



SOUTHERN COALITION for SOCIAL JUSTICE

VIA E-MAIL

June 23, 2020

Louella Maria Peacock Thompson, Chair, Bladen County Board of Elections
Deborah Belle, Member of the Bladen County Board of Elections
Patricia Sheppard, Member of the Bladen County Board of Elections
Emery M. White, Member of the Bladen County Board of Elections
Michael T. Aycock Member of the Bladen County Board of Elections

cc: Christopher L. Williams, Director of the Bladen County Board of Elections

Recommendations for 2020 Early Voting Plan

Dear Members of the Bladen County Board of Elections,

We write to you today to provide you with information that we believe will assist you in developing an early voting plan that best serves the constituents of your county. We understand from the Board’s June 9, 2020 meeting that you are currently working to develop an early voting plan that will take into account the need for social distancing and other safety measures, and we recognize that the challenge that faces you and your staff—conducting a safe and fully participatory election during a global pandemic—is one of the greatest magnitude. We want to help you confront that challenge with as many resources and as much support as possible.

Executive Summary

As discussed in more detail below, based on voting and demographic data specific to Bladen County and in anticipation of the challenges introduced by the ongoing public health crisis as well as voters’ skepticism around absentee voting in Bladen County, we recommend for the upcoming general election that the Bladen County Board of Elections (“Board”) (i) offer at least five sites in 2020, (ii) prioritize offering the Bladen County Public Library and the East Arcadia sites, or nearby locations, to ensure voting locations that will be accessible to the most voters in the county, including Black voters, and (iii) offer extended hours at the beginning and the end of the early voting period to address the influx of voters during these days, and consider adding weekend hours.

Over the coming months, our team of advocates will work with civic engagement organizations, faith groups, and community leaders to solicit feedback on early voting sites. These individuals will attend Board of Election meetings, provide public comment, and may reach out to you with questions and requests. We will also incorporate this information into future early voting plan recommendations.

The COVID-19 Pandemic and Potential Changes to State Law

All North Carolinians—voters and election administrators alike—are facing unprecedented circumstances due to the COVID-19 pandemic. The North Carolina State Board of Elections has predicted that absentee-by-

mail voting in this year's general election could hit 40%, up from only 4% in 2016. Assuming that number is accurate for planning purposes, that means that a majority of voters will still vote in-person. However, unlike in previous years, election officials and poll workers now have social distancing and disinfectant procedures to take into account when conducting early in-person voting. This means that, even if in-person voting during the early voting period will be lower than in 2016, offering more sites and days is more critical than ever to keep in-person voting safe and prevent voters who are socially distancing from turning away from the polls due to long lines and crowding. For public health reasons, counties should be seeking to have enough sites and days for in-person voting to keep the rate of voters (voters per hour per site) low so that voters can maintain distance while waiting to vote and to ensure that poll workers have time to employ proper disinfecting procedures between voters. This will not be possible if there are too many voters seeking to use an early voting site at one time.

Additionally, we urge you to at least make contingency plans for an early voting period unencumbered by current state law, which is under challenge. Democracy North Carolina ("DemNC") is a plaintiff (represented by the Southern Coalition for Social Justice ("SCSJ") among others) challenging certain aspects of the current statutory election scheme as creating an unconstitutional burden on the right to vote in light of the current public health crisis. The part of that lawsuit most relevant here is our challenge to the uniform hours requirement, created by Senate Bill 325 in 2018 and in effect in the 2018 general election and 2020 primary elections (in addition to intervening municipal elections). We are seeking to have this law (and others) enjoined for the 2020 general election to allow county boards the flexibility to offer more sites when more voters are expected to turn out to vote (and thus reduce lines and wait times and increase the efficacy of public health measures) and not waste precious county resources keeping early voting sites open at hours it is known that voters will not utilize.

We understand that the imposition of the uniform-hours requirement has made it more difficult for county boards, including yours, to craft an early voting plan that best serves the geographic and demographic needs of your county, and that maintaining sites when all sites have to be open the same days and hours can have a significant budgetary impact on your county. Indeed, the number of early voting sites in Bladen County decreased from 6 in 2014 to 4 in 2018. In the litigation described above, our goal is to avoid any reduction due to the uniform hours requirement.

