June 9, 2020

Governor Ned Lamont
State Capitol
210 Capitol Avenue
Hartford, CT 06106

Re: November 2020 General Election COVID-19 Election Response

Dear Governor Lamont,

You and other Connecticut government officials have already made positive steps to ensure that voters are able to access the ballot box, including providing all Connecticut voters eligibility for an absentee ballot for the August Primary Election. Given that the COVID-19 pandemic is projected to continue until 2021, implementing measures to carefully administer absentee ballots for not only the August primary, but for all elections that take place during 2020, is necessary. The UCLA Voting Rights Project requests that you utilize your emergency executive power and work with the Connecticut Legislature to remove the barriers voters face to vote in Connecticut due to the COVID-19 pandemic for the November General Election.

Under Sec. 28-9(b)(1) of Connecticut law, the Governor may modify or suspend “any statute, regulation or requirement” that “is in conflict with . . . the protection of public health.” You have already used this provision to move the Presidential Primary from April 28th to August 11th. As justification for modifying Connecticut’s General Statutes, you stated that this order was for the purpose of “protect[ing] the health and safety of voters, poll workers, and the most vulnerable members” of Connecticut’s population. To the extent that you are able to exercise your Executive power under Conn. Gen. Stat. § 28-9(b)(1), that the state legislature may meet in this time of crisis, and that Secretary of State Denise Merrill may issue interpretations of Connecticut’s election code, we call on the state of Connecticut to:

1. Explicitly permit all Connecticut voters to become eligible to cast an absentee ballot for all public health reasons arising from or related to the COVID-19 pandemic;
2. Provide paid postage for all mail ballots;
3. Canvass all absentee ballots postmarked on or before Election Day;
4. Create a robust curing process for absentee ballots;
5. Continue to provide all voters with postage paid absentee ballot applications as well as the ability to apply electronically or by phone;

2 Executive Order, No. 7BB, April 12, 2020.
6. Raise standards for ballot processing and election administration; and
7. Provide two weeks of early in-person voting.

The seven recommendations above address the major issues in Connecticut’s election laws that can—and likely will—disenfranchise voters using mail ballots. First, the State must extend the allowance of COVID-19 to be a valid excuse for a mail ballot under “illness.” We also believe that clarifying Connecticut’s election law language further and codifying the illness definition to include any physical condition or lack of immunity to viruses, will ensure that voters are able to fairly and equitably access mail ballots. The State must also continue to provide both paid postage for absentee ballot applications and all absentee ballots.

Currently, only complete absentee ballots received before the close of polls on the day of the election will be counted. Voters accustomed to voting on Election Day may believe that the same rules apply to their absentee ballot, leading them to fail to mail their ballot in time. Many first-time absentee voters are bound to make mistakes such as not shipping their ballots until Election Day, therefore voiding their votes for an irrational reason. Connecticut should follow suit of other states and accept all absentee ballots postmarked by the end of Election Day.

Importantly, Connecticut lacks a curing provision, failing to guarantee voters who have their absentee ballots rejected an opportunity to correct the discrepancy which led to their ballot’s rejection. Lack of curing provisions can have disenfranchising consequences which disproportionately affect young and minority voters and is a violation of due process. You must insist that voters are able to cure discrepancies with their absentee ballots. Connecticut also does not provide any opportunity for early voting, which if instituted, will minimize crowds and ensure proper social distancing and public health metrics are met during the COVID-19 pandemic for voters.

You and other officials in Connecticut have rightfully addressed voting during the COVID-19 pandemic and have taken positive action to provide guidance to voters who will otherwise remain uncertain as to whether they must violate the law to stay healthy. But more must be done to protect voters and ensure safe, equitable elections. Waiting too long to impose relief for the November elections, hampers election official’s preparations. There are important federal rights guarantees at stake. Please use your authority to protect the right to vote in your state. At the same time, you will be providing critical leadership to other states facing similar legal questions.

We are available to meet and discuss your COVID-19 election response plan. We have published several papers on vote-by-mail which include best practices. These are available at latino.ucla.edu/votingrights.

Thank you for your consideration.
Sincerely,

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Chad W. Dunn
Director of Litigation

Dr. Matt Barreto
Faculty Director