



Hon. Brad Raffensperger
Secretary of State
214 State Capitol
Atlanta, Georgia 30334

December 10, 2020

Dear Secretary Raffensperger:

I write on behalf of Fair Elections Center and its Campus Vote Project to respectfully urge your office to clarify a statement it made regarding voter domicile requirements under Georgia law. Absent such action, our organizations remain concerned that some voters—especially student voters who qualify to vote in the state of Georgia—may be erroneously denied the right to vote.

Fair Elections Center is a national, nonpartisan voting rights and election reform 501(c)(3) non-profit organization based in Washington, DC. 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. Its Campus Vote Project works to engage students and provide them with information about registering and voting.

As an initial matter, thank you for your efforts to reject disinformation surrounding the integrity of the 2020 General Election, which unfortunately have come at a great cost to you, your family, and election officials and workers. Intimidation and baseless accusations of voter fraud have no place in our democracy.

On December 2, 2020, your office announced that it was investigating civic engagement groups that it believes have been encouraging ineligible individuals to register to vote in Georgia. According to the statement, one group allegedly sent a flier to Emory students claiming: “Your current residence can be another state. You are simply changing your state of residence now; and it can be switched back for future elections (your option).” In response, your office stated that “[t]o register to vote in Georgia, individuals must be residents of the state with no intention to leave.”

We certainly do not support any communication that encourages individuals to break the law or misinforms students as to their eligibility to vote. However, Georgia law does not require someone to have “no intention to leave” the state to be eligible to vote there. Rather, it provides

that “[t]he residence of any person shall be held to be in that place in which such person’s habitation is fixed, *without any present intention of removing therefrom.*” Ga. Code Ann. § 21-2-217(a)(1) (emphasis added). Critically, domicile in Georgia turns on a *present* intent to make the state one’s residence, *id.* § 21-2-217(a)(2), (3), and a person does not lose residency in Georgia until the person: (i) moves to another state, and (ii) takes actions that reflect an intent to establish residency in that state. *See id.* § 21-2-217(a)(9) (“The mere intention to acquire a new residence, *without the fact of removal*, shall avail nothing; neither shall the fact of removal *without the intention.*” (emphasis added)); *see also id.* § 21-2-217(a)(2), (4). And although attending school in Georgia does not on its own establish residency for the purpose of voting, *see id.* § 21-2-217(a)(8), federal courts have recognized a student’s right to register to vote in the state where the student attends school, if the student otherwise satisfies the state’s voter eligibility requirements. *See, e.g., Symm v. United States*, 439 U.S. 1105 (1979); *Whatley v. Clark*, 482 F.2d 1230 (5th Cir. 1973), *cert. den.*, 415 U.S. 934 (1974) (invalidating a Texas law that created a presumption that students were not residents).

We agree that students registered to vote in another state cannot register to vote in Georgia *solely* to participate in the Senate runoff election and then re-register to vote in their previous state of registration without any actual changes in bona fide residence; but we remain concerned that your office’s formulation of Georgia’s domicile requirements may lead local election officials to erroneously reject the registration applications of voters they believe to be planning to leave Georgia at some future date. In addition to being an incorrect standard, it is unclear how a registrar could make such a determination, thereby also risking potential abuse and equal protection violations. As such, **Fair Elections Center respectfully requests that your office issue a clarification to registrars that those applicants whose applications, signed under penalty of perjury, indicate residency in Georgia, satisfy the residency requirement unless circumstances indicate they do not have a current intent to make Georgia their state of residence, or have taken actions to establish residency in another state.**

Thank you for your attention to our concerns and this request. My contact information is below should you seek additional information or wish to speak with an organizational representative.

Sincerely,

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