



Resolving Recurring Election Administration Problems in Georgia

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PREFACE

Resolving Recurring Election Administration Problems in Georgia

-2012-

The following report identifies major recurring election problems that could interfere with the ability of eligible Georgia voters to cast a ballot during the November 2012 elections and offers suggested solutions to these problems. This report is not intended to be a critique of current election laws in Georgia. Rather, it sets forth practical steps that can largely be implemented within the existing legal framework in Georgia through coalition efforts of attorneys, community organizations and state and local elections officials.

In preparing this report, we researched media sources, spoke with members of the nonpartisan Georgia Election Protection Coalition, and reviewed entries to the Election Protection Our Vote Live database (the “Election Protection Database”) for 2004, 2006, 2008 and 2010. This database summarizes calls to the Our Vote Live hotline, which was established by the Election Protection Coalition to provide information and advice on access to voting. The Election Protection Database contains nearly 1,000 entries for 2004; more than 550 entries for 2006; more than 3,400 entries for 2008; and more than 500 entries for 2010. Not all calls related to obstacles to voting. In fact, many callers merely asked for information, such as confirmation of the caller’s registration status or polling place.

In this report, we identify what we perceived to be significant recurring obstacles to voting in Georgia. We do not identify every obstacle to voting that we found in our research. Rather, we focus on issues that appeared to be significant based on a variety of factors, including the number of voters who identified the issue, the recurring nature of the issue from one election year to the next and the potential impact on voting. Additionally, although we indicate the approximate number of calls received by the Our Vote Live hotline regarding the issues identified below, these numbers are merely estimates that are intended to give the reader a sense of the magnitude of the issue and to identify patterns from year to year.

Based on our research, we identified the following significant categories of recurring obstacles to voting in Georgia: (1) registration problems; (2) processing of absentee ballots and requests; (3) inadequate or malfunctioning voting machines; and (4) confusion of voters and poll workers regarding (a) photo ID requirements, (b) provisional ballots, and (c) access for elderly, disabled and non-English speaking voters. We discuss each of these areas in greater detail below. For each issue, we provide (A) a summary of our understanding of the relevant voting laws and regulations; (B) a description of historical and potential registration problems that we identified; and (C) a list of suggestions and recommendations.

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The Lawyers' Committee for Civil Rights Under Law, the Georgia Election Protection Leadership Committee, and Georgia Appleseed Center for Law and Justice would like to thank the volunteers on this report who worked diligently to help ensure all eligible Georgia citizens have the opportunity to cast a meaningful ballot and have that vote counted.

In this report, we identify real problems captured over several election cycles and offer practical solutions to avoid disenfranchisement in the approaching election and beyond.

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I. Registration Problems

A. Overview of Georgia Registration Laws

The deadline for registering to vote in the general primary, general election or presidential primary is the fifth Monday before the election.¹ Registration applications submitted by mail are deemed submitted on the date the application is postmarked.²

Voters may obtain registration applications from a number of sources, including:

- online at the Secretary of State’s website;
- at the county board of registrar’s office;
- at a public library;
- by writing or e-mailing the Secretary of State to request an application;
- through the Department of Driver Services (“DDS”) “Motor Voter” registration;
- at public assistance offices; or
- through the Department of Natural Resources (for residents applying for or renewing a hunting, fishing or trapping permit in person).

The “Motor Voter” registration laws provide that an eligible citizen’s application to obtain, renew or change the name or address on a driver’s license serves as an application for voter registration unless the applicant declines to register or fails to sign the registration application.³ A change of address submitted to DDS also serves as a notification of change of address for voter registration unless the registrant states that the change is not for voter registration purposes.⁴ DDS must transmit completed registration applications at the end of each business day, and the law authorizes DDS and the Secretary of State to promulgate rules and regulations to provide for the transmission of voter registration applications and signatures electronically.⁵

Private organizations have the right to conduct voter registration drives and to collect and submit completed registration applications.⁶ Drive workers do not have to undergo training, but the Secretary of State’s office provides information for voter registration drives on its webpage.⁷

¹ O.C.G.A. § 21-2-224(a).

² O.C.G.A. § 21-2-224(c).

³ O.C.G.A. § 21-2-221(a).