That being said, even with those unnecessary restrictions, we believe that it still remains your duty to ensure that all voters in your county have easy access to one-stop early voting sites and times, regardless of the outcome of the litigation. We recognize that by having to keep every site open a certain number of hours each day during the weekdays, and having to have all sites open if any site is open on the weekend, could create some financial challenges for the county, but the cost of a fair and accessible democracy can never be too high.

We understand that for many counties, one of the consequences of the COVID-19 pandemic has been budget concerns and potential shortfalls. We understand that the approved FY 2021 budget for Bladen County includes a similar amount of funds (\$357,386) to the Board's FY 2020 budget of \$361,654.¹ Without dismissing the challenge before you as an election board, we urge you to remember that access to the franchise is both the central service offered by counties and mandated by state and federal law. If counties do not conduct an election that allows full and safe participation, accountability and oversight on other budgetary decisions will be impeded. We know that the county boards of elections do not set budgets, but your county commission is obligated to fully

¹ FY 2020 Budget: <https://bladennnc.govoffice3.com/vertical/sites/%7B3428E8B4-BA8D-4BCE-9B92-0A719CB4C4FB%7D/uploads/1920BUDN.PDF>; FY 2021 Budget: https://bladennnc.govoffice3.com/vertical/sites/%7B3428E8B4-BA8D-4BCE-9B92-0A719CB4C4FB%7D/uploads/FY_2020-21_Budget_Ordinance_pdf_06152020.pdf

fund your efforts to conduct an election compliant with all federal and state constitutional and statutory demands. See N.C.G.S. § 163-37 (requiring county commission to “appropriate reasonable and adequate funds necessary for the legal functions of the county board of elections, including reasonable and just compensation of the director of elections”); see also, NC SBOE Numbered Memorandum 2016-06; *Graham County Board of Elections v. Graham County Board of Commissioners*, 212 N.C. App. 313, 712 S.E.2d 372 (N.C. App. June 7, 2011) (holding that the grant of authority to the county commission on budget issues is limited by more specific statutory delegations of authority to the county board of elections). If the county commission provides inadequate funding, they are in violation of state law and can be forced to make the necessary appropriations. And, while the Board can go back to the county commission with further evidence of financial shortfalls in conducting elections and request further appropriations, see N.C.G.S. § 159-15, the burden of doing so while conducting an election during a pandemic is significant. To the extent the Board is predicting near-certain costs now, the County Commission should make appropriations to address those needs rather than burden the Board later.

Given the fact that epidemiologists are predicting that there will be a second outbreak of COVID-19 in the fall, steps must be taken now to avoid the shortages in polling place supplies and adequate printing costs—otherwise, the County could be responsible for the massive disenfranchisement of many potential voters. As stated above, Executive Director Karen Brinson Bell is already predicting a 10-fold increase in the number of absentee voters this year, so there is going to be a dire need for printed absentee request forms and ballots this year. Additionally, as discussed above the Board and Bladen County Commissioners have an obligation to ensure that voters will be able to adequately vote by mail and in-person and the County Commissioners must provide the necessary and adequate resources to ensure that this occurs.

We strongly urge that, notwithstanding the additional cost, the county treat the 4 sites offered during the 2016 election as the baseline number of sites that should be offered this election, and aim to provide 5 sites for the 2020 election. It is important to note that the more early voting sites there are, the less time people have to stand in line potentially exposing themselves to COVID-19. We recognize that this may require going back to the Bladen County Board of County Commissioners to readdress the budget for this election: please keep in mind that we believe the North Carolina State Board of Elections has the authority to force you to offer additional voting sites and hours if there is no unanimous plan and the plans under consideration by the county board offer too few voting opportunities in ways that may, for instance, disproportionately disadvantage voters of color. The more prudent course of action is to plan on offering a fulsome early voting plan now, and not be forced to scramble last minute to cover costs if the State Board requires you to offer more hours or sites.

However, we do recognize that budgetary concerns may still come into play. With that in mind, we think there are several priorities this Board should embrace in the development of an early voting plan for the November 2020 election.

