



Attorney General Christopher M. Carr
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Atlanta, GA 30334

Secretary of State Brad Raffensperger
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Inspector General Nigel Lange
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John LaHood, Chair
Victor Anderson, Vice Chair
Committee on Governmental Affairs
Georgia House of Representatives
131-A State Capitol
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Max Burns, Chair
Rick Williams, Vice Chair
Committee on Ethics
Georgia Senate
327-A CLOB
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VIA EMAIL

October 31, 2024

Re: Open Records Request

RE: Request for investigation into misconduct by State Election Board Members

Dear Attorney General Carr, Secretary Raffensperger, Inspector General Lange, Chair LaHood, Chair Burns, Vice Chair Anderson, and Vice Chair Williams,

We urge you to initiate immediate formal investigations into ongoing misconduct by State Election Board Members Rick Jeffares, Janice Johnston, and Janelle King.

The General Assembly has entrusted you with special authority to investigate and address misconduct and abuses of power by members of the State Election Board.¹ And

¹ See, e.g., Final Order, *Parkes v. Kemp*, No. 24-cv-012191 (Ga. Super. Ct. Fulton Cty. Oct. 11, 2024) at *4 (“[T]he General Assembly has expressly delegated to the Inspector General the authority to investigate alleged misconduct by members of state boards, commissions, and authorities. O.C.G.A. § 45-12-212(3). Additionally, the Attorney General, as chief legal officer of the State, has broad authority to investigate ‘into the affairs of any person or organization to the extent that such person or organization shall have or shall have had any dealings with the state.’ See O.C.G.A. § 45-15-17. Given their investigatory authority, the



the Board cannot fulfill its charge to ensure that Georgia elections are “fair, legal, and orderly”² while three of its five unelected members openly disregard state law, Georgia’s ethics code for members of boards, the Board’s own Code of Conduct, and the public whom they purport to serve.³ Over the past four months, as described below, these three members have repeatedly flouted the law, as recognized by Secretary Raffensperger, Attorney General Carr, the Board’s own Chair, and multiple court decisions. At least one board member may have been motivated to betray his duty to the people of Georgia by the prospect of a potential job in the federal government.⁴

Willful Disregard of the Board’s Authority

On July 12, 2024, despite a warning from the Attorney General’s office,⁵ the three board members purported to convene a meeting without adequate public notice or a proper

Inspector General or Attorney General could submit ‘formal charges’ sufficient to trigger the hearing set forth in [the State Code of Ethics,] O.C.G.A. § 45-10-4.”).

² O.C.G.A. § 21-2-31(2); *see also About the Georgia State Election Board*, Ga. Sec. of State, <https://sos.ga.gov/page/about-state-election-board> (last visited Oct. 29, 2024).

³ *See* O.C.G.A. § 45-10-3(1) (members of boards must “uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion”); Code of Conduct, *About the Georgia State Election Board*, Ga. Sec. of State, <https://sos.ga.gov/page/about-state-election-board> (last visited Oct. 29, 2024) (members must be “honest, fair, and avoid any appearance of conflict and/or impropriety”).

⁴ Justin Glawe, *Lone Democrat on Georgia State Board Defends Elections Amid New Rules*, *Guardian* (Aug. 13, 2024, 6:00 p.m.), <https://www.theguardian.com/us-news/article/2024/aug/13/sara-tindall-ghazal-georgia-state-election-board> (quoting Member Jeffares as stating, “I said if y’all can’t figure out who you want to be the EPA director for the south-east, I’d like to have it.”); @JustinGlawe, X (Aug. 16, 2024, 12:01 p.m.), <https://x.com/JustinGlawe/status/1824476631374745824> (featuring audio of Member Jeffares’ statement).

⁵ Maya T. Prabhu and Caleb Groves, *Impromptu State Election Board Meeting Met with Ire, Jeers*, *Atlanta J.-Const.* (July 12, 2024), <https://www.ajc.com/politics/impromptu-state-election-board-meeting-met-with-ire-jeers/HUJAOT2GQNAONERTSMESDEQSX4/> (“According to emails sent midday Thursday to the board and acquired by The Atlanta Journal-Constitution, the attorney general’s office warned all members of the board the emergency meeting could violate the state’s Open Meetings Act.”).

quorum, in violation of Georgia’s Open Meetings Act, and then purported to approve controversial rules for further rulemaking action. The Board only walked back their approval of those rules after litigation was filed challenging their actions.⁶

Then, starting in August 2024, the Board passed a series of last-minute rule changes (including providing for hand counts of ballots at precincts, and enabling county boards to refuse to certify election results based on their so-called “reasonable inquiry”) untethered from any legal authority and virtually guaranteed to create chaos if implemented. Notably, Attorney General Carr advised the Board, before adoption of the rules, that the measures relating to the hand count of ballots were “not tethered to any statute—and are, therefore, likely the precise type of impermissible legislation that agencies cannot do.”⁷ Secretary Raffensperger decried these board members’ conduct as “activist rulemaking” that would result in “misinformation,” “disinformation,” and an undermining of important “chain of custody safeguards,”⁸ while county election officials saw their attempts to offer input about these rules ignored and unheeded.⁹ Consistent with this criticism, Board Chair John Fervier acknowledged the “board needs to stay within its boundaries” as its job is “to clarify law, not create new law.”¹⁰

⁶ See *American Oversight v. State Elec. Bd.*, No. 24-CV-009124 (filed July 19, 2024); John McCosh, *Georgia Election Board Walks Back Rules Approved at Meeting Flagged by State AG*, Ga. Recorder (July 30, 2024, 5:05 p.m.), <https://georgiarecorder.com/briefs/georgia-election-board-walks-back-rules-approved-at-meeting-flagged-by-state-ag>.

