



February 13, 2023

Attorney General Carr
40 Capitol Square, SW
Atlanta, GA 30334

***Re: DeKalb County's Egregious Violation
of Georgia's Election Laws***

Attorney General Carr:

Honest Elections Project (“HEP”) requests that the Georgia State Election Board (the “Election Board”), acting in conjunction with the Georgia Secretary of State and Attorney General, conduct an immediate investigation into the DeKalb County Board of Registration and Elections, and any other appropriate respondent, for flagrant and egregious violation of Georgia’s ban on receiving outside funding for election administration.

Georgia’s election code commands the Election Board to “investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws” and “to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney.”¹ The Election Board is further empowered “to issue orders, after the completion of appropriate proceedings, directing compliance with” Georgia’s election code “or prohibiting the actual or threatened commission of any conduct constituting a violation.”² Similarly, “upon complaint by the State Election Board,” the Attorney General is directed to “bring an action” for “injunctive relief or for civil penalties assessed against any violator” of Georgia’s election code.³ And, the Secretary of State is commanded to “upon the request of the State Election Board, provide any and all necessary support and assistance that the State Election Board, in its sole discretion, determines is necessary to enforce” Georgia’s election code.⁴

Pursuant to these authorities, the Election Board, in concert with the Secretary of State and Attorney General, should conduct an investigation of the allegations outlined below and take all appropriate action to ensure compliance with Georgia’s election code, including ordering the repayment of any funds received in violation of Georgia law.

Background

Just months before the 2020 elections, the Center for Tech and Civic Life (“CTCL”) announced a \$250 million contribution from Priscilla Chan and Mark Zuckerberg to provide grants “to local election jurisdictions across the country” ostensibly “to help ensure that they have the

¹ Ga. Code Ann. § 21-2-31(5).

² Ga. Code Ann. § 21-2-33.1(a).

³ *Id.* at (c).

⁴ *Id.* at (h).

staffing, training, and equipment necessary” to administer elections during the COVID-19 pandemic.⁵ This massive influx of funding—which ultimately topped \$400 million—was met with heavy criticism driven by post-election analysis that revealed the money was overwhelmingly funneled to Democrat-leaning jurisdictions.⁶ Criticism that CTCL does not deny.⁷

In response, dozens of states across the country sought to ban private funding of election administration.⁸ Georgia was one of them. In 2021, the Georgia General Assembly passed, and the Governor signed into law, S.B. 202, the Election Integrity Act of 2021.⁹ Among other changes to Georgia’s election code, the law banned election offices from receiving funding from outside groups. Specifically, the Election Integrity Act dictates that:

No superintendent shall take or accept any funding, grants, or gifts from any source other than from the governing authority of the county or municipality, the State of Georgia, or the federal government.¹⁰

This ban prohibits local election administration bodies (“superintendents”)¹¹ from receiving outside funding from non-government sources. However, the law also ordered the Election Board to “study and report to the General Assembly a proposed method for accepting donations intended to facilitate the administration of elections and a method for an equitable distribution of such donations state wide.”¹² Leaving open the possibility for future legislative changes to allow for indirect funding of election administration by outside groups through an equitable process administered by the Election Board.

⁵ *CTCL Receives \$250M Contribution to Support Critical Work of Election Officials* (Sep. 1, 2020), <https://www.techandcivillife.org/open-call>.

⁶ William Doyle, *Mark Zuckerberg Spent \$419M On Nonprofits Ahead Of 2020 Election — And Got Out The Dem Vote*, NY Post (Oct. 13, 2021), <https://nypost.com/2021/10/13/mark-zuckerberg-spent-419m-on-nonprofits-ahead-of-2020-election-and-got-out-the-dem-vote>; *Zuckerberg Money Won’t Be In Next Round Of Aid For Elections*, NBC News (Apr. 12, 2022) (“Democratic-leaning counties received a disproportionate share of the money in battleground states like Florida and Pennsylvania”), <https://www.nbcnews.com/politics/2022-election/zuckerberg-money-wont-aid-elections-rcna24002>.

⁷ Mike DeBonis and Amy Gardner, *Election Experts Sound Alarms As Costs Escalate And Funding Dwindles*, Wash. Post (Feb. 16, 2022) (CTCL’s Executive Director “did not dispute outside analyses that showed CTCL’s grants went disproportionately to Democratic jurisdictions”), <https://www.washingtonpost.com/politics/2022/02/16/election-funding-midterms>.

⁸ See Nicholas Riccardi, *Zuckerberg’s Cash Fuels GOP Suspicion And New Election Rules*, Associated Press (Aug. 8, 2021), <https://apnews.com/article/elections-facebook-mark-zuckerberg-d034c4c1f5a9fa3fb02aa9898493c708>; *Summary: Prohibiting Private Funding Of Elections*, National Conference of State Legislatures (updated Jan. 24, 2023), <https://www.ncsl.org/elections-and-campaigns/prohibiting-private-funding-of-elections>.

⁹ Stephen Fowler, *What Does Georgia’s New Voting Law SB 202 Do?*, Georgia Public Broadcasting (Mar. 27, 2021), <https://www.gpb.org/news/2021/03/27/what-does-georgias-new-voting-law-sb-202-do>.

¹⁰ Ga. Code Ann. §§ 21-2-71(b). S.B. 202 similarly prohibits any board of registrars from “tak[ing] or accept[ing] any funding, grants, or gifts from any source other than from the governing authority of the county, the State of Georgia, or the federal government.” Ga. Code Ann. § 21-2-212(f).

¹¹ Ga. Code Ann. § 21-2-2(35).

¹² Ga. Code Ann. § 21-2-71(c).

DeKalb County's Blatant Violation of Georgia Law

Despite S.B. 202's clear prohibition DeKalb County officials, including members of its Board of Registration and Elections, appear to have orchestrated a scheme intended to circumvent the ban on election administration funding from outside groups.

Specifically, on February 2, 2023, DeKalb County announced in a public press release that the "U.S. Alliance for Election Excellence has selected DeKalb County Voter Registration & Elections to join the group's inaugural cohort of Centers for Election Excellence."¹³ As part of this recognition, County officials acknowledged receiving \$2 million of "funding in support of the Elections Department[.]".¹⁴

This award appears to be an open violation of Georgia's election law. Indeed, implicitly recognizing Georgia law prohibits local election offices from receiving outside funding, DeKalb County Board of Registration and Elections Chair Dele Lowman Smith boasted that the "application process was led by the county's finance department."¹⁵ However, this administrative sleight of hand cannot excuse such a clear violation of Georgia's election code. Regardless of which county department "led" the application process, the U.S. Alliance for Election Excellence acknowledges that only "local election departments are invited to be a Center for Election Excellence."¹⁶ And, County officials openly admit the funding will be used "in support of the Elections Department's ongoing efforts."¹⁷

Conclusion

As the nation's premier nonpartisan group devoted to supporting the right of every lawful voter to participate in free and honest elections, HEP is committed to preserving the integrity and legitimacy of the election process. DeKalb County's shameless violation of Georgia's duly enacted outside funding ban only serves to undermine voters' confidence in the election process and further embolden radical activists seeking to reshape America's election system for partisan gain. The Election Board, along with the Secretary of State and Attorney General, should investigate this violation and work to restore the public's confidence in Georgia's election process.

As the Election Board has recognized, "fair, legal, and orderly elections" are the touchstone to America's democratic process. Those responsible for administering elections should zealously guard these principles. That is what makes DeKalb County's brazen disregard for Georgia's

¹³ DeKalb County Voter Registration & Elections Designated a Center for Election Excellence (Feb. 2, 2023), <https://www.dekalbcountyga.gov/news/dekalb-county-voter-registration-elections-designated-center-election-excellence>.

¹⁴ *Id.*

¹⁵ Sara Amis, *DeKalb Voter Registration And Elections Receives \$2 Million Excellence Grant*, Decaturish (Jan. 30, 2023), <https://decaturish.com/2023/01/dekalb-voter-registration-and-elections-receives-2-million-excellence-grant>.

¹⁶ Frequently Asked Questions, U.S. Alliance for Election Excellence, <https://www.electionexcellence.org/faq>.

¹⁷ DeKalb County Voter Registration & Elections Designated a Center for Election Excellence (Feb. 2, 2023), <https://www.dekalbcountyga.gov/news/dekalb-county-voter-registration-elections-designated-center-election-excellence>.



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election laws so troubling. The Election Board has a duty to investigate and correct these actions and demonstrate its commitment to preserving “the highest standards of integrity” in “all matters related to the election process.”

Respectfully,

A handwritten signature in black ink, appearing to read "Jason Shead", is written over the printed name.

Jason Shead
Executive Director
Honest Elections Project

cc: Mr. William S. Duffey, Jr., State Election Board Chair
Mr. Matthew Mashburn, State Election Board Member
Mrs. Sara Tindall Ghazal, State Election Board Member
Mr. Edward Lindsey, State Election Board Member
Dr. Janice W. Johnston, State Election Board Member
The Honorable Brad Raffensperger, Secretary of State