1. Prioritizing Highly Used Sites with Near High Concentrations of Voters

It will be very important that the Board is completely funded such that it may offer voters at least the same four early voting sites that were offered in 2016. Furthermore, following the fraudulent scheme lead by McCrae-Dowless during the 2018 9th Congressional District election involving absentee by-mail request forms and ballots, we anticipate some measure of reluctance among voters in Bladen County to vote by mail, thereby making the availability of early voting sites and robust hours even more important during the upcoming election. We ask that this Board take efforts to secure as much funding as possible to continue operating as many early voting sites as

possible. Additionally, we request that the Board undertake both a data-driven and community-informed process in deciding which sites to open or to remain open if necessary. Attached, in Exhibits A and B, are charts that detail the sites utilized in the 2016 general election and the 2018 election (respectively). While of course some sites available in 2016 or other previous elections may no longer be available, either due to COVID-19 or other extenuating circumstances, the popularity of certain sites is still informative.

Based on sheer usage alone in 2016, it is clear that the Board must certainly continue to offer the Bladen County Public Library, or a nearby location, as an early voting site. But the usage numbers ought to be further informed by community perspectives.

Looking at the attached geographic dispersal of the Bladen County early voting sites in 2016 (Exhibit C) and 2018 (Exhibit D), when compared to the precincts with the highest number of voters in 2016 (Exhibit E) and 2018 (Exhibit F), and Bladen Black Voters by Precinct in 2016 (Exhibit G) and 2018 (Exhibit H), it is important to have the early voting sites located in the same general areas in which they were located in 2016. Having the early voting sites in the same general areas as 2016 will help to allow as many voters as possible to cast their ballot. We note that it will be important to continue to have an early voting site in the southern part of the county, such as the East Arcadia site, given the large percentage of Black voters in the southern part of the county. We understand that this site was mentioned as a potential site during the Board’s June 9, 2020 meeting, and we strongly encourage you to prioritize it or a nearby site. It is important that as the Board develops an early voting plan for November, it listens to the advocates whose job it is to reach those voters and make sure they can get out to vote, and incorporate their knowledge into the decision-making process.

2. Prioritizing Days that Bladen County Voters Have Shown to Prefer and that Have Black Voter Usage

Secondly, we also strongly recommend that you prioritize offering fulsome voting hours on days that are both highly utilized by voters in the county overall and that Black voters disproportionately use. This does two things: (1) ensures that the county is not wasting money and is operating early voting sites in a manner likely to reduce lines and wait times on Election Day, and (2) minimizes any burden on Black voters that might give rise to claims under the Voting Rights Act.

Below is a table of the total voters and the percentage of Black voters during each day of early voting during the 2016 election. This data shows that the most popular days were at the beginning and the end of the early voting period. Furthermore, while Black voters consistently voted during each day of early voting, the percentage of Black voters was slightly higher the last Saturday of early voting. Accordingly, we recommend you offer extended hours at the beginning and the end of the early voting period to address the influx of voters during these days, and consider adding weekend hours.

Day	Th Oct 20	F Oct 21	M Oct 24	T Oct 25	W Oct 26	Th Oct 27	F Oct 28	Sa Oct 29	M Oct 31	T Nov 1	W Nov 2	Th Nov 3	F Nov 4	Sa Nov 5
Total Voters	757	747	778	713	628	660	735	391	667	635	568	630	941	782
% Black Voters	39.2	39.0	38.3	39.1	35.4	32.3	29.8	35.5	35.1	37.0	29.9	33.7	34.0	41.8

If you have any questions as you consider early voting plans (for the first time or revising them in light of litigation), or should you be unable to agree on a unanimous plan, please do not hesitate to reach out to us. Our goal is to ensure that the one-stop early voting plan adopted by or ordered into effect for Bladen County is one that ensures that voters are able to safely access their fundamental right to vote notwithstanding the current public health crisis.

Sincerely,

Allison Riggs
Interim Executive Director & Chief Counsel, Voting Rights
Southern Coalition for Social Justice

Jeff Loperfido
Senior Counsel, Voting Rights
Southern Coalition for Social Justice

Hilary Harris Klein
Counsel, Voting Rights
Southern Coalition for Social Justice

Mitchell Brown
Counsel, Voting Rights
Southern Coalition for Social Justice

Alissa Ellis, Advocacy Director
Democracy North Carolina