



Sent Via Email

November 1, 2022

Paul A. Lux

Okaloosa County Supervisor of Elections

302 N Wilson St, Ste 102

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Email: plux@myokaloosa.com

Re: Misleading Signage Outside Okaloosa Early Voting Locations

Dear Supervisor Lux:

The Okaloosa County Branch NAACP, the Legal Defense Fund, and the NAACP Florida State Conference write to express our concern over misleading signage outside early voting locations in Okaloosa County. As shown in the images below, temporary signs reading “Republicans Vote Here Today” have been placed in the immediate vicinity of at least two early voting sites in Okaloosa County. These signs create an unacceptable risk of voter confusion and violate state and local law, including prohibitions on dissemination of false information to induce others to refrain from voting. *See Fla. Stat. § 104.0615(3)(b)*. Because these signs constitute unlawful false information, they should be removed regardless of whether they are placed inside or outside the 150-foot electioneering boundary. We therefore urge you to immediately remove these signs and warn any individuals responsible for producing or distributing these signs that they are in violation of Florida law.

1. There are Multiple Documented Incidents of Misleading Signage Outside Early Voting Locations in Okaloosa County.

As shown in the images below, signs have been posted in front of at least two early voting locations in Okaloosa that state “Republicans Vote Here Today.” These signs have been seen at (1) Okaloosa County Administration Building, 1250 Eglin Parkway, Shalimar; and (2) Destin Community Center, 101 Stahlman Ave, Destin. We understand that the signs at the Destin Community Center may have been removed, but the signs remain at the Okaloosa County Administration Building in Shalimar as of yesterday afternoon.

Ex. 1: Okaloosa County Administration Building



*1250 Eglin Parkway,
Shalimar*

*Photos taken at
approximately 4:15pm on Oct
27, 2022 and 1:00pm on
October 31, 2022.*

Ex. 2: Destin Community Center



101 Stahlman Ave, Destin

*Photo taken at approximately
2:45 p.m., on Oct 24, 2022.*

These signs create a risk voter confusion in at least two ways: *First*, the signs imply that Republicans and non-Republicans vote in different locations. Voters may interpret these signs to mean that this voting location has been designated for Republicans, and other voting

locations have been designated for other voters. *Second*, the signs imply that Republicans and non-Republicans vote on different days. Voters may interpret these signs to mean that Republican voters are designated to vote “today” and may not vote on other days, and non-Republicans should return to vote on another day.

The risk of confusion is especially significant because the signs are similar to official signs used by election officials in Florida. As shown below, election officials elsewhere in Florida place signs outside of polling places that state “Vote Here” and have a white border and a yellow background.¹ The similarities between the misleading signs in Okaloosa and the official signs used elsewhere in Florida increase the risk that voters will mistakenly believe that the signs in Okaloosa were placed by your office and contain official voter information.

Ex. 3: Official “Vote Here” Sign Used Florida



Multiple voters have reported to our organizations that they were confused by the signs. This confusion is consistent with reports that similar signs caused voter confusion when they appeared near polling places in Duval County during a special election earlier this year.² The signs in Duval County violated local ordinances governing signage on public right-of-ways and swift corrective action was taken to remove them.³

2. These Signs Violate State and Local Law.

Florida law prohibits misleading and deceptive practices directed at voters.⁴ These signs constitute textbook voter deception, which includes “misinformation regarding the

¹ Amanda Castro, *Primary early voting underway in all Central Florida counties*, Click Orlando (Aug. 13, 2022), <https://www.clickorlando.com/news/local/2022/08/13/primary-early-voting-underway-in-all-central-florida-counties/>.

² CBS47, *‘Republicans vote here’: Signs cast concern of voter confusion*, <https://www.actionnewsjax.com/news/local/republicans-vote-here-signs-cast-concern-voter-confusion/0d62bf3c-4c31-4f8f-8513-32851bda87c1/>.