⁴ O.C.G.A. § 21-2-221(d).

⁵ O.C.G.A. § 21-2-221(h).

⁶ *Charles H. Wesley Education Foundation, Inc. v. Cox*, 408 F.3d 1349 (11th Cir. 2005).

⁷ www.sos.georgia.gov/elections/voter_registration/drive.htm.

1) ID Requirements

A person who registers to vote for the first time by mail in Georgia should provide a current, valid form of acceptable ID (or a legible copy of such an ID) either by mail or when voting in person for the first time.⁸ The following forms of ID are acceptable for first-time voters: a Georgia driver's license; a Georgia voter ID card; another valid ID card issued by the state of Georgia or the U.S.; a U.S. passport; a U.S., Georgia, county or local government employee ID card; a US military ID card; a tribal identification card; or a utility bill, bank statement, government check, paycheck, or other government document showing the voter's name and address.⁹ Although the Georgia Code states that new applicants must provide evidence of citizenship,¹⁰ the state is not currently enforcing this requirement.

2) Maintenance of Registration List

The county election superintendent is responsible for certifying to the Secretary of State a database of the county's registered voters for use in the upcoming election.¹¹ The Secretary of State maintains the list of registered voters.¹² A voter may be removed from the registration list in Georgia if he or she dies, is convicted of a felony, identifies himself or herself as a non-citizen during juror selection, is declared mentally incompetent, registers to vote in a different county or state, or remains on the inactive list and fails to make contact with voting authorities for two general elections after being placed on the inactive list.

The Secretary of State maintains a list of inactive voters. During the first six months of odd-numbered years, the Secretary of State must send a notice to voters who have not had contact with voting authorities within the past three years. (Contact with voting authorities includes filing an updated voter registration card, filing a change of name or address, signing a petition that is required by law to be verified by the election superintendent or the Secretary of State, signing a voter's certificate, or confirming his or her continuation at the same address.)¹³ The notice must state that if the voter does not respond, he or she will be listed as inactive.¹⁴ If the voter does not return the notice confirming his or her registration within 30 days, the Secretary of State transfers the voter to the inactive list.¹⁵ A voter who is listed as inactive may vote upon confirming that he or she resides at the same address or in the same county. Voters on the inactive list remain there through the next two November general elections. If the voter does not vote or otherwise make contact during this period, the voter is removed from the registration list.¹⁶ No voter may be removed from the registration list for inactivity within 90 days of the general primary or general election.¹⁷

⁸ O.C.G.A. § 21-2-220(c).

⁹ See O.C.G.A. § 21-2-220(c) (referencing the ID requirements in O.C.G.A. § 21-2-417(c)).

¹⁰ O.C.G.A. § 2-2-216.

¹¹ GA. COMP. R. & REGS. 183-1-12.07(5).

¹² O.C.G.A. § 21-2-211(a).

¹³ O.C.G.A. § 21-2-234(a)(1).

¹⁴ O.C.G.A. § 21-2-234(a).

¹⁵ O.C.G.A. § 21-2-234.

¹⁶ O.C.G.A. § 21-2-235(b).

¹⁷ O.C.G.A. § 21-2-234(i).

3) Effect of Moving on Registration and Voting

If a voter moves to a new address prior to the fifth Monday before the election, the voter must register to vote in his or her new county of residence or, if the voter moved within the same county, submit a change of address to the board of registrars.¹⁸ A voter who moves *after* the fifth Monday before the election may vote in his or her prior precinct if registered there.¹⁹ If a voter moves to a new county in Georgia (or if the voter moves to Georgia from another state) *before* the fifth Monday before the election and the voter does not register to vote in the new county by the fifth Monday before the election, the voter will not be eligible to vote in the election.²⁰ Following an intra-county move, even if the voter does not submit a change of address by the prescribed time, the voter may still vote in his or her prior precinct and submit a change of address form at the polling place.²¹

The Secretary of State may compare the list of electors to the change of address information maintained by the U.S. postal service.²² The registrar may send a change of address confirmation to the old and new address if it appears that a voter has moved, and if the voter fails to respond within 30 days, the voter will be moved to the inactive list.²³

B. Historical & Potential Registration Problems

1) DDS Registration

The Election Protection Database suggests that between 2004 and 2010, significant numbers of registration applications or changes of address submitted through DDS were lost, and never processed. In 2004, at least 20 to 25 individuals called the Our Vote Live hotline complaining that they registered, or in some cases re-registered, through DDS, but their name did not appear on the list of electors. This issue has also been a problem in more recent years. The Election Protection Database indicates that similar problems were identified by 16 callers in 2006, more than 50 callers in 2008, and 10 callers in 2010.