⁷ Sam Sachs, *Georgia AG Says New Rules from State Election Board May ‘Conflict’ with State Election Laws*, WSB-TV (Sept. 20, 2024, 8:14 a.m.), <https://www.wsbtv.com/news/local/atlanta/georgia-ag-says-new-rules-state-election-board-may-conflict-with-state-election-laws/NZFBCSKKLNG2FP5M6SU5TNEXWE/>.

⁸ *Raffensperger Defends Georgia’s Election Integrity Act from Last Minute Changes Delaying Election Results*, Ga. Sec. of State (Aug. 15, 2024), <https://sos.ga.gov/news/raffensperger-defends-georgias-election-integrity-act-last-minute-changes-delaying-election>.

⁹ Sam Gringlas, *Georgia Election Officials Worry a GOP-Led Board Will OK Last-Minute Voting Changes*, NPR (Sept. 18, 2024, 1:50 p.m.), <https://www.npr.org/2024/09/18/nx-s1-5103887/georgia-election-board-rule-changes> (quoting one county election director as stating, “You can have 10 election directors stand up there and say, ‘This is bad, this is bad, this is bad.’ And then the board says, ‘I make a motion that we approve this rule.’”).

¹⁰ Mark Niese, *‘Inappropriate and Unprofessional’: Georgia Election Board Chair Wants His GOP Peers to Back Down*, Atlanta J.-Const. (Oct. 14, 2024), <https://www.ajc.com/politics/state-election-board-chair-john-fervier-says-his-gop-peers-abused-power/MXT2PYFGAZGCLLQ4B6KTPG5VBV/>.

Unsurprisingly, those rules were immediately challenged in court.¹¹ Two different Fulton County Superior Court judges have now enjoined enforcement of the rules before the November 5, 2024 election, with one noting that allowing the rules to take effect would cause “administrative chaos.”¹² The Georgia Supreme Court has declined to reinstate the rules before the November 5 general election.¹³

Ongoing Violations of Georgia Law

Further, two Board members appear to be systematically violating the Open Records Act. According to a lawsuit filed by American Oversight on October 30th, Members King and Johnston conduct State Election Board business on nongovernment-issued Gmail accounts, but they refuse to allow Board staff access to perform searches of those accounts for responsive public records. In at least some cases, Johnston has failed to turn over even a single document responsive to requests for public records.¹⁴ While use of personal accounts to conduct government business is not *per se* unlawful, using those

¹¹ See, e.g., *Muscogee Cty. Bd. of Elec. & Reg. v. State Elec. Bd.*, No. 24-CV-002288 (Ga. Super. Ct. Muscogee Cty. filed Oct. 9, 2024); *Fulton Cty. Bd. of Reg. & Elec. v. Georgia*, No. 24-CV-012709 (Ga. Super. Ct. Fulton Cty. filed Oct. 7, 2024); *Cobb County Bd. of Elec. & Reg. v. State Elec. Bd.*, No. 24-CV-012491 (Ga. Super. Ct. Fulton Cty. filed Oct. 2, 2024); *Thurmond v. State Elec. Bd.*, No. 24-CV-9085 (Ga. Super. Ct. DeKalb Cty. filed Oct. 2, 2024); *Crawford v. State Elec. Bd.*, No. 24-CV-012349 (Ga. Super. Ct. Fulton Cty. filed Sept. 30, 2024); *Eternal Vigilance Action v. Georgia*, No. 24-CV-011558 (Ga. Super. Ct. Fulton Cty. filed Sept. 11, 2024); *Abhiraman v. State Elec. Bd.*, No. 24-CV-010786 (Ga. Super. Ct. Fulton Cty. filed Aug. 26, 2024).

¹² Order on Various Pending Motions, *Cobb Cty. Bd. of Elec. & Reg. v. State Elec. Bd.*, No. 24-CV-012491 (Ga. Super. Ct. Fulton Cty. Oct. 15, 2024) at *6; see also Order Granting Declaratory and Injunctive Relief, *Eternal Vigilance Action v. State of Georgia*, No. 24-CV-011558 (Ga. Super. Ct. Fulton Cty. Oct. 16, 2024).

¹³ Amy Gardner, *Georgia Supreme Court Declines to Reinstate Trump-Allied Board’s Election Rules*, Wash. Post (Oct. 22, 2024, 7:29 p.m.), <https://www.washingtonpost.com/politics/2024/10/22/georgia-supreme-court-declines-reinstate-trump-allied-boards-election-rules/>.

¹⁴ *Am. Oversight v. State Elec. Bd., et al.* was filed in the Superior Court of Fulton County on October 30, 2024, and has not yet been assigned a case number.

accounts to evade the requirements of the Open Records Act is unlawful and may be subject to civil and criminal penalties. *See* O.C.G.A. § 50-18-74(a).

* * *

Members Jeffares, King, and Johnston must be held accountable for their actions. To ensure that Georgia elections are “fair, legal, and orderly,” the Board’s members must operate in good faith, within their authority, and with respect for the public they serve. By ignoring their oaths and Georgia law, these three members have violated those obligations. We urge you to investigate them swiftly.

Sincerely,

Chioma Chukwu, Interim Executive Director
American Oversight