treasurer

Andrew W. Kentz

General Counsel

Nicholas T. Christakos

*President and
Executive Director*

Kristen Clarke

October 18, 2016

Dear Mr. Cortés:

We are writing on behalf of Election Protection, a non-partisan coalition formed to ensure that all voters have an equal opportunity to participate in the electoral process. As you may know, the Election Protection coalition operates a state of the art hotline, 866-OUR-VOTE, to assist citizens in obtaining accurate and timely information about voting. The coalition includes more than 100 local, state and national partners. Hotline volunteers fielded over 175,000 calls in the 2012 elections. In past elections we have worked cooperatively with your office and we look forward to doing now and in the future.

We write to express our concern that the Virginia online voter registration website malfunctioned repeatedly on October 16th and was down for at much of the day on October 17th, the last day to register to vote. During that time, our hotline received dozens of calls from Virginia voters – nearly half of those calls were from voters who had issues registering to vote, many of whom visited the site to register to vote or check their registration status, and were unable to do so. We fear that otherwise eligible voters in Virginia have not been able to submit their voter registration applications in a timely manner due to the website crashing. We are particularly concerned about the impact that this had on African American and other minority communities seeking to register to vote.

The right of eligible Virginians to vote should not be victim to a technological failure that is no fault of their own. In these extraordinary circumstances, we urge the State to reopen and extend the registration deadline in Virginia by at least 72 hours and to adequately publicize the extension. Given that that we first received reports of the website crashing over the weekend, and then received more reports on October 17th, reopening and extending the registration deadline by three full days will both allow the State to get the word out about an extension and compensate for the time during which the system was down. Because there may be a delay before an extension is announced, we ask that the extension include 72 hours plus any additional time that has lapsed since 11:59pm on October 17th.



Given that voter registration concluded last night, **we request that you publicly announce that you are extending the voter registration deadline by no later than today, Tuesday, October 18th at 5:00 p.m.** If an extension is not put into effect by 5pm today, we will assume that the Department of Elections and Board of Elections have decided not to act. If an extension is put in place, we request that every effort is made to publicize this decision as soon as possible, so that Virginia residents can take full advantage of the extension.

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We believe that extending the voter registration deadline would further the public interest and help protect the rights of Virginians to participate in our democracy. The right to vote is a “precious” and “fundamental” right. *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966). Courts have recognized that policies which extend this fundamental right to “permit[] as many qualified voters to vote as possible” are in the public interest. *Obama for Am. v. Husted*, 697 F.3d 423, 436-37 (6th Cir. 2012).

Thank you for your consideration. We understand this is a tight timeframe and we appreciate all the hard work you and your staff do to help ensure the voting process runs as smoothly and equitably as possible, especially during this busy election season. Please contact Arusha Gordon at agordon@lawyerscommittee.org, Tram Nguyen at tnguyen@newvirginiamajority.org, or Julie Emery at julie@engageva.org to discuss further.

Sincerely,

Kristen Clarke
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