Further, based on entries to the Election Protection Database, we believe the numbers may be far greater than those reported through the hotline. For example, in 2008, one voter from Canton relayed that she was the fourth person at the polling place that day to discover that the registration application submitted through DDS had not been processed. Similarly, a voter from Fayetteville stated that someone at the county election board's office said that the voter was one of "several handfuls of people" who had experienced the same problem, and an election worker in Valdosta similarly commented that the loss of DDS registrations is a big problem that happens all the time. As evidenced by these examples, this problem affects voters statewide.

Because voters often assume that they have been or will be registered once they submit their form to DDS, they often do not discover that their registration application has not been processed until it is too late to register for the election. Given the recurring nature of the

¹⁸ O.C.G.A. § 21-2-218.

¹⁹ O.C.G.A. § 21-2-218(e).

²⁰ O.C.G.A. § 21-2-218(f).

²¹ O.C.G.A. § 21-2-218(d).

²² O.C.G.A. § 21-2-233(a).

²³ O.C.G.A. § 21-2-233(b)-(c).

problem, the statewide nature of the problem and the fact that many would-be voters do not discover the issue prior to the close of registration, we believe this issue has served as a significant barrier to voting in the past.

2) Other Registration Problems

Like voters who attempted to register through DDS, voters who tried to register by other means (usually by mail or through independent registration drives) also reported that their registration had not been processed. This seems to be a more significant issue in presidential election years than off-cycle years. Six or seven callers reported such issues in each of 2006 and 2010. In 2006, 4 voters reported problems with mail registration and 3 with registration drives. In 2010, 1 voter reported problems with mail registration and 5 with registration drives.

However, in 2008, a presidential election year, the hotline received more than 150 calls related to registration issues, most of them from individuals who believed they had registered or re-registered but whose names did not appear on the registration list. More than 30 of these calls involved efforts to register through private organizations or independent registration drives at places like supermarkets or university campuses. (In some cases, it appears that private organizations conducting registration drives may not have turned in the registration forms that they collected on time.) Many of the remaining calls came from voters who had recently submitted registration forms but who could not verify their registration, in some instances due to a backlog in processing registration forms at the county level.

3) Confusion About Moving and Voter Registration

Entries to the Election Protection Database show widespread voter confusion about the rules for re-registering when moving to a new address, particularly within the state. The Election Protection Database indicates that this is a significant and recurring problem in Georgia. In 2004, more than 50 callers asked questions concerning moves or changes of address. In 2006, 37 callers raised similar issues, and that number rose to almost 200 in 2008. In 2010, 29 calls concerned moves or changes of address.

The call entries evidence general voter confusion about when and how voters should re-register after a move, especially a move within the state of Georgia. Many voters are unaware that they need to re-register if they move to another county, so they miss the deadline for registering after moving to another county in Georgia.

4) Records Matching and Citizenship Challenges

Both news sources and callers to the Our Vote Live hotline reported inconsistencies that apparently arose when the state matched voter registration records against other state records. For example, voters who were born in the United States received letters questioning their citizenship; voters who had never been convicted of a crime received letters indicating that they had been convicted of a felony; and voters received notices claiming that their address (the

address to which the letter was mailed) no longer existed.²⁴ The Election Protection Database included approximately 10 such calls for each of 2006 and 2010 and more than 30 calls for 2008.

In 2008, many of these calls related to questions about citizenship. At least 25 voters called to say that their citizenship had been questioned by election officials. It appears that most of the callers were able to vote because they provided the requisite proof of citizenship, but this might not be true of those who did not call the hotline. These citizenship challenges are particularly troubling because many of these voters stated that they were born in the United States or had been citizens for years. This issue arose at least once during the July 2012 primary, when election officials questioned a voter's citizenship, when the voter, a native-born citizen, had previously voted in other elections without any problem.

