



November 8, 2022

Hon. Ron DeSantis
Executive Office of the Governor
400 S. Monroe Street
Tallahassee, FL 32399
GovernorRon.Desantis@eog.myflorida.com

Hon. Cory Byrd
Florida Department of State
500 S. Bronough Street
Tallahassee, FL 32399
SecretaryofState@DOS.MyFlorida.com

RE: Vote-by-Mail and Provisional Ballot Cure Deadline Extensions and Extension of the Proof of Eligibility Deadline for Provisional Ballots for Subtropical Storm Nicole

Dear Governor DeSantis and Secretary of State Byrd:

All Voting is Local Florida (“AVIL”), Campaign Legal Center (“CLC”), and partner organizations listed below respectfully urge you to **extend the deadline to cure vote-by-mail and provisional ballots, as well as the ability for provisional voters to prove their eligibility, until at least 5:00 pm on Monday, November 14, 2022**, given the impending arrival of a hurricane-strength storm system in Florida shortly after Election Day.

As you know, the National Hurricane Center has issued a hurricane watch for the east coast of Florida based on the projected path of Subtropical Storm

Nicole.¹ The storm system is predicted to strengthen and reach hurricane intensity as it approaches Florida on Wednesday and Thursday of this week.² Recognizing the risks posed by Subtropical Storm Nicole, Governor DeSantis has already issued an executive order declaring a state of emergency in 34 Florida counties³ to ensure that “timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida[.]”⁴ However, the Governor’s emergency declaration, while welcome, does not address the critical issue of the upcoming midterm election set for November 8, 2022, and the important and time-sensitive tasks that voters and Supervisors of Elections must undertake in the days following Election Day to ensure that all valid ballots are properly canvassed, tabulated, and certified.

In response to Hurricane Ian, Governor DeSantis previously issued Executive Order 22-234, titled “Emergency Management/Elections-Hurricane Ian,” which granted authority to several counties severely impacted by Hurricane Ian to extend voting hours, modify requests for vote by mail, and other changes. We ask now that you take action again to protect Florida’s elections as another potentially devastating storm approaches the state.

The current deadline to cure vote-by-mail or provisional ballots with missing or mismatched signatures, as well as the deadline for provisional voters to prove their eligibility, is Thursday, November 10 at 5:00 p.m.⁵—at which point Subtropical Storm Nicole is likely to be directly over the State of Florida. Voters can submit their cure documentation by mail, email, fax, or in person.⁶

Subtropical Storm Nicole is poised to cause significant damage to Florida’s east coast, threatening to displace voters from their homes, including voters in some of the state’s most vulnerable communities. Depending on the storm’s path, it may also cause further damage to those communities already affected by

¹ Kimberly Miller, *Hurricane watch issued for much of Florida's east coast, including Palm Beach County*, Palm Beach Post (Nov. 7, 2022), <https://www.palmbeachpost.com/story/weather/2022/11/06/hurricane-center-predicting-tropical-cyclone-impact-florida/8287887001/>.

² *Id.*

³ The 34 counties covered by the emergency declaration are Brevard, Broward, Charlotte, Citrus, Clay, Collier, DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Miami-Dade, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia.

⁴ Fla. Gov. Executive Order 22-253, “Emergency Management—Subtropical Storm Nicole”, Nov. 7, 2022, <https://www.flgov.com/wp-content/uploads/2022/11/EO-22-253.pdf>.

⁵ See Florida Department of State, Florida Division of Elections, *Vote-by-Mail* (May 25, 2022), <https://dos.myflorida.com/elections/for-voters/voting/vote-by-mail/> (“The deadline to submit the [“Vote-by-Mail Ballot Cure” Affidavit] form and the ID is no later than 5 p.m. (local time) on the 2nd day after an election.”).

⁶ *Id.*

Hurricane Ian earlier this year. At the very least, Subtropical Storm Nicole threatens to disrupt voters' access to electricity, Internet access, and other utilities. In any event, the storm system will erect substantial barriers to voters' ability to timely submit cure documentation by making travel to county election centers difficult or dangerous, or inhibiting Internet access necessary to submit cure forms online. For voters whose mail ballots arrive at their supervisor's office days before the election or on election day, curing by mail is not an option and many who live in the most vulnerable communities do not have internet access altogether or may be without power due to the storm. For these voters, curing a ballot in-person is the only option. The incoming storm could make this extremely difficult or impossible.

Given these concerns, the undersigned organizations strongly urge you to take immediate action to extend the deadlines to cure vote-by-mail ballots and provisional ballots, as well as the deadline for provisional voters to prove their eligibility, until at least 5:00 p.m. on Monday, November 14, 2022. It may be necessary to require that Supervisor of Elections offices remain open during that weekend to process cures as well. In the event that Subtropical Storm Nicole causes substantial damage and displacement, we ask that you extend the cure deadlines further until at least ten days after Election Day, consistent with the existing deadlines set by the Uniformed and Overseas Citizens Absentee Voting Act.⁷

Thank you for your consideration and for your action in response to these difficult circumstances facing Florida.

Respectfully submitted,

Campaign Legal Center

All Voting is Local Florida

NAACP Florida State Conference

⁷ See Florida Department of State, Florida Division of Elections, *Military and Overseas Citizens Voting* (July 8, 2022), <https://www.dos.myflorida.com/elections/for-voters/voting/military-and-overseas-citizens-voting/> (“The overseas voter’s vote-by-mail ballot must be postmarked or dated by Election Day and received within 10 days of the election in order to be counted, provided the ballot is otherwise proper.”).

NAACP Legal Defense and Education
Fund, Inc.

Disability Rights Florida

Faith in Public Life

Black Voters Matter

League of Women Voters of Florida

American Civil Liberties Union of
Florida

Miami Freedom Project

Lawyers' Committee for Civil Rights
Under Law

First Coast Leadership Foundation

Anti-Defamation League

Common Cause Florida

State Voices Florida

Poder LatinX

La Mesa Boricua de Florida

Dēmos

Secure Democracy USA

Fair Elections Center