



Oficina Legal del Pueblo Unido, Inc.
1405 Montopolis Dr.
Austin, TX 78741
512.474.5073(p) 512.474.0726(f)
texascivilrightsproject.org

November 7, 2019

The Honorable Andy Eads
Denton County Judge
andy.eads@dentoncounty.com
Courthouse-on-the-Square
110 W. Hickory St.
2nd Floor
Denton, TX 76201

Frank Phillips
Denton County Elections Administrator
elections@dentoncounty.com
P.O. Box 1720
Denton, TX, 76202

Dear Judge Eads and Mr. Phillips,

I am writing you on behalf of the Texas Civil Rights Project. On September 24, 2019, we sent a letter to both of you detailing why we believe Denton County violated the Texas Election Code during the November 2018 general election. We explained that the county is likely to continue these violations in future elections absent some remedial action, and made it clear we would welcome a response from the county that would prevent the need for further monitoring and possible enforcement actions. According to the return receipts, Judge Eads and Mr. Phillips both received the letter on September 30, 2019. It has now been over 30 days without a response. A copy of the initial letter is included here.

Please consider this follow-up letter a formal demand that Denton County respond to the information contained in the initial letter either explaining why it believes that it is not operating in violation of the law or outlining a plan for coming into compliance. If we do not hear back from you within 10 days of receiving this letter, we will consider all legal and equitable remedies available to bring the county into compliance with State law, including litigation and other avenues for bringing attention to this issue. Please send this response either by email, to zachary@texascivilrightsproject.org, or by mail, to Zachary Dolling, 1405 Montopolis Drive, Austin, TX 78741.

Sincerely,

A handwritten signature in black ink that reads "Zachary Dolling". The signature is written in a cursive, flowing style.

Zachary Dolling
Fellow/Staff Attorney
Texas Civil Rights Project



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Austin, TX 78741
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cc:

Hugh Coleman
Denton County Commissioner, Precinct 1
hugh.coleman@dentoncounty.com

Ron Marchant
Denton County Commissioner, Precinct 2
ron.marchant@dentoncounty.com

Bobbie J. Mitchell
Denton County Commissioner, Precinct 3
bobbie.mitchell@dentoncounty.com

Dianne Edmondson
Denton County Commissioner, Precinct 4
dianne.edmondson@dentoncounty.com

Commissioners Court
Courthouse-on-the-Square
110 W. Hickory St.
2nd Floor
Denton, TX 76201



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September 24, 2019

The Honorable Andy Eads
Denton County Judge
Courthouse-on-the-Square
110 W. Hickory St.
2nd Floor
Denton, TX 76201

Frank Phillips
Denton County Elections Administrator
P.O. Box 1720
Denton, TX, 76202

Dear Judge Eads and Mr. Phillips,

I am writing you on behalf of the Texas Civil Rights Project. We have recently completed a statewide review of Texas counties' election practices. Our data suggest that Denton County violated the Texas Election Code (TEC) during the November 2018 general election by improperly combining election precincts, not providing the required number of polling places otherwise required, and failing to eliminate precincts containing an excessive number of registered voters. The purpose of this letter is to bring these issues to your attention so that you can avoid them in future elections.

Section 43.001 of the TEC mandates that "[e]ach election precinct established for an election shall be served by a single polling place located within the boundary of the precinct." However, when "changes in county election precinct boundaries to give effect to a redistricting plan result in county election precincts with a number of registered voters less than [750]," the TEC permits counties with a population of 250,000 or more to combine those smaller precincts with larger neighboring precincts in order to avoid unreasonable expenditures. Tex. Elec. Code § 42.0051. Neither standalone nor "combined" precincts may exceed 5,000 registered voters, not counting suspense voters. Tex. Elec. Code § 42.0051(c); Tex. Elec. Code § 42.006(a), (e).

Our data reflect that Denton County had 179 election precincts during the November 2018 election, which if left uncombined would have required it provide at least 179 polling places. However, 21 of those precincts had fewer than 750 registered voters. Thus, assuming that TEC § 42.0051 applied to those precincts, the county could have at most—by combining those 21 precincts with others—reduced the overall number of precincts, and correspondingly required number of polling places, from 179 to 158. Instead, it appears Denton County combined at least 135 individual precincts to form at least 56 combined precincts and provided around 95 polling places.

Many of these combined precincts resulted from the improper combination of precincts containing more than 750 registered voters, in violation of TEC § 42.0051. For instance, Denton County combined Precincts 1004, 1026, 1027, and 1041. Precinct 1004 had close to 4,000 registered voters; Precinct 1026 had close to 5,500 registered voters; Precinct 1027 had under 750 registered voters, and Precinct 1041 had close to 3,000 registered voters. Thus, while Precinct 1027 was eligible to be combined with any of the other three precincts, Precincts 1026, 1027, and 1041 could not be combined with one another. Similarly, the county combined Precincts 2013, 2014, 2015, and 2016. Those precincts had around 1,700, 2,700, 3,600, and 3,800 registered voters respectively. None were therefore eligible for



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combination under TEC § 42.0051. These two examples represent a non-exhaustive sampling of the improperly combined precincts Denton County used during the November 2018 election.

The above two combined precincts also contained substantially in excess of 5,000 registered voters. The first had over 12,500 registered voters; the second, over 11,500 registered voters. Another 37 of the combined precincts utilized by Denton County during the November 2018 election had more than 5,000 registered voters. 27 of those 37 had more than 6,000 registered voters. While we do not know how many of the registered voters in each of these combined precincts were suspense voters, it is clear that in those with substantially more than 5,000 registered voters there could not have been enough suspense voters to bring them into compliance with the TEC.

Additionally, our data show that Denton County had at least 10 election precincts that individually, irrespective of any combination with others, contained more than 5,000 registered voters. Again, we do not know how many of the registered voters in each of these precincts were suspense voters, but it seems unlikely there were enough in those with substantially more than 5,000 registered voters to bring them into compliance with the TEC. In determining how to deal with these precincts, you should be aware that if the solution you choose results in an increase in the number of election precincts in Denton County, you may be required to provide a correspondingly increased number of polling places for the reasons already discussed.

In sum, it appears that during the November 2018 general election Denton County violated the Texas Election Code by improperly combining numerous election precincts, failing to provide the statutorily required number of polling places otherwise required, and failing to address the existence of precincts with more than 5,000 registered voters. If that is the case, and you do nothing to remedy these issues, the county will continue to violate the TEC during future elections. In fact, based on the November 2019 polling locations posted on your county's website,¹ it appears that the county will violate the TEC in the same ways during the November 2019 election.

We acknowledge that our conclusions are based on publicly available data and some numbers may have changed in the interim, and that you may believe our data or conclusions are inaccurate. Accordingly, we would welcome a response to this letter letting us know your viewpoint, and whether you intend to address the issue identified above, so that we may determine whether further action is required or if we may instead concentrate our resources elsewhere. Please send this response either by email, to zachary@texascivilrightsproject.org, or by mail, to Zachary Dolling, 1405 Montopolis Drive, Austin, TX 78741. Finally, please do not hesitate to reach out if we can be of any help in this process.

Sincerely,

Zachary Dolling
Fellow/Staff Attorney
Texas Civil Rights Project

¹ Accessed on September 24, 2019, at <https://www.votedenton.com/wp-content/uploads/2019/09/1119-Unconsolidated-ED-Locations.pdf>. A PDF of the list as of that date is included with this letter.