5) Removed from Registration or Listed as Inactive

Some voters also reported being listed as inactive even though they had voted within the last two election cycles, and other voters complained that they were placed on the inactive list or purged from the rolls but never received any notification of this. In 2006, the hotline recorded 6 calls regarding inactivity or removal from the list of electors. In 2008, more than 60 callers had been removed from the list of electors or listed as inactive and 4 callers identified such issues in 2010.

Most of these voters seemed unaware that their registration would lapse for inactivity. For instance, several voters who had not voted in 10 years called to confirm their registration. Additionally, voters listed as inactive were often uncertain about what to do if they are listed as inactive. Many of these voters, and even a few poll workers, assumed that inactive voters were not allowed to vote.

C. Suggestions and Recommendations

1. We understand that state officials implemented a new system in 2011 to address the loss of registration data submitted through DDS. We understand that as part of the new system, registrars can now access DDS applications to determine whether an error has occurred. We are hopeful that the new system will alleviate this problem. To help public officials monitor the success of the new system, we encourage voters to report any instances where their registration through DDS was not processed.

2. Given recent problems with registration through DDS and through private registration drives, we recommend publicizing more heavily the website where voters can confirm their registration. Voters should be informed that there are sometimes glitches in the system, and that they can verify their registration process easily by going online.

3. We also recommend working with groups that sponsor private registration drives to educate them about the deadlines for submitting registration applications in Georgia. These

²⁴ Jim Galloway, Fulton County to voters: Never mind that mailman—your building doesn't exist, ATLANTA JOURNAL CONSTITUTION, Jun. 15, 2012, available at http://blogs.ajc.com/political-insider-jim-galloway/2012/06/15/fulton-county-to-voters-never-mind-that-mailman-%E2%80%93-your-building-doesn%E2%80%99t-exist/?cxntfid=blogs_political_insider_jim_galloway.

groups should also be educated about voter identification requirements and other questions that may arise in the context of registering through a registration drive.

4. Given the widespread confusion about the effect of moving on registration, we recommend publicizing these rules to inform the electorate. Additionally, we recommend clarifying the options and instructions on the DDS website for re-registering to vote or changing one's address for voter registration purposes.

5. Although Georgia now uses a single list of voters at the polls, instead of separate lists of active and inactive voters, there is still a potential for poll workers and voters to be confused about what it means if a voter's status is inactive. Poll workers and voters should be informed that "inactive" voters are eligible to vote.

6. Many voters who are sent a confirmation notice because they have not contacted election officials for three years probably do not receive the notice because they have changed addresses. When a confirmation notice is returned undeliverable, we encourage state officials and registrars to check the address against the U.S. postal service list and, when possible, to send a notice to any updated address that is identified.

II. Processing of Absentee Ballots and Requests

A. Overview of Georgia Absentee Ballot Laws

Any Georgia voter may vote by absentee ballot; no reason is required.²⁵ Absentee voting may be done either in person or by mail. In-person absentee voting (or "early voting") is done at the registrar's office and other locations established for this purpose. Voters may vote in advance in person during business hours beginning on the fourth Monday prior to the election and ending on the Friday prior to the election.²⁶ For early voting, there is no need to request a ballot in advance; voters vote via direct recording electronic ("DRE") machine at the polling place just as they do on Election Day.

Voters who plan to vote their absentee ballot by mail may request an absentee ballot as early as 180 days before the general election. The deadline for requesting an absentee ballot is the close of business the Friday before the election.²⁷

The absentee ballot application is available on the Secretary of State's website. Applications may be submitted by mail, by fax or in person. The board of registrars must issue official absentee ballots not more than 49 days but not less than 45 days prior to any general primary or election (other than a general municipal primary or election).²⁸ Additional ballots are issued as applications are processed. The board of registrars or absentee ballot clerk is

²⁵ O.C.G.A. § 21-2-380.

²⁶ O.C.G.A. § 21-2-385(d)(1).

²⁷ O.C.G.A. § 21-2-381.

