

October 3, 2024

Sent via email

The Honorable Henry McMaster
State House
1100 Gervais Street
Columbia, SC 29201
governor@gov.sc.gov

The Honorable Alan Wilson
South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211
awilson@scag.gov

State Election Commission
P.O. Box 5987
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elections@elections.sc.gov

Re: Request to Extend Voter Registration Deadlines and Issue Statement Reminding Voters of Their Options if Their Photo ID Was Lost or Damaged.

Dear Hon. Henry McMaster, Hon. Alan Wilson, and Members of the State Election Commission:

We hope that you, your families, and communities are safe in the wake of Hurricane Helene's impact on South Carolina late last week. As nonprofit advocacy organizations working to serve South Carolina voters statewide, we share your concerns about the challenges that the storm continues to pose for communities across the state.

On behalf of the NAACP Legal Defense and Education Fund, Inc. ("LDF"), the ACLU of South Carolina, and the League of Women Voters of South Carolina, we write with an urgent request that you extend the upcoming voter registration deadlines to ensure that voters impacted by the storm are not denied an equal opportunity to participate in the upcoming election. We request that you also provide a public statement, reminding South Carolina voters that if their photo identification was lost during the hurricane, they can either

quickly obtain a new one at their county election office, or if it cannot be replaced before voting begins, they still may vote using a provisional ballot.

I. Hurricane Helene Continues to Affect South Carolinians.

On September 25, in preparation for Hurricane Helene, the Governor's office declared a statewide State of Emergency.¹ The tropical storm quickly developed into a category four hurricane before making landfall, eventually reaching South Carolina in one of the most devastating natural disasters to affect the state.² Thirty-five South Carolinians have perished,³ around 1,200,000 experienced power outages, and as of October 2, 2024, still over 440,000 remain without power.⁴

The state of emergency that the Governor's office declared through Executive Order 2024-24 remains in place.⁵ As of October 2, the South Carolina Emergency Management Division continues to operate at OPGON 1, the highest level of alert.⁶ While the recovery effort has been substantial at the local, state, and federal level, Hurricane Helene has impacted and continues to impact the power, fuel, communications, and transportation infrastructure across many counties in South Carolina.⁷ Unfortunately, all of this coincides with the final days of voter registration in South Carolina.

¹ Off. of Governor Henry McMaster, *Gov. Henry McMaster Declares State of Emergency for South Carolina* (Sept. 25, 2024), <https://governor.sc.gov/news/2024-09/gov-henry-mcmaster-declares-state-emergency-south-carolina>.

² *Hurricane Helene: See When it Will Reach the Upstate*, Greenville News (Sept. 26, 2024) <https://www.greenvilleonline.com/story/news/local/2024/09/26/hurricane-helene-see-when-it-will-reach-upstate-sc/75396278007/>.

³ Jonah Chester, *Helene's South Carolina Death Toll Has Surpassed 1989's Hurricane Hugo. It Could Continue to Rise*, The Post and Courier (Oct. 1, 2024) https://www.postandcourier.com/environment/hurricane-helene-south-carolina-greenville-spartanburg/article_20cbb568-7f44-11ef-86c8-a706dbd65f9f.html.

⁴ *South Carolina*, PowerOutage.us, (last visited Oct. 2, 2024). Jessica Holdman, *Multiple Deaths, Widespread Power Outages Across SC Report in Wake of Tropical Storm Helene*, S.C. Daily Gazette (Sept. 27, 2024), <https://scdailygazette.com/2024/09/27/multiple-deaths-widespread-power-outages-across-sc-reported-in-wake-of-tropical-storm-helene/>.

⁵ Off. of the Governor, Exec. Order No. 2024-24 (S.C. 2024), <https://governor.sc.gov/sites/governor/files/Documents/Executive-Orders/2024-09-25%20FILED%20Executive%20Order%20No.%202024-24%20-%20Declaring%20State%20of%20Emergency%20for%20Hurricane%20Helene.pdf>.

