

THE
ROGER
BALDWIN
FOUNDATION
OF ACLU,
INC.

150 N MICHIGAN AVE STE 600
CHICAGO IL 60601-7570
T: 312-201-9740
F: 312-288-5225
WWW.ACLU-IL.ORG



September 25, 2018

VIA EMAIL

Debbie Gillette
County Clerk & Recorder, Kendall County
111 West Fox Street
Yorkville, IL 60560
dgillette@co.kendall.il.us

Dear Ms. Gillette:

With early voting set to start on September 27, 2018, it is crucial that voters in Kendall County receive clear and accurate information about how to exercise their right to vote. I write to express serious concerns regarding your office's misleading and confusing instructions to voters (and, possibly, to poll workers) regarding identification ("ID") requirements.

Illinois law generally does not require voters to present ID when they vote. At the polling place, voters typically need only state their name and address, provided they are on the precinct's list of registered voters.¹ In those few situations in which Illinois law permits an election judge to ask for ID, the law also provides that a voter who lacks ID be allowed to cast a provisional ballot.² In short, no one should be denied the right to vote in Illinois because they lack identification.

Despite this, information distributed by the Kendall County Clerk's Office suggests that voters must bring an ID in order to vote. Kendall County mailers, as well as the website, instruct voters to "be prepared to present [appropriate] identification to the election judge" at their polling place.³ Phrasing instructions in this way can give the voter the impression that they will be turned away if they don't have a photo ID.

¹ 10 ILCS 5/17-9.

² 10 ILCS 5/18A-5. For example, a person registering to vote at the same time as voting in person, or voting for the first time after registering to vote by mail without including a copy of his or her ID, may be asked to present identification. 10 ILCS 5/4-10, 4-105. In such situations, the person may still vote by provisional ballot if he or she does not have the required identification. 10 ILCS 5/18A-5.

³ See Capitol Fax, Question of the Day (Sept. 5, 2018), available at <https://capitolfax.com/2018/09/05/question-of-the-day-2738/> (including a photograph of the mailer sent to voters in Kendall County, which states "BE PREPARED TO PRESENT IDENTIFICATION TO THE ELECTION JUDGE."); Kendall County Website, VOTING and EARLY VOTING in Kendall County at 2, https://www.co.kendall.il.us/wp-content/uploads/Election_Voting_Kendall_County.pdf (last accessed Sept. 24, 2018) (under "Election Day Voting", stating that "All voters should be prepared to present appropriate identification upon the request of a Judge of

Eligible citizens should not be discouraged or prevented from voting because they lack photo ID. In addition to violating state law, voter identification requirements have a disproportionate and unfair impact on low-income, racial and ethnic minority voters, senior citizens, voters with disabilities and others who do not have a photo ID or the money to acquire one.⁴ Suggesting that voters need photo ID to vote creates additional hurdles that depress voter turnout and limit access to the polls.⁵

Finally, we have heard disturbing reports of election judges in Kendall County turning eligible voters away from the polls based on a lack of ID. If true, these reports indicate that poll workers do not understand the law in this area. The vast majority of voters should not be asked for ID. Those few who are required to have ID but do not must have an opportunity to cast a provisional ballot.

With the start of early voting days away, you must immediately amend your website and issue a corrected mailer without the misleading instructions regarding voter ID. You must also provide additional training for Kendall County poll workers, to ensure that they do not turn away eligible voters due to a lack of ID. Otherwise, these violations put the County at risk for litigation under statutory and constitutional law.

Please contact me by Friday, September 28, 2018 with the steps that the Kendall County Clerk's Office plans to take to remedy this issue.

Sincerely,



Amy Meek
Staff Attorney
Roger Baldwin Foundation of the ACLU of Illinois

cc: Steven Sandvoss, Illinois State Board of Elections

Election at their polling place. If you are not properly registered you will need 2 forms of identification, as previously noted, to participate in Grace period registration and voting.”).

⁴ See, e.g., Brennan Center for Justice, Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification (Nov. 2006), available at http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.

⁵ See, e.g., Shelley De Alth, ID at the Polls: Assessing the Impact of Recent State Voter ID Laws on Voter Turnout, 3 Harv. L. & Pol'y Rev. 185 (2009), available at https://www.finance.co.uk/HLPR/deAlth_HLPR3-1.pdf (finding that ID requirements—both photo ID and non-photo ID—reduced turnout, by 1.6 percentage points for photo ID requirements and 2.2 percentage points for non-photo ID requirements); Timothy Vercellotti *et al.*, Protecting the franchise, or restricting it? The effects of voter identification requirements on turnout (2006), available at http://www.brennancenter.org/sites/default/files/legacy/d/download_file_50903.pdf (finding that more stringent ID requirements are negatively correlated with statewide turnout).