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Dr. Bert Cobb
Hays County Judge
111 E. San Antonio St., Ste. 300
San Marcos, Texas 78666

Via email: bert.cobb@co.hays.tx.us

Ms. Jennifer Anderson
Hays County Elections Administrator
712 South Stagecoach Trail, Suite 1012
San Marcos, TX 78666-5999

Via email: elections@co.hays.tx.us

Dear Dr. Cobb and Ms. Anderson,

I am writing you on behalf of our clients—two Texas State University students, as well as two Texas non-partisan, non-profit organizations, MOVE Texas Action Fund and the League of Women Voters-Hays Co.—to formally demand that the Early Voting Location at the Texas State Campus be reopened and that a polling place on that campus be added for Election Day. ***The County's failure to take these actions is an ongoing violation of the Texas Election Code and the United States Constitution.*** If you do not communicate an intention and plan to comply with this demand by 12:00 p.m. on Friday, October 26, 2018, we will file a lawsuit seeking injunctive relief.

Hays County's failure to extend the temporary early voting location on the Texas State Campus violates the Equal Protection Clause of the United States Constitution and Texas Election Code § 85.062(f). Eligible students' right to vote is protected under the First, Fourteenth, and Twenty-Sixth Amendments of the United States Constitution. The burdens imposed by closing the on-campus early voting location fall particularly and disproportionately on the County's young voters, who are significantly more likely to live on or near campus and are less likely to have easy, immediate access to reliable transportation to vote off-campus. This closure represents an unconstitutional burden on these students and heightened legal scrutiny is warranted because this closure specifically targets a class of voters protected by the Twenty-Sixth Amendment. *See League of Women Voters of Fla., Inc., v. Detzner*, 314 F. Supp. 3d 1205 (N.D. Fla. 2018).

In addition to the burdens presented, there is little rationale that would justify not extending the temporary on-campus location. Texas State officials have indicated their willingness and desire to continue having an on-campus voting location. Demand for voting was strong on campus, with long lines reported through the close of the last day for the temporary site. As your office is aware, the on-campus early voting location was among the busiest locations in the entire county. On the location's final day of service, it was the busiest site with 1151 individual voters. This stands in sharp contrast to the 200 voters at the temporary polling site at Eikon Church, a site that will be re-opened for voting next Saturday. Further, San Marcos, whose population is 63,071, is served by only one

off-campus early voting location for the remainder of early voting, whereas Kyle, with a population of 43,480, is varying served by two or three early voting locations.

Additionally, the closure of the on-campus location results in an ongoing violation of TEC § 85.062(f), which requires that:

In a countywide election, the total number of permanent branch polling places and temporary branch polling places open for voting at the same time in a commissioners precinct may not exceed twice the number of permanent branch and temporary branch polling places open at that time in another commissioners precinct.

With the closure of the on-campus location, there are three polling places open in commissioners precinct 2; there is only one open in precinct 4. The County must act immediately to come into compliance with this statute. Although TEC § 85.067(c) normally requires a five-day notice period prior to amending temporary early voting location schedules, the serious constitutional and statutory violations presented by the closure of the on-campus location supersede these notice provisions.

Additionally, Hays County's failure to provide Election Day polling locations within the predominantly on-campus precincts 334 and 413 violates state election law. Texas Election Code § 43.001 requires that "[e]ach election precinct established for an election shall be served by a single polling place located within the boundary of the precinct." This provision is strictly interpreted. *See Honts v. Shaw*, 975 S.W.2d 816, 821 (Tex. App. 1998). There are only three possible exceptions to this requirement:

1. If a county utilizes a countywide polling place program pursuant to TEC § 43.007. Hays County does not utilize such a program.
2. If a precinct has been consolidated with one or more other precincts pursuant to TEC §§ 42.008, 42.009. These provisions apply only to special elections and primaries and therefore provide no exception in this instance.
3. If precincts have been combined by order of the county commissioners court under TEC § 42.0051. Only precincts with a population of registered voters less than 500 (for counties less than 250,000) may be combined.

Precinct 334 has a population of 1,608 active registered voters (not counting the additional 1,840 suspense list voters who are still registered and able to cast regular ballots), and Precinct 330 has a population of 1,290 active registered voters. These two precincts are therefore ineligible to be combined. Precinct 413 has a population of 545 active registered voters (with an additional 510 suspense list voters), and Precinct 414 has a population of 1,050 active registered voters. Therefore these two precincts are also ineligible to be combined.

Further, TEC § 42.005 states, "A county election precinct, including a consolidated precinct, may not contain territory from more than one of each of the following types of territorial units: (1) a commissioners precinct; (2) a justice precinct; (3) a congressional district; (4) a state representative

district; (5) a state senatorial district; or (6) a State Board of Education district.” Congressional district 21 covers precinct 330 and Congressional district 35 covers precinct 334. Because none of the exceptions to TEC §§ 43.001 and 42.005 apply, Hays County’s failure to provide election day polling locations for Precincts 334 and 413 clearly violates state law.

Our clients demand that the Early Voting Location at the Texas State Campus be reopened and that a polling place on that campus be added for Election Day. As noted above, if you do not communicate an intention and plan to comply with this demand by 12:00 p.m. on Friday, October 26, 2018, we will file a lawsuit seeking injunctive relief.

Sincerely,



Beth Stevens
Voting Rights Legal Director
Texas Civil Rights Project