²⁸ O.C.G.A. § 21-2-384 (a)(2).

responsible for maintaining a list of every elector to whom an absentee ballot has been sent.²⁹ No absentee ballots will be mailed the day before the election.³⁰

Absentee ballots must be returned to the county board of registrars; they may be returned by mail or in person.³¹ Absentee ballots must be received by 7:00 pm on Election Day. The board of registrars or absentee ballot clerk must notify an elector by mail if the elector's ballot was returned too late to be counted.³² Voters may check the status of their absentee ballot and application through the "My Voter Page" on the Georgia Secretary of State's website.

A voter may surrender an absentee ballot at the polls and vote in person instead.³³ If the voter has not received the absentee ballot or if the voter has returned the ballot but the registrars have not received the ballot, he or she may request in writing that the envelope containing the elector's absentee ballot be marked "Canceled" and vote in person instead.³⁴

B. Historical & Potential Absentee Ballot Issues

1) Lost Absentee Ballots or Applications

The Election Protection Database suggests that lost absentee ballots (and perhaps ballot requests) are a recurring problem in Georgia. Since 2004, numerous voters have reported that they requested an absentee ballot and did not receive it; some voters submitted multiple requests and still never received a ballot. In each of 2006 and 2010, a few voters called the hotline to report lost absentee ballots, but this number was much higher in the last two presidential election years. In 2004, more than 40 voters called to complain that they had requested an absentee ballot but did not receive an absentee ballot after submitting a proper application, and more than 90 voters lodged similar complaints in 2008.

Both the Election Protection Database and news sources indicate that many absentee ballot issues arise in the greater Atlanta area. In 2004, Clayton County had problems delivering ballots within the statutorily required time period. In 2008, Gwinnett County absentee ballots contained a mistake that prevented machines from reading the ballots.³⁵ This story made headlines, and many concerned voters called into the hotline to ask whether their ballots had been counted. Fulton County has also repeatedly had problems processing absentee ballot applications and mailing ballots in a timely fashion.

2) Inaccurately Listed as Requesting an Absentee Ballot

In 2008, 10 to 15 voters reported that, upon arriving at their polling places, they were informed that the registration list indicated that they had previously voted or had requested an absentee ballot when in fact they had never requested one. At least one caller reported a similar

²⁹ O.C.G.A. § 21-2-384(d).

³⁰ O.C.G.A. § 21-2-384.

³¹ O.C.G.A. § 21-2-385(a).

³² O.C.G.A. § 21-2-386(a)(1)(F).

³³ O.C.G.A. § 21-2-388(1).

³⁴ O.C.G.A. § 21-2-388(2).

³⁵ USA Today.com, Early Voting Glitches in 2 Counties in Ga., Tenn., http://www.usatoday.com/news/politics/election2008/2008-10-24-early-votingproblems_N.htm.

issue in 2006 and in 2010. Although this does not appear to be a widespread problem, it has a significant impact on the affected voters. In several instances, poll workers turned away voters who were listed as having requested an absentee ballot without offering them the opportunity to cancel the ballot or to vote a provisional ballot.

3) Verification of Vote or Cancellation of Absentee Ballots

In 2008, more than 120 callers asked either how to verify that their absentee or early votes had been counted or how to cancel an absentee ballot. Voters seemed generally unaware of how to determine whether their absentee ballot applications or completed ballots had been received. This issue was not reflected in the Election Protection Database for 2010, but given the large volume of calls in 2008, it may be helpful to remind voters of how to check the status of an absentee ballot and how to cancel an absentee ballot.

C. Suggestions and Recommendations

1. To develop a long-term solution to absentee ballot problems, we recommend an analysis of the current procedures for processing absentee ballots and suggest considering an automated statewide system for transmitting absentee ballots. Such a system could reduce coordination issues as well as the amount of time it takes to get an absentee ballot and to send it back, allowing more citizens to vote who did not know far in advance that they would not be able to vote in person.

2. We understand that several Atlanta area counties have implemented automated bar-coding systems for processing absentee ballots. In the absence of a statewide system, we recommend that other counties explore this option. Many past problems seem to stem from a lack of resources and an overwhelming number of absentee ballot applications. If officials can put the proper systems and procedures in place now, this could help to avoid the type of backlogs that have arisen in the past.

3. We recommend education of voters and poll workers concerning steps to take if the voter has not received his or her absentee ballot or if the voter did not request one.

