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Demos
AN EQUAL SAY AND AN
EQUAL CHANCE FOR ALL

By E-Mail and U.S. Mail

November 21, 2017

Debbie Postany
County Clerk
Loup County
P.O. Box 187
Taylor, NE 68879

Re: Obligations Under National Voter Registration Act to Prevent Purging of the Voter Registration Rolls

Dear Ms. Postany,

On behalf of the undersigned civil rights organizations, we write both to express concern and to offer assistance regarding a letter you received from the Public Interest Law Foundation (PILF) in September of this year, which threatened your county with legal action for purported violations of Section 8 of the National Voter Registration Act (“NVRA”) and demanded certain information about your county’s “list maintenance” activities. Although we believe that responsible list maintenance is important to ensure accurate and up-to-date voter lists, initiating a voter purge based on the unsubstantiated claims in PILF’s letter would risk disenfranchising eligible voters and may itself violate Section 8 of the NVRA, which mandates certain protections for voters as states and localities perform their list maintenance activities.

PILF’s letter to you, one of 248 delivered to local jurisdictions across the country, does not provide a sufficient basis for establishing that your current list maintenance practices are inadequate. In fact, we observe several errors and deficiencies with both the data and methodology used in the letter. A rudimentary comparison between U.S. Census Bureau data and election statistics does not prove—or even suggest—that a jurisdiction is failing to remove ineligible voters from registration lists. Nor does it prove that the voter rolls are inflated. The Census data PILF relies on to estimate the eligible voting population is neither designed for that purpose nor does it in fact measure the number of eligible voters; for example, those data often exclude students, military service members and others who are eligible to vote in a jurisdiction. In addition, the figures PILF relies on to estimate registration rates reflect only the high-water

mark rates at “book closing,” the period immediately before an election when there are typically large numbers of new registrants, and when election officials are restricted from removing people from the rolls.

In part because of the PILF letter’s gross misrepresentations and deficiencies, we are concerned that it was sent with the intention of bullying or inducing counties into undertaking action to institute unnecessary and potentially unlawful voter purge programs that could result in the removal of eligible voters from the rolls. We are also concerned that such voter purge programs may have a disproportionate effect on African Americans, Latinos, students, military voters and other minority communities.

The primary purpose behind the NVRA is to “*increase* the number of eligible citizens who register to vote.” 52 U.S.C. §§ 20501(b)(1) (emphasis added). The NVRA further seeks to “enhance[] the participation of eligible citizens as voters.” 52 U.S.C. §§ 20501(b)(2). This critical federal law sets forth a framework that allows states to conduct responsible list maintenance activities while promoting those purposes. The NVRA framework includes procedures that would reduce the chance that citizens eligible to vote will be removed from the rolls. For example, the NVRA restricts who can be removed and on what grounds, requires notice and a waiting period before certain removals, and blocks certain removals during the period before an election. *See* 52 U.S.C. § 20507. We provide more detail on these requirements in our accompanying legal memo.

Accordingly, we offer our assistance to Loup County in its efforts to maintain clean and accurate voter rolls in a lawful manner. Please contact Marcia Johnson-Blanco at mblanco@lawyerscommittee.org, or 202.662.8346, if we can be of service.

We also formally request pursuant to 52 U.S.C. § 20507(i) and Nebraska Statutes §84-712 et seq. that all records provided to PILF in connection with its September 2017 letter, and all correspondence with PILF concerning the issues raised in its September 2017 letter be provided to us. We also request all records pertaining to any changes to list maintenance activities related to PILF’s letter, including list of voters, if any, who were removed from the rolls. Please send the documents to nvra@lawyerscommittee.org. If there are any copying expenses, please let us know in advance at the email address or phone number listed above.

Localities should always be thoughtful and careful when performing list maintenance activities. Efforts that are too aggressive or undertaken without basis risk violating federal law and disenfranchising eligible voters. We stand at the ready to assist you to uphold federal law and protect the voting rights of the eligible citizens in your jurisdiction.

Sincerely,



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