

Office of the Governor
State of Louisiana

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August 20, 2020

The Honorable R. Kyle Ardoin
Secretary of State
P. O. Box 94125
Baton Rouge, LA 70804

Dear Secretary Ardoin:

Please be advised that, pursuant to *La. R.S. 18:401.3(C)*, I hereby do not approve of the election plan you have developed for the November 3, 2020 and December 5, 2020 elections. My decision is based on the uncontroverted fact that the plan is contrary to guidance from the Centers for Disease Control (CDC) and the Louisiana Department of Health (LDH). Further, and more fundamentally, the plan does not meet the constitutional standards of Article 1, Section 10(A) of the Louisiana Constitution.

The plan you have developed is particularly disappointing because the plan you submitted for the most recent elections in July and August did, at a minimum, protect the right to vote for those most at risk for complications from COVID-19 while also providing protections for fellow voters and poll workers. You have admitted several times that this plan worked well. However, the July/August plan, though constitutionally sufficient, did not go as far as most of the other states in protecting the right to vote during this pandemic. For example, Republican Secretaries of State for Kentucky and Alabama have developed plans to allow anyone concerned about contracting or spreading COVID-19 to request an absentee ballot. Sadly, Louisiana appears to be the only state in the country moving in the direction of providing less voter protections for those affected by COVID-19, leaving Louisiana to again be an outlier on protecting the health and safety of our citizens.

When we first spoke about this late last week, you presented me with your plan, claiming it is the only plan you would be able to get through the legislative process. It was clear then that you had already made this decision after discussion with members of the legislature. While legislative approval is certainly a required element of *La. R.S. 18:401.3*, it should not be your primary goal in developing a safe elections plan. Your goal should be to develop a safe and secure election plan that protects the right to vote while protecting the health of the public. This plan does not meet that standard. Further, while I appreciate your admission that you did not seek any advice from public health experts, it is frankly hard to accept that such consultation would not have been part of your consideration during this historic pandemic. If you had sought such advice, I believe you would have discovered the following problems with your plan:

- 1) Your plan requires anyone who has not tested positive for COVID-19 to vote in person, even if symptomatic or under quarantine or isolation. This is contrary to CDC advice, and frankly, common

sense.¹ The current CDC guidance says that someone who has had close contact with someone with COVID-19 “should stay home for 14 days after their last exposure to that person.”² If symptomatic, the individual should isolate for “10 days since symptoms first appeared and 24 hours with no fever without the use of fever-reducing medications and other symptoms of COVID-19 are improving.” Further, if someone is symptomatic, the person should “stay home, except to get medical care.”³ While it is true that someone who is symptomatic could get tested and receive a positive test, they should not be required to go out to be tested just to be able to vote absentee. Your plan would require these individuals, likely infected but yet to test positive, to defy this guidance and vote in person. That is simply dangerous and will cause further spread of COVID-19.

- 2) Your plan states that “any registered voter testing positive for COVID-19 during or after early voting but before election day may . . . request an absentee ballot.” This language does not provide the clarity necessary for Registrars of Voters to determine who meets this standard. For example, does it apply to someone who received a positive test result *prior to* early voting, but is still within the quarantine window during the early voting period? Does it apply to someone who submits to a COVID-19 test during or after early voting and before election day and is directed to quarantine, but has not yet received a positive test result? Does it apply to someone who took a test before early voting but receives a positive test result during early voting? Such is unknown and will likely provide for inconsistencies between different parishes.
- 3) Your plan makes no accommodations for those at most risk from COVID-19. The official current recommendation from the CDC for those with underlying health conditions is to “limit your interactions with other people as much as possible and to take precautions to prevent getting COVID-19 when you do interact with others.”⁴ This would force individuals to make an impossible choice – to vote, and potentially risk severe illness or death, or to be disenfranchised. No one should ever have to make that choice.
- 4) Your plan does not give any consideration to those who are caring for individuals who are sick or at risk. The CDC guidance specifically provides that caretakers should also protect themselves from unnecessary exposure.⁵

While these are not the only deficiencies with your plan, they are the fundamental parts of your plan that stand in stark contrast to the clear public health advice from state and federal public health officials. Further, even the parts of your plan that do expand voting opportunities fall short. For example,

¹ <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html>

² Contrary to your assertion before the Senate Committee on Governmental Affairs, an individual cannot “test out of quarantine.” <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html>

³ <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

⁴ https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html

⁵ <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/care-for-someone.html>

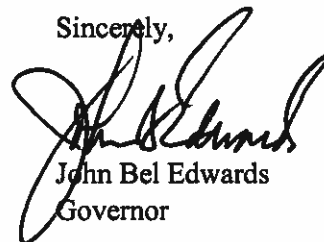
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while you have stated many times that you have expanded early voting, your plan makes clear that the expanded early voting is for November only and will not be in place for the December election.

In total, your plan reflects a belief that the worst of the fight against COVID-19 is behind us and that we will be in a much better place by November and December. I pray that is so, and all of the decisions I have made since the beginning of this pandemic have been focused on bringing that about by protecting the health and safety of the people of Louisiana. However, we should not base something as critical as an election plan on a best case scenario, especially when we presently have a high incidence of COVID-19 (as defined by the CDC) and lead the nation in cases per capita. We must plan for what we should expect, which is that we will still be in the middle of a public health emergency through at least the end of this year.

I do not question your motivations in the development of this plan, and I accept that you made this decision only looking to what you believed would pass in the legislature. However, as I expressed to you last week, I was, and remain, willing to work with you to support the plan that you submitted – and passed through the legislature – for the July/August elections. That plan expressly and adequately addressed the obvious shortcomings identified in this letter relative to your current plan. While it did not provide for all of the advisable safeguards, your July/August plan did protect the *right* to vote guaranteed by the Louisiana Constitution. We have the ability to provide a safe and secure election for the people of Louisiana, and they deserve no less.

Sincerely,



John Bel Edwards
Governor

cc The Hon. Page Cortez, Senate President
 The Hon. Sharon Hewitt, LA State Senator
 The Hon. Clay Schexnayder, Speaker, LA House of Representatives
 The Hon. Stephen Dwight, LA House of Representative