February 11, 2016

Brian D. Newby
Executive Director
Election Assistance Commission
bnewby@eac.gov

Dear Director Newby:

The undersigned are a collection of good-government, disability rights, civil rights, and voting rights groups that work to protect the right of every eligible American to vote. We write now urging you to immediately withdraw your letters addressed to the chief elections officers in Kansas, Georgia, and Alabama permitting changes to the federal voter registration form and to ensure that the instructions on the form reflect governing law and policy prohibiting the requirement of documentary proof-of-citizenship with the form.

Such changes – which unlawfully permit a handful of states to require documentary proof of citizenship in addition to the sworn attestation under penalty of perjury – run afoul of present Election Assistance Commission (EAC) policy and procedure and are inconsistent with recent court cases. The EAC has previously addressed this very matter and declined to make the change on documentary proof that you recently authorized. EAC Vice-Chair Thomas Hicks, one of the Commissioners to whom you report, has deemed your recent communication a "unilateral" move amounting to a "material" change.[i] Any material change must be adopted by a quorum of the Commissioners after notice and public comment, as required by the Administrative Procedures Act, the Help America Vote Act, and the National Voter Registration Act. That has not occurred here.

While we recognize that you have caused the agency to take final action and revise the federal voter registration form, it is not too late to withdraw that action. We urge you to immediately withdraw the decision and letters sent to the states of Kansas, Georgia, and Alabama, as they were improper and contrary to agency procedures, policy, and governing law. The potential for confusion and disenfranchisement of eligible voters is also at issue, especially considering the upcoming presidential primaries. Such a change to the federal voter registration form would impact tens, if not hundreds, of thousands of voters who seek to register to vote in these three states. Its impact would be particularly significant throughout this presidential election year, which often prompts eligible voters to register in greater numbers. It is important to remember, moreover, that the National Voter Registration Act, through which this federal form was created, aims to *increase* the number of eligible voters and *enhance* their participation in our elections.

For several years, the EAC was without Commissioners and thus not fully functioning. During that time period, states went without the advice and counsel that this Commission has provided since its creation. As we approach the 2016 presidential election, a mere nine months away, states and voters alike will increasingly come to rely on the tools, counsel, and guidelines the EAC has been tasked with dispensing. A fully-functioning EAC –

operating according to regulation – remains vital to ensuring that the right to vote for all eligible Americans is not compromised and that elections run efficiently and fairly. The renewed operation of the EAC according to protocol and law safeguards the integrity of this agency's function.

We strongly urge you to withdraw your recent approval of documentary-proof-of-citizenship requirements as part of the federal voter registration form.

We thank you for your attention to this matter.

Sincerely,

Advancement Project
AFL-CIO
African American Ministers In Action
America Votes
Anti-Defamation League
American-Arab Anti-Discrimination Committee (ADC)
Asian American Legal Defense and Education Fund
Asian Americans Advancing Justice – AAJC
Asian and Pacific Islander American Vote (APIAVote)
Campaign Legal Center
Center for Popular Democracy
Citizens for Responsibility and Ethics in Washington (CREW)
Common Cause
Communications Workers of America (CWA)
Democracy 21
Dēmos
Fair Elections Legal Network (FELN)
Friends of the Earth
Georgia Common Cause
Imani Group, Inc.
The Leadership Conference on Civil and Human Rights
National Association of Social Workers (NASW)
National Council of Jewish Women (NCJW)
National LGBTQ Tasks Force
NAACP
NAACP Legal Defense Fund (LDF)
NAACP National Voter Fund
NALEO Educational Fund
National Council on Disability (NCIL)
National Disability Rights Network (NDRN)
New Georgia Project
Open Democracy Project of Louisiana @ CCMG
Public Citizen

Union for Reform Judaism
U.S. Student Association
Voices for Progress

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[i] Statement by EAC Vice-Chair Thomas Hicks, February 2, 2016, available at http://www.eac.gov/assets/1/workflow_staging/Documents/7829.PDF