

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN RE: HAVA COMPLAINT OF
CAROL SNOW

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ORDER

Carol Snow (Petitioner) filed a Help America Vote Act (HAVA) Complaint with the State Board of Elections on October 6, 2023, pursuant to procedures set forth in 52 U.S.C. § 21112, N.C.G.S. § 163-91, and the State Board’s adopted [HAVA Administrative Complaint Procedure](#).

Petitioner alleged a violation of Section 303(a)(5)(a) of HAVA, contending that North Carolina’s voter registration form—on the face of the form and in its instructions—does not clearly state that a voter registration applicant is required to provide their driver’s license number or last four digits of their Social Security number if they have been issued such a number, for their registration to be processed. She also asserts that a State Board informational video on YouTube regarding the registration form fails to explain that one of these identification numbers must be provided by the applicant.

Petitioner requests that the voter registration form be revised “to use red colored text and red tinted background for all required personal identifying information, including the Driver License number if issued, or if no Driver License, the last 4 digits of their Social Security Number if issued,” and for a voter without one of those numbers to be required to verify that they lack those numbers on the form. She also requests that the associated YouTube video be revised accordingly. She also requests that no current voter registration applications in

circulation be accepted; only forms as revised per her request. Finally, she requests that any registered voters for whom there is no driver's license or last four digits of their Social Security number listed on their voter registration record be asked to provide this information, if possessed.

The relevant provision of HAVA states as follows:

52 U.S.C. § 21083. Computerized statewide voter registration list requirements and requirements for voters who register by mail

(a) Computerized statewide voter registration list requirements

...

(5) Verification of voter registration information

(A) Requiring provision of certain information by applicants

(i) In general

Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—

(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.

(ii) Special rule for applicants without driver's license or social security number

If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.

(iii) Determination of validity of numbers provided

The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.

...

A separate provision of the same section of HAVA addresses how an applicant for registration is to have their identity verified, before they are allowed to vote a regular ballot, if they do not provide a driver's license number or last four digits of a Social Security number than can be verified. That provision states as follows:

52 U.S.C. § 21083. Computerized statewide voter registration list requirements and requirements for voters who register by mail

...

(b) Requirements for voters who register by mail

(1) In general

Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) [now 52 U.S.C. 20505(c)] and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

(A) the individual registered to vote in a jurisdiction by mail; and

(B)(i) the individual has not previously voted in an election for Federal office in the State; or

(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a).

(2) Requirements

(A) In general

An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

(B) Fail-safe voting

(i) In person

An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 21082(a) of this title.

(ii) By mail

An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 21082(a) of this title.

. . . .

The State Board met on November 28, 2023, and concluded that a violation of Section 303 of HAVA could occur as a result of the current North Carolina voter registration application form failing to require an applicant to provide an identification number or indicate that they do not possess such a number, and that the appropriate remedy is to implement changes recommended by staff to the voter registration application form and any related materials.

The State Board did not approve the request that county boards refuse to accept any voter registration forms currently in circulation, since HAVA can be complied with by instructing the county boards of elections to require an applicant to complete the required information before processing the voter registration application in its existing form.

The State Board did not approve the requested remedy to contact all existing registered voters whose electronic records do not show a driver's license number or last four digits of a Social Security number, since that remedy, when applied to an existing registered voter (as opposed to registration applicants), is not specifically authorized in HAVA. Importantly, the law's purpose of identifying the registrant upon initial registration is already accomplished because any voter who did not provide a driver's license number or the last four digits of a Social Security number would have had to provide additional documentation to prove their identity

before being allowed to vote, by operation of the separate provision of HAVA identified above.

In other words, no one who lacked this information when registering since the enactment of HAVA would have been allowed to vote without proving their identity consistent with HAVA.

It is so ordered.

This 6th day of December, 2023.



Alan Hirsch, Chair
STATE BOARD OF ELECTIONS