III. Inadequate or Malfunctioning Voting Machines

A. Overview of Georgia Laws Regarding Voting Machines

All voting at the polls is conducted through DRE voting units supplied by the Secretary of State or purchased by the counties with authorization from the Secretary of State.³⁶ Georgia law provides specific requirements for voting machines.³⁷ Malfunctioning machines will be revoked by the Secretary of State.³⁸

The Superintendent must thoroughly test all voting machines and ensure that they are in working order prior to each election. At least 10 days prior to each election, the election superintendent must certify to the Secretary of State that all voting will occur on equipment

³⁶ GA. COMP. R. & REGS. 183-1-12-.01 (2011).

³⁷ O.C.G.A. §§ 21-2-322 and 21-2-323.

³⁸ O.C.G.A. § 21-2-324.

certified by the Secretary of State.³⁹ Every precinct must have at least one voting machine and at least one machine for every 500 voters.⁴⁰ (Inactive voters are not counted in determining the number of workers and ballots needed for Election Day.)⁴¹

Instructions for voting using the DRE units must be prominently posted in each voting booth, and at least two sample ballots must be prominently displayed at the polling place.⁴² Poll workers should offer each voter instructions on how to use the DRE units.⁴³ If a voting machine becomes inoperable and cannot be repaired or replaced, paper ballots may be used.⁴⁴

B. Historical & Potential Problems with Voting Machines

1) Electronic Ballot and Calibration Issues

Over the past several years, numerous voters have reported calibration issues with voting machines. For example, when the voters try to select one candidate, they find that the machine selects another candidate instead. In 2006, the hotline received 30 calls reporting calibration issues. A similar number of voters called in 2008 to report calibration issues or other problems with electronic ballots. About one-third of the callers in 2008 stated that the ballot did not contain a complete list of the candidates. Although some of these callers simply did not realize that certain races were unopposed, local officials verified that candidates were missing in a few of these instances.

In 2008, calibration issues spanned the state, but DeKalb County in particular was host to a number of calibration issues in 2010.

2) Machine Malfunctions

Both the media and the Election Protection Database report incidences of machines malfunctioning while voters were attempting to cast their ballots. For instance, some voters reported that the machine ejected the access card before the voter had completed voting, and the card had evidently registered a vote so that the voter was unable to reinsert the card and complete the voting process. The hotline received reports of machine malfunctions from 35 callers in 2006, more than 20 callers in 2008, and 12 callers in 2010. (These numbers do not include the many calls that reported overcrowding because of inoperable machines.) These reports spanned the state but were more concentrated in the Atlanta area, where machine failures quickly led to long lines. As noted below, in 2004, Clayton County in particular experienced problems with voting machines.

The database entries indicate that poll workers are often ill-equipped to handle machine malfunctions and are unable to reassure voters that their votes have been cast. Machine malfunctions seem to heighten an underlying concern about electronic voting. Although DRE units have been used for several years, many voters do not understand how the machines work

³⁹ O.C.G.A. § 21-2-324(d).

⁴⁰ O.C.G.A. § 21-2-323(b).

⁴¹ O.C.G.A. § 21-2-235.

⁴² O.C.G.A. § 21-2-379.7.

⁴³ GA. COMP. R. & REGS. 183-1-12-.02.

⁴⁴ O.C.G.A. § 21-2-326(b).

and are still skeptical of their accuracy. (For example, a handful of voters believed that their votes were stored on the access cards that are put into the machines and were concerned about the handling of those cards after they had been used to vote; other voters questioned whether their votes would be recorded after the machines were transported.)

3) Overcrowding

Although a few callers reported overcrowding at the polls in 2006 and 2010, this issue is more prevalent during presidential elections. In 2004, more than 100 callers complained of long lines and crowding at the polls and more than 40 callers reported similar concerns in 2008. Callers attributed the long lines to insufficient numbers of poll workers or voting machines.