³ *Id.*

⁴ Fla. Stat. § 104.0615(3)(b) (“A person may not knowingly use false information to: ... (b) Induce or attempt to induce an individual to refrain from voting or registering to vote”); 21 Fla. Jur 2d Elections § 229 (“Under the Voter Protection Act, a person may ... not use false information to ... induce or attempt to induce an individual to refrain from voting or registering to vote”); Fla.

time, place, and manner of elections as well as voter eligibility.”⁵ The classic example would be misinformation that informs voters that Republicans vote on Tuesday and Democrats vote on Wednesday.⁶ These signs have much the same effect. Deceptive practices tend to target racial and language minorities and are a throwback to the post-Reconstruction, Jim Crow-era tactics that sought to deny minority citizens the right to freely participate in the electoral process.⁷

These misleading signs also appear to violate local ordinances, which require that temporary signage be placed “a minimum of ten feet” from any road or right-of-way.⁸

3. Your Office Should Immediately Take Steps to Remove These Signs.

Given that early voting is underway and Election Day is imminent, it is critical that you immediately remove any misleading signs that have been placed in proximity to early voting sites or election day polling places in Okaloosa County, or coordinate with other local officials to arrange for these signs to be removed. We also recommend that you publicize your decision to remove these signs on your website and notify all political parties, candidates, and political committees operating in Okaloosa County about your decision, to minimize the risk that offending individuals or organizations place additional misleading signs on other early voting days or on election day.

As a Supervisor of Elections, you have both the power and the responsibility to take corrective action by removing these signs and warning any individuals responsible for producing or distributing these signs that they are in violation of Florida law.⁹ As the chief election official in Okaloosa County, state law empowers you with “full authority to maintain order at the polls.” Fla. Stat. § 102.031(1). State law charges you with the obligation to take any “efforts as necessary to ensure that voters have a working knowledge of the voting process.”¹⁰ As the Division of Election has explained in formal guidance, you have statutory

Stat. Ann. § 104.061(1) (“Whoever by bribery, menace, threat, or other corruption whatsoever, either directly or indirectly, attempts to influence, deceive, or deter any elector in voting or interferes with him or her in the free exercise of the elector's right to vote at any election commits a felony of the third degree.”).

⁵ Gilda R. Daniels, *Voter Deception*, 43 Ind. L. Rev. 343, 346 (2010).

⁶ *Id.* at 347.

⁷ *Id.*

⁸ See Okaloosa County Reg. § 8.02.03, <https://myokaloosa.com/gm/code-enforcement/signs>.

⁹ Misleading voters about voting procedures is not protected speech. See *Minnesota Voters All. v. Mansky*, 138 S. Ct. 1876, 1889 n.4 (2018) (“We do not doubt that the State may prohibit messages intended to mislead voters about voting requirements and procedures.”). Indeed, election administrators such as yourself have a “compelling interest in protecting voters from confusion and undue influence.” *Burson v. Freeman*, 504 U.S. 191, 199 (1992); see also Division of Elections, Op. 21-04 (Nov. 5, 2021), <https://opinions.dos.state.fl.us/searchable/pdf/2021/DE-21-04.pdf>.

¹⁰ Fla. Stat. § 98.255(2).

authority to “limit activity ... that interferes with a voter’s right to access the polls.”¹¹ As noted above, when similar signs appeared in Duval County during a special election earlier this year, they were swiftly removed for noncompliance with local ordinances.

You have full authority and jurisdiction to remove these signs even if they are placed outside of the 150-foot no solicitation zone. The 150-foot no solicitation zone only applies to “political or campaign material,”¹² but it does not limit your ability to address signage that violates Fla. Stat. § 104.0615(3)(b) and other provisions of Florida law, which are unlawful regardless of where they are placed.

We ask that you respond by tomorrow to inform us of the steps you will take to address the issue raised in this letter. Please feel free to contact Michael Pernick at mpernick@naacpldf.org or (917) 790-3597 if you would like to discuss further.

Sincerely,

Mr. Lewis Jennings, President
Mrs. Ruby Dunson, Chairperson, Civic
Engagement Committee
Mr. Sabu Williams, 1st Vice President
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¹¹ Division of Elections, Op. 21-04 (Nov. 5, 2021), <https://opinions.dos.state.fl.us/searchable/pdf/2021/DE-21-04.pdf>.

¹² Fla. Stat. § 102.031(4)(b).

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that prohibit voter discrimination, intimidation, and suppression and increase access to the electoral process.

NAACP Florida State Conference

Founded in 1909, the NAACP is the nation’s oldest and largest nonpartisan civil rights organization. Its members throughout the United States and the world are the premier advocates for civil rights in their communities. In 1941, the NAACP Florida State Conference was formed as the 1st State Conference in the nation.