⁶ S. C. Emergency Mgmt. Div., *Update on Team SC Response and Recovery After Helene* (Oct. 1, 2024) <https://www.scemd.org/news/update-on-team-sc-response-and-recovery-after-helene/>.

⁷ Janice Limon, *Continuous Live Updates on Helene Recover Efforts, Help for Communities in SC, NC*, WYFF 4 News (Oct. 2, 2024) <https://www.wyff4.com/article/south-carolina-helene-live-updates-north-carolina/62484096>.

II. We Urge You to Extend the Voter Registration Deadlines by One Week.

If the current voter registration deadlines are not changed, significant numbers of prospective South Carolina voters may be prevented from registering to vote or updating their registrations. As it stands, the deadlines for South Carolina voters to register to vote is just days away.⁸ The deadline to register in person is Friday, October 4; the deadline to register online, by fax, or by email is Sunday October 6; and the deadline to register by mail is Monday, October 7.⁹ However, the storm’s impact on power, connectivity, and mobility continues. As of October 2, county election offices in several counties—including Spartanburg, the state’s fifth-most populous—remain closed.¹⁰ This directly prevents voters from meeting the upcoming registration deadline and is a clear reason for an extension.

We therefore urge you to extend the deadline for all registration methods (online, in-person, and by-mail) to Monday, October 14 or direct the South Carolina Attorney General to file suit to do the same. Moving the voter registration deadlines back by one week would provide affected voters with time to register to vote.

Further, there is recent precedent for extending the voter registration deadline due to the impact of major storms. In 2016, the registration deadline prior to the November federal election was extended in response to the damage caused by Hurricane Matthew.¹¹ Moreover, the South Carolina Attorney General successfully filed suit in 2018 to extend the voter registration deadline after Hurricane Florence.¹² Like voters impacted by Hurricane Matthew and Hurricane Florence, South Carolinians in areas impacted by Hurricane Helene are experiencing hardship, preventing them from registering to vote

⁸ S.C. Election Comm’n, *FAQs for the 2024 General Election*, SC Votes, <https://scvotes.gov/voters/voter-faq/> (last visited Oct. 3, 2024); *see also*, S.C. Code Ann. § 7-5-150 (“The registration books shall be closed thirty days before each election.”).

⁹ *Id.*

¹⁰ Abraham Kenmore, *SC’s Deadline to Register to Vote is This Weekend. No Exceptions for Helene*, South Carolina Daily Gazette (Oct. 2, 2024), <https://scdailygazette.com/2024/10/02/scs-deadline-to-register-to-vote-is-this-weekend-helene-didnt-change-that/>.

¹¹ S.C. Election Comm’n, *Voter Registration Deadlines Extended*, SC Votes (Oct. 6, 2016) <https://scvotes.gov/voter-registration-deadlines-extended/>.

¹² S.C. Off. of the Att’y Gen., *Attorney General Alan Wilson Takes Action to Protect Voting Rights in South Carolina in the Wake of Hurricane Florence* (Sept. 28, 2018), <https://www.scag.gov/about-the-office/news/attorney-general-alan-wilson-takes-action-to-protect-voting-rights-in-south-carolina-in-the-wake-of-hurricane-florence/>.

III. We Urge You to Remind South Carolina Voters of Their Ability to Vote Provisionally, if Their Photo ID Was Lost Due to Hurricane Helene.

Further, we ask that your offices issue a public statement informing South Carolinians that, if their photo identification is lost or damaged due to Hurricane Helene, they still have means to cast their ballot. First, registered voters can visit their county election office to obtain a same-day voter registration card with a photo, and with that cast a regular ballot.¹³ Second, registered voters can still vote provisionally in this upcoming election if they have their non-photo voter registration card.¹⁴ And third, registered voters can vote provisionally without a photo identification or non-photo voter registration card, if they are able to obtain a photo identification prior to certification of the election.¹⁵

South Carolina law allows voters to cast a regular ballot with a valid form of photo identification, which includes a voter registration card with a photo.¹⁶ Unlike other forms of photo identification, which may take weeks to receive, a voter registration card with a photo can be obtained by visiting the local county election office. For would-be voters who have lost or damaged their photo identification due to Hurricane Helene, this is an important option.