The vast majority of the calls in 2004 and in 2008 originated in the greater Atlanta area. Clayton County was the epicenter for long lines and voting machine problems in the 2004 election. In 2004, a total of 88 callers complained of excessively long lines in Clayton County, which appear to be attributed primarily to problems with voting machines. In 2008, callers were spread out across the Atlanta region, but Fulton County had one of the worst records during early voting and on Election Day. Fulton County even extended early voting into the weekend to accommodate voters, and some polls stayed open late to accommodate those in line.⁴⁵

C. Suggestions and Recommendations

1. We recommend raising awareness with state and local officials, particularly in DeKalb County, regarding voter reports of calibration issues and machine malfunctions so that officials can take these issues into account when testing the voting equipment.
2. We also recommend additional training for poll workers on how the machines operate and, especially, how to handle a malfunction of the voting machines. We suggest establishing additional procedures for handling machine malfunctions and specific procedures for collecting access cards to avoid concern among voters who may not understand their function.
3. We recommend conferences with state and local officials, particularly in the metro Atlanta area, to underscore the need for adequate staffing and an adequate number of machines during early voting and on Election Day.

⁴⁵ See http://sourcewatch.org/index.php?title=Georgia_election_threats.

IV. Confusion of Voters and Poll Workers Regarding Photo ID Requirements, Provisional Ballots, and Access for Elderly, Disabled and Non-English Speaking Voters

A. Overview of Voter ID Laws

Although first-time voters may present a form of non-photo ID, other voters must present a photo ID to cast a ballot at the polls in Georgia.⁴⁶ The following forms of identification are acceptable:⁴⁷

- Georgia driver's license (may be expired);
- Photo ID card issued by U.S. or state entity;
- U.S. passport;
- Employee photo ID card issued by a state, local or federal government;
- U.S. military photo ID card; or
- Tribal photo ID card;

If a voter does not otherwise have one of the above types of identification, the voter may obtain a free Georgia photo ID card, as described below. If a voter cannot obtain a proper ID card before voting in person on Election Day, he or she may cast a provisional ballot and follow up with the proper ID within 72 hours.⁴⁸

B. Issuance of Photo ID Cards

Each county must provide at least one place in the county where it will accept applications for and issue GA voter photo ID cards. This office must be open at least eight hours a day, Monday through Friday, the week before the election for the purpose of issuing ID cards.⁴⁹ To receive an ID card, the applicant must provide the documents required by O.C.G.A. § 21-2-417.1.

Rejected applications for a photo ID and supporting documents must be immediately forwarded to the State Election Board for automatic review to determine if the applicant has provided reasonably reliable documentation of identification. If the board approves of the identification source, the voter will be issued an ID card.⁵⁰

⁴⁶ See O.C.G.A. § 21-2-417.

⁴⁷ O.C.G.A. § 21-2-417(a)(1)-(6). Note - A precinct card is not a sufficient form of identification.

⁴⁸ See Section IV.B below regarding provisional ballots.

⁴⁹ GA. COMP. R. & REGS. 183-1-20-.01.

⁵⁰ GA. COMP. R. & REGS. 183-1-20-.01.

C. Overview of Georgia Provisional Ballot Laws

If a voter's name does not appear on the official registration list, that person may vote by provisional ballot.⁵¹ Voters voting by provisional ballot must complete a registration form and a voting certificate swearing that the person previously registered to vote, is eligible to vote, has not already voted in the election and meets the criteria for registering to vote.⁵² If the person does not have proper ID, he or she must sign a statement affirming his or her identity.⁵³ A voter who casts a provisional ballot because he or she did not have proper identification at the polling place has three days from the end of the election to submit proper identification or else his or her vote will not be counted.⁵⁴

The registrars must establish a free telephone number or website through which a voter can determine whether his or her provisional ballot was counted, and the poll officers must inform the voter of this service when he or she casts a provisional ballot.⁵⁵ The board of registrars must also notify in writing persons whose provisional ballots were not counted.⁵⁶

D. Overview of Laws Governing Accessibility for Elderly, Disabled, and Non-English Speaking Voters

Voters who are disabled or who are unable to read the English language may request assistance in voting.⁵⁷ In federal elections, the voter can choose anyone to assist (except an employer or union representative) and does not need to take an oath.⁵⁸ The election superintendent must inspect every polling place within their jurisdiction to ensure that it is accessible.⁵⁹

During early voting, any voter who is 75 years or older or disabled and who needs assistance may, upon request, vote immediately at the next available voting compartment/booth without having to wait in line.⁶⁰ On Election Day, such voters may immediately move to the next voting compartment or booth between the hours of 9:30 a.m. and 4:30 p.m.⁶¹

⁵¹ GA. COMP. R. & REGS. 183-1-12-.06(4)(a).

