



REPLY TO:

Riverside County Office:
25026 Las Brisas Road
Murrieta, California 92562
Telephone: (951) 304-7583
Facsimile: (951) 600-4996

Arkansas Office:
Telephone: (479) 377-2059
Orange County Office:
Telephone: (714) 978-2060

November 7, 2024

Via U.S. Mail Only

Hang Nguyen
Registrar of Voters
7000 65th Street, Suite A
Sacramento, CA 95823

Re: *Lack of Voter Privacy due to Punched Holes in VBM Ballot Envelope*

Dear Registrar Nguyen:

Advocates for Faith & Freedom is a nonprofit legal organization based in Murrieta, California. Our organization is dedicated to safeguarding constitutional liberties, including the preservation of election integrity. We serve as pro bono legal counsel¹ for Election Integrity Project California, Inc. (“EIPCa”). EIPCa is a nonprofit 501(c)(3) public benefit corporation committed to defending, through education, research, and advocacy the civil rights of United States citizens to fully participate in the election process under Federal and state law. EIPCa provides grassroots oversight to ensure the integrity of that part of the Republic through which citizens exercise their most fundamental right - the right to choose representatives by fair and honest elections. EIPCa works to ensure that all votes are lawfully cast and accurately counted. EIPCa is neither affiliated with nor supportive of any political party or organization and its members have diverse political affiliations. EIPCa accomplishes its purpose in several different manners, including training citizens to observe and document election procedures used to manage elections and process ballots, communicating with election officials, and by requesting and auditing election data.

EIPCa has been made aware that the Sacramento County Registrar has implemented a procedure that includes sending VBM ballots with a punched-hole in the envelope provided to voters to return their mail-in ballots for the November 2024 general election. This hole allows for some votes to be viewed on the ballot, which should remain sealed within the envelope. Enacting this hole-punching procedure is a clear violation of voters’ rights. Your office has neither addressed *why* this hole-punching procedure is necessary nor provided education to voters for how to properly place their ballots in the envelope in a manner ensuring anonymity. Your action violates Article II, Section 7, of the California Constitution, which states that, “Voting shall be secret.” Further, your procedure violates the Elections Code, division 19, Chapter 3, Article 1(b)(2), which provides that, “The system shall preserve the secrecy of the ballot.”

Your hole-punching procedure must also comply with the Help America Vote Act, requiring you to provide voter education regarding voter privacy as a requirement for continued receipt of federal funds. (52 U.S.C. § 20902(a).) Specifically, this voter education program must “notif[y] each voter of the effect of casting multiple votes for an office” and “provid[e] the voter

¹ As pro bono counsel, our clients do not pay for our legal representation. We provide our legal services free of charge.

To: Registrar Hang Nguyen

November 7, 2024

Page 2

with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).” (52 U.S.C. § 21081 (a)(1)(B)(i)-(ii).) Voting systems, including mail-in ballots, must “permit the voter to verify **(in a private and independent manner)** the votes selected by the voter on the ballot before the ballot is cast and counted.” (52 U.S.C. § 21081 (a)(1)(A)(i), emphasis added.) Importantly, “**The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality.**” (52 U.S.C. § 21081(a)(1)(C), emphasis added.)

Punch card violations have arisen in past elections, and EIPCa provided notice of the issue in these elections. The fact that these violations continue to occur is evidence of negligence by elections officials in your county. As a result, our office is prepared to take legal action on behalf of EIPCa and California voters on this issue.

To ensure that voters’ rights are protected, and to avoid the time and expense associated with litigation, our office requests that you provide voter education to account for an accurate vote and to preserve voters’ confidentiality. Specifically, we leave it to your discretion to communicate with voters through email, text, phone call, or whatever manner is most reasonably calculated to reach the greatest number of affected voters in the quickest manner. Any message sent to voters should describe the purpose of the hole-punch in the envelope, warn the voter that this procedure may make their sealed vote visible, and educate the voter on how to place their ballot in the envelope in a manner that conceals their vote until the ballot is removed from the envelope.

Please contact me via email or by phone within five (5) business days of this letter to indicate your willingness to comply. If you fail to do so, we will assume your rejection of this reasonable request. My email is btyler@faith-freedom.com, and my phone number is listed in the caption above. If a response is not received by this deadline, EIPCa will have no choice but to pursue all remedies at law and in equity available to it.

Sincerely,

ADVOCATES FOR FAITH & FREEDOM



Robert H. Tyler
President & General Counsel