Further, South Carolina allows for eligible voters who cannot obtain a photo identification due to a “reasonable impediment” to cast ballots provisionally during early voting and on election day if they have their voter registration card.¹⁷ Importantly, the South Carolina Election Commission has written that a “reasonable impediment” includes “any valid reason, beyond [the voter’s] control, which created an obstacle to obtaining a Photo ID.”¹⁸ To vote in this fashion, the voter must inform the poll manager that they could not obtain a photo, present their non photo registration card, and sign an affidavit provided

¹³ S.C. Election Comm’n, *Photo ID Requirements*, SC Votes, <https://scvotes.gov/voters/photo-id-requirements/> (last visited Oct. 3, 2024).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ S.C. Code Ann. § 7-13-710 (“If an elector does not produce a valid and current photograph identification because the elector suffers from a reasonable impediment that prevents the elector from obtaining photograph identification, he may complete an affidavit under the penalty of perjury at the polling place and affirm that the elector: (i) is the same individual who personally appeared at the polling place; (ii) cast the provisional ballot on election day; and (iii) the elector suffers from a reasonable impediment that prevents him from obtaining photograph identification.”).

¹⁸ *Photo ID Requirements*, *supra* note 13 (highlighting “disability or illness,” work schedule conflicts, transportation, lack of birth certificate, “family responsibilities,” religious objections, and “any other obstacle you find reasonable” as “reasonable impediments”).

by the poll manager stating why they could not obtain a photo identification.¹⁹ For would-be voters whose photo identification has been lost or damaged due to the storm, and who cannot replace it prior to voting, this too is an important option.

Finally, South Carolina law also allows for registered voters to vote a provisional ballot without their photo identification or voter registration card, if they can bring a photo identification to their county office prior to the certification of the election.²⁰ For some voters, who are in the process of replacing their photo identification after the hurricane, this too may provide an important option.

While these options are codified in South Carolina law, many South Carolina residents, poll workers, and even those canvassing provisional ballots may not know of them. This knowledge is crucial. We therefore urge your office to issue a public statement, reminding South Carolinians of their ability to quickly obtain a photo voter registration card; to assure them that an inability to obtain a photo identification can constitute a “reasonable impediment” for provisional voting with a non-photo voter registration card; and to remind them that if they can produce a photo identification in the days after the election they can also vote provisionally. North Carolina, for example, published a resource page September 30 with information for voters and election workers affected by the hurricane.²¹

We understand that your offices balance many responsibilities in these moments of crisis. We are equally cognizant of the strains placed on South Carolinians, including on their ability to register to vote and retain a photo identification. We appreciate your office’s attention to these matters and urge you to immediately extend the state’s voter registration deadline and to remind voters, whose photo identification has been impacted by Hurricane Helene, of their ability to still participate in this upcoming election.

Thank you for your attention in addressing this matter. If you have questions or want to discuss these recommendations further, please contact Terin Patel-Wilson at (929) 810-7721 or tpatel-wilson@naacpldf.org.

¹⁹ *Photo ID Requirements*, *supra* note 13.

²⁰ *Id.*

²¹ N.C. Bd. of Elections, *Election Officials Plan for Voting Post-Helen* (Sept. 30, 2024), <https://www.ncsbe.gov/news/press-releases/2024/09/30/election-officials-plan-voting-post-helene#:~:text=As%20rescue%20and%20recovery%20efforts%20continue%20after%20Hurricane%20Helen e,%20North>

Sincerely,

/s/ Terin Patel-Wilson

Terin Patel-Wilson, Legal Fellow for Black Voters on
the Rise*

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