⁵² O.C.G.A. § 21-2-417(b).

⁵³ O.C.G.A. § 21-2-418(b)-(c).

⁵⁴ See O.C.G.A. § 21-2-417(c)(1); 21-2-419(c)(1).

⁵⁵ O.C.G.A. § 21-2-418(e)-(f).

⁵⁶ O.C.G.A. § 21-2-419(d)(1).

⁵⁷ O.C.G.A. § 21-2-409.

⁵⁸ O.C.G.A. § 21-2-409(b).

⁵⁹ GA. COMP. R. & REGS. 183-1-6-.04.

⁶⁰ O.C.G.A. § 21-2-385.1.

⁶¹ O.C.G.A. § 21-2-409.1.

E. Historical & Potential Confusion Regarding Photo ID Requirements, Provisional Ballots and Access for Elderly, Disabled and Non-English Speaking Voters

1) Voter ID Requirements

The Election Protection Database suggests that many voters and poll workers are confused about the types of identification required to vote. Although there were some complaints about poll workers being misinformed about ID requirements in 2004, most of the issues concerning voter ID requirements have arisen since Georgia passed new photo ID laws in 2005. Out of fewer than 600 calls, the hotline received 39 calls about voter identification requirements in 2006. In 2008, more than 120 calls to the hotline concerned ID requirements, and 11 callers inquired about ID requirements in 2010.

Many of the callers simply inquired about ID requirements or asked whether a particular form of ID would be acceptable. Additionally, the reports show that many of these callers were unaware of the process for obtaining a state-issued photo ID. Specific questions ranged from whether they could use an expired license; whether they could use an ID issued by another state; and what to do if their name and/or address had changed since the ID was issued. We anticipate that the new laws concerning documentation for drivers' license renewal may also add to the confusion about voter ID requirements.

2) Provisional Ballots

Entries to the Election Protection Database indicate poll worker confusion about provisional ballots. In 2004, approximately 45 callers complained of the manner and circumstances under which provisional ballots were issued. Almost half of these complaints originated in DeKalb County. In 2008, more than 25 calls were received from voters regarding provisional ballots. The hotline also received a handful of calls regarding provisional ballots in each of 2006 and 2010. Most of these callers either could not obtain a provisional ballot; did not understand what a provisional ballot was; or wanted to know what steps to take to ensure election officials counted their provisional ballot.

Although the number of calls is relatively small in comparison to other issues, we believe the problem may be more significant than the numbers indicate. In 2008, one poll monitor witnessed several voters being given provisional ballots when they should have been allowed to vote by regular ballot, and another poll monitor reported that the poll workers were giving out an unusually large number of provisional ballots. In Decatur County, an individual who was not on the list of electors requested a provisional ballot, and the poll workers responded that they did not know what a provisional ballot was. Several other voters reported that poll workers initially refused to give them a provisional ballot, and a voter in College Park reported that the precinct did not have any provisional ballots in 2008. In July 2012, the voter referenced above who was told she was flagged as a non-citizen also reported that she was discouraged from voting a provisional ballot as an alternative. Because misusing or refusing to issue provisional ballots may directly lead to disenfranchisement, we believe this continues to be a significant problem.

3) Access to the Polls

A number of calls since 2006 indicate that poll workers and/or voters may be unaware of the rules for providing access to disabled, elderly or non-English speaking voters. The hotline received 7 calls in 2006, 40 calls in 2008, and 2 calls in 2010 from individuals either inquiring about special access rules or reporting that poll workers refused to comply with these rules. In a few of these instances, poll workers refused to allow family members to help elderly voters.

F. Suggestions and Recommendations

1. The issues above stem largely from a lack of education. We suggest highlighting these issues as key points to discuss when training poll workers.

2. We also recommend including these topics in media campaigns and information sent to voters so that voters are aware of their rights. Educating voters about photo ID laws is particularly important to ensure that when the voter arrives at the poll, he or she can cast a standard ballot and will not have to resort to the provisional ballot process.