



Apache County Election Director's Office
 75 West Cleveland Street
 St. Johns, AZ 85936
aromero@co.apache.az.us

Dear Ms. Romero,

Our organizations are part of a coalition dedicated to assuring that every eligible voter can cast a ballot that will be counted in November and to easing the pathway to voting for everyone. Arizona should be commended for commencing the early voting process on October 7th, though we appreciate the challenges that this can raise for your teams. We write about one such challenge.

As you may have seen, there was extensive news coverage recently of early voting in Virginia. In one video, a group of at least twenty people stood in a line across the pathway leading to the polling location, waving large flags and banners and forcing early voters to walk around them in order to vote. It is our understanding that similar efforts occurred in other voting locations. We want to do everything we can, and urge you to help avoid situations like this throughout the early voting period and on Election Day.

Intimidating voters as they attempt to exercise their right to vote violates both federal and Arizona law. The Arizona 2019 Election Procedures Manual (the "EPM") devotes an entire subsection to preserving order and security at polling locations. Specifically, and among other things, the EPM provides that electioneering, which is defined to include partisan conduct that induces or compels a voter to refrain from voting, is prohibited within 75 feet of the entrance to the polling location. *See* EPM, p. 178, A.R.S. §16-515(A,I). This ban is enforceable by the County Recorder during early voting and the Marshall at each polling location on Election Day. *See* EPM, p. 179.



The EPM and state law also specifically and expressly prohibit voter intimidation:

“Any activity by a person with the intent or effect of threatening, harassing, intimidating, or coercing voters (or conspiring with others to do so) inside or outside the 75-foot limit at a voting location is prohibited. A.R.S. § 16-1013. The officer in charge of elections has a responsibility to train poll workers and establish policies to prevent and promptly remedy any instances of voter intimidation.” *See* EPM, p. 180.

In addition, there is a list of activities considered intimidating or harassing and thereby prohibited:

- Aggressive behavior, such as raising one’s voice or taunting a voter or poll worker;
- Using threatening, insulting, or offensive language to a voter or poll worker;
- Blocking the entrance to a voting location;
- Disrupting voting lines;
- Intentionally disseminating false or misleading information at a voting location, such as flyers or communications that misstate the date of the election, hours of operation for voting locations, addresses for voting locations, or similar efforts intended to disenfranchise voters;
- Directly confronting or questioning voters in a harassing or intimidating manner;
- Asking voters for “documentation” or other questions that only poll workers should perform;
- Raising repeated frivolous voter challenges to poll workers without any good faith basis, or raising voter challenges solely based on race, ethnicity, national origin, language, religion or disability; or
- Posting signs or communicating messages about penalties for “voter fraud” in a harassing or intimidating manner.



The statute also prohibits the use of “duress or any forcible or fraudulent device or contrivance whatever, to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any voter, or to compel, induce or to prevail upon a voter either to cast or refrain from casting his vote at an election, or to cast or refrain from casting his vote for any particular person or measure at an election.”

See A.R.S. § 16-1013(A); A.R.S. § 16-1017.

We would also like to raise the prospect that people may position themselves at ballot drop boxes impersonating authorized voter challengers when in fact their purpose is to intimidate. As you know, the EPM and state law establish a process for challenging mail-in ballots. More specifically, unless the political parties otherwise agree, only one representative of each political party may challenge early ballots in each county. A.R.S. §16-552(C).

The acceptable bases for challenging an early ballot are described in A.R.S. §16-591 and 16-121 and are generally limited to claims that the voter has previously voted, the voter is not who she says she is or the voter is not properly registered to vote. The authorized challenger must submit a written challenge to an early ballot “immediately” to the officer in charge of processing early ballots. *See* EPM, p. 