

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
<http://oversight.house.gov>

June 1, 2016

The Honorable Thomas Hicks
Chairman
U.S. Election Assistance Commission
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

Dear Commissioner Hicks:

We are writing to request information about the decision by Brian D. Newby, the Executive Director of the U.S. Election Assistance Commission (EAC), on January 29, 2016, to amend the federal voter registration form to require proof of citizenship in Alabama, Georgia, and Kansas.

The *New York Times* reports that in Kansas alone, state records show that at least 30,000 applicants have been denied registration due to lack of documents, and some believe the actual number could be as high as 45,000.¹

In addition, the League of Women Voters of the United States has filed suit against the EAC alleging that (1) the Executive Director did not obtain approval of the Commissioners despite the presence of a quorum, rendering his actions *ultra vires*; (2) the Executive Director did not have the authority under internal EAC policies to make the decision unilaterally and violated internal policies by engaging in prohibited *ex parte* communications with state officials; (3) the Executive Director did not provide formal notice and opportunity to comment or present the states' requests to the Commissioners pursuant to the Administrative Procedure Act; (4) the Executive Director did not explain the grounds for this change even though it is a dramatic shift in EAC policy and precedent that had been reaffirmed only two years prior; and (5) the Executive Director exceeded the scope of his statutory authority which precludes proof of citizenship absent a showing of necessity.²

¹ *The Voter Support Agency Accused of Suppressing Votes*, New York Times (Apr. 8, 2016).

² Plaintiffs' Complaint for Declaratory and Injunctive Relief (Feb. 12, 2016), *League of Women Voters v. Newby*, D.D.C. (No. 1:16 CV 00236).

Given these troubling allegations, we are concerned that the actions of the EAC Executive Director could impair, and already may have impaired, the legitimate right to vote of many Americans, and we are seeking a better understanding of how the changes to the federal form were approved.

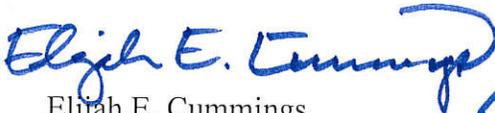
As part of this review, we request that you produce copies of the following documents:

1. For the period from November 2, 2015, to the present, please provide all documents relating to requests from Alabama, Georgia, and Kansas to modify their voter registration forms, including but not limited to emails, text messages, reports, or memoranda, between the Executive Director or his staff and the following individuals or offices:
 - a. EAC General Counsel Cliff Tatum;
 - b. the Office of Alabama Secretary of State John Merrill;
 - c. the Office of Georgia Secretary of State Brian Kemp;
 - d. the Office of Kansas Secretary of State Kris Kobach;
 - e. EAC Commissioner Thomas Hicks;
 - f. EAC Commissioner Matthew Masterson; and
 - g. EAC Commissioner Christy A. McCormick.
2. For the period from November 2, 2015, to the present, please provide all analyses of, or documents relating to, the impact of modifying the federal voter registration form in Alabama, Georgia, and Kansas on the residents of these states.
3. For the period from November 2, 2015, to the present, please provide all documents relating to the Executive Director's legal authority to unilaterally modify the federal voter registration forms in Alabama, Georgia, and Kansas, including, but not limited to, EAC policies and procedures and emails sent to or received by EAC General Counsel Cliff Tatum and the EAC Commissioners.

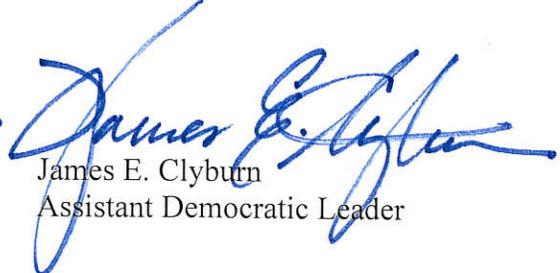
We request that you respond by June 15, 2016. Please contact Karen Kudelko of Ranking Member Cummings's staff at (202) 225-5051, Khalil Abboud of Ranking Member Brady's staff at (202) 225-2061, or Amy Miller Pfeiffer of Assistant Democratic Leader Clyburn's staff at (202) 226-3210 with any questions.

Thank you for your consideration of this request.

Sincerely,


Elijah E. Cummings
Ranking Member
Committee on Oversight
and Government Reform


Robert A. Brady
Ranking Member
Committee on House
Administration


James E. Clyburn
Assistant Democratic Leader