

March 20, 2020

Re: ACLU urges inclusion of provisions to ensure continuity of elections in COVID-19 legislation

Dear Representative:

The American Civil Liberties Union strongly urges you to include in the upcoming economic stimulus legislation specific provisions to address the impact of the COVID-19 pandemic on the 2020 elections. As you are aware, several primary elections have already been postponed due to concerns about the health and safety of voters and election workers. Simply put, many states and counties are currently unprepared to address the seismic shift in election administration necessary to ensure the 2020 primaries and election proceed during the pandemic—without diminishing the exercise of the fundamental right to vote.



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State and local officials are facing unprecedented challenges during a rapidly changing public health emergency. These challenges exist separate and apart from the continuing cybersecurity vulnerabilities exposed by the Russian cyberattacks. State and local election officials must be wholly prepared, staffed, and resourced. To run the election, they will be required to revise longstanding election processes, minimize person-to-person contact, and ensure the integrity of the voting process. Without question, aggressive congressional action is needed for states, counties, and municipalities around the country to meet this challenge.

To ensure elections are able to proceed during the COVID-19 pandemic, legislation must minimally include:

1. A federal requirement that all states offer no-excuse mail-in absentee voting to every eligible voter.

The most important provision that Congress could enact now is a federal *requirement* for no excuse mail-in absentee voting, with additional funding and minimum specifications about vote by mail processes to help ensure safety, security, and ease of access. *To be clear, Congress has the constitutional authority to require states, rather than simply encourage with funds, to take these important steps to protect the right to vote in a federal election.* Requirements must ensure the following:

- (i) Every voter must be offered a no excuse mail-in ballot.
- (ii) Multiple methods of requesting an absentee ballot, such as online or in conjunction with voter registration services.

- (iii) Ballots postmarked by Election Day are accepted and counted.
- (iv) Ballots include a pre-paid and self-sealing return envelope.
- (v) In-person, secured drop boxes available through Election Day until polls close.
- (vi) States begin processing absentee ballots prior to Election Day.
- (vii) Absentee ballots are not discarded based on errors or technicalities without first notifying voters of defects and giving them an opportunity to cure them, ideally through methods other than visiting a government office.

2. A federal requirement that all states institute a minimum early voting period of 14 days, including at least one Saturday and one Sunday.

In person voting remains fundamental to the democratic process and is necessary for large segments of the population to be able to vote at all – such as individuals with disabilities, those with limited English proficiency, individuals with limited postal access, or those who register after mail-in ballots have been sent out. To the extent public health and safety permit, this should include increased in-person voting opportunities to minimize crowding and long wait times at polling locations.

3. \$3 billion in federal funding made available immediately to states, counties, and municipalities.

\$3 billion in federal funding would assist states and local governments in meeting the costs associated with expanding a no-excuse mail-in absentee voting option to every voter, continuity of in-person voting, and expansion of voter registration opportunities to address predictable obstacles to voter registration resulting from the pandemic. Federal funding is mission critical for counties to deal with the surge in absentee voting—including investments in technology, software, staffing, and postage— and to guarantee in-person voting options (including expanded early in-person voting) are operational, appropriately sited and/or relocated, staffed, accessible, and equipped with the appropriate health and safety equipment during the pandemic environment. Resources are also required to expand voter registration services to increase the availability of remote transactions through online registration and account for decreased in-person registration opportunities. A massive investment in public education is also necessary to ensure voters are aware of the changes in voting procedures.

Funding must also include specific line items to help guarantee access to members of the public who will face the greatest barriers to voting during a continuing pandemic environment, such as accommodations for voters residing in Indian lands, elderly voters, voters with disabilities, and language minority voters.

Funding should guarantee a minimum of 75% to counties and municipalities through cash or in kind contributions and *should not* include a state matching requirement. Unobligated funds should remain available for 5 years to ensure funds remain available through the next Presidential election cycle, while also giving states flexibility for staffing, procurement needs, and longer term planning.

4. An additional \$4 million to the U.S. Election Assistance Commission (EAC) for increased administration and additional state support.

\$4 million is required for the EAC to ensure operations can support the administration and distribution of federal funds and increased assistance to states and public education efforts of new voting procedures. Additionally, a massive effort to help with voter education about the changes and new options will be needed, and with additional funding the EAC can help with that.

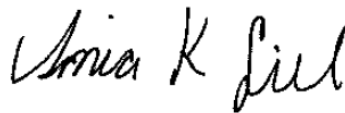
Congress must act swiftly so states and local election officials can begin preparing *now* to address the exponential surge in absentee voting, staffing demands, and necessary technological upgrades. Supplies—including software, printers, ballot paper, tabulators, voting machines, pens, and letter openers—must be ordered immediately. Supply vendors will need ample time to ramp up production to meet the expected surge in demand for their products. Training programs for a new contingent of election workers must be developed and executed. Congress must act now to ensure elections proceed and Americans can vote.

Thank you for your attention to this urgent request. If you have any questions, please do not hesitate to contact ACLU Legislative Counsel Sonia Gill at sgill@aclu.org or (917) 334-1545.

Sincerely,



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