



PROTECTING THE VOTE FOR ALL AMERICANS

September 20, 2022

Brazos County Commissioners Court
200 S. Texas Ave., Suite 310
Bryan, TX 77803

Dear Commissioners:

Fair Elections Center and Campus Vote Project write to express their concerns about the Commissioners Court's adoption of an early voting plan that removed an early voting site from Texas A&M University's Memorial Student Center (MSC). Specifically, the circumstances surrounding the Court's decision indicate a potential Twenty-Sixth Amendment violation, which the Court should ameliorate by restoring the MSC as an early voting polling place for the 2022 General Election.

Fair Elections Center is a national nonpartisan, nonprofit voting rights organization based in Washington, D.C. Its mission is to use litigation, education, and advocacy to remove barriers to registration and voting, particularly those disenfranchising underrepresented and marginalized communities, and to improve election administration. Since 2012, Fair Elections Center has operated Campus Vote Project to help students understand and exercise their freedom to vote, including in Texas. Together, the organizations published a report, *Democracy's Future*,¹ which identifies key obstacles to youth voting and opportunities to expand access.

The sequence of events surrounding the decision to remove the early voting site from the MSC raises concerns that discrimination against students may have played a motivating factor, in violation of the Twenty-Sixth Amendment. Thousands of voters have cast early ballots at the MSC in recent years. Some students reported lines and hours' long waits there during early voting for the 2020 General Election, even with extended early voting days due to the COVID-19 pandemic, reflecting the MSC's utility and popularity as an early voting location. This year, despite what Election Administrator Trudy Hancock described as "more than...expected" turnout at the MSC site during the primary and primary runoff elections, the Court approved a plan that provided no early voting polling place on the Texas A&M campus. As a result, student voters will be required to factor in additional time to travel to cast an early

¹ Available at <https://www.fairelectionscenter.org/democracys-future>.

ballot, or risk longer lines and wait times on Election Day. The Court made this decision in July, when most of the student body was absent from campus for the summer recess and unable to attend the hearing on the plan. It subsequently scheduled a hearing on this issue for September 13, 2022, refused to reschedule it to accommodate students' class and work schedules, and then cancelled the hearing when two commissioners failed to attend.

Statements made by Administrator Hancock further suggest an intent to disadvantage student voters. She told the *Battalion*, "We haven't had any problems with [the MSC] per se, but the *normal residents* of College Station find it hard to navigate campus."² She also stated, incorrectly, that the new early voting site for Precinct 3 was across the street from campus; it is across the street from the university's polo field and driving range and 1.5 miles from the MSC. A September 7th article in the *Houston Chronicle* quoted her as saying that August 24 was the last day for the Court to adopt a plan to provide early voting on campus; however, the Texas Election Code states that "[t]he [early voting] schedule may be amended after the beginning of early voting by personal appearance to include notice of additional temporary branch polling place locations, dates, and hours. . . not later than the fifth day before the date the voting is scheduled to begin at the additional temporary branch." Tex. Elec. Code § 85.067(c). Taken together, these demonstrably inaccurate statements raise questions about the actual reasons for not offering early voting at Texas A&M.

The Twenty-Sixth Amendment prohibits distinguishing student voters from other voters, to whom Administrator Hancock referred as "normal residents." Federal courts have repeatedly struck down election administration practices that treat young voters differently from other residents based on age or student status.³ Furthermore, the reasons cited for moving Precinct 3's early voting site from the MSC in fact *favor* an on-campus early voting polling place. The MSC served large numbers of voters during the 2020 General Election. Administrator Hancock stated that turnout at the MSC was "more than...expected" during the 2022 primary and primary runoff elections. That observation is consistent with increased turnout statewide in the 2022 Primary Election, during which 55 percent of Texas voters cast early ballots,⁴ and which potentially foreshadows high turnout in the General Election. An MSC early voting site will therefore likely serve a substantial number of voters.

Any confusion non-student voters may experience in locating the MSC can be mitigated through proper signage and official pre-election communications. County officials have repeatedly told students that they can vote at any early voting location, and the same remains true of non-student voters who find the MSC to be an inconvenient voting location.

Young voters in Texas face several impediments, including excuse-based mail voting and an inability to use student ID as voter ID, even when issued by a state school. The removal of Precinct 3's

² Caroline Wilburn, *MSC not selected as early voting location for November elections*, THE BATTALION (Aug. 1, 2022), https://www.thebatt.com/news/msc-not-selected-as-early-voting-location-for-november-elections/article_01f34d06-11ee-11ed-9f9d-bbd26447b643.html (emphasis added).

³ See, e.g., *Symm v. United States*, 439 U.S. 1105 (1979); *Newburger v. Peterson*, 344 F. Supp. 559 (D.N.H. 1972).

⁴ Mandi Cai & Sneha Dey, *Nearly 18% of registered Texas voters cast 2022 primary ballots*, TEXAS TRIBUNE (Feb. 14, 2022), <https://www.texastribune.org/2022/02/14/texas-primary-voting-turnout/> (last updated Mar. 24, 2022).

early vote center from the MSC only exacerbates these barriers. As such, the Court should approve an amended plan to offer early voting at Texas A&M for the 2022 General Election.

Thank you for your consideration. If you have any questions or would like additional information about Fair Elections Center, Campus Vote Project, or youth voting, please do not hesitate to contact Bianca Avery at bavery@campusvoteproject.org.

Sincerely,

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