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Dear Members of the State Election Board,

The ACLU of Georgia's Voter Access Project works to ensure voting is easy and accessible for all Georgians. We are writing to urge you to reject the petition to amend rule 183-1-12-.02 addressing the definition of certifying election results and the petition to amend rule 183-1-14-.02 addressing advance voting.

The proposed amendment to Rule 183-1-12-.02 is unreasonable and has the potential for great harm to our democratic process. The newly proposed definition is far too vague and overbroad. The definition proposed in this petition includes "after reasonable inquiry," without a definition of that phrase. It is unclear and open-ended what type of inquiry could be done and what time frame, if any, that inquiry has to happen within. As the code stands, Board members play an active role in our certification process by certifying that the results presented to them by the Election Supervisor represent a complete and accurate count of the ballots. The statute states that they "shall" certify the results, which the Supreme Court of Georgia has stated is a "mandatory" duty, rather than a discretionary one. *Hall County Bd. of Tax Assessors v. Westrec Properties, Inc.*, 303 Ga. 69, 75 (2018). The Georgia Court of Appeals relatedly found that the predecessor certification statute with similar language was ministerial. *Bacon v. Black*, 162 Ga. 222 (1926). And the Georgia Supreme Court found that that statute included no discretion for canvassers. *Thompson v. Talmadge*, 201 Ga. 867, 876 (1947). There needs to be a legitimate, numerical reason for a board not to certify an election. Any suspicion of fraud should be referred to the county's district attorney. O.C.G.A. § 21-2-493(i).

When an election is not certified based on speculation, this sows fear and distrust in our democratic process. This in turn also creates more harassment towards our election officials. Furthermore, allowing county board members this level of discretion beyond the limits of their statutory authority could lead to concerning inconsistencies in how election results are certified across different jurisdictions. What one board considers "reasonable inquiry" might differ from another, potentially impacting the uniformity and reliability of elections being certified across Georgia.

As the State Election Board, you have the critical role of overseeing the county level boards, ensuring their duties remain consistent with state statutes. Having an unclear definition of the certification process that does not require them to fulfill actions by a certain date runs the risk of allowing county board members to use their position to make their own politically motivated decisions.

The Petition to Adopt new Rule 183-1-14-.02 on the increased requirements for DropBoxes and absentee ballots creates requirements above and beyond what is required by statute to vote using these programs. The rule would create in effect a third check of ID when a voter chooses to submit their absentee ballot by drop box. This rule change could easily disenfranchise absentee voters because of administrative error and create unnecessary burdens on voters who need to cure their ballots by proving their identity for the third time in order to vote.

Pursuant to O.C.G.A. § 50-13-4(a)(2), I request that the Board include this comment in the rulemaking record and, if the Board ultimately adopts the Proposed Rule, we request that it issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption as required by statute.

We ask that you continue to put the rights of Georgia voters first.

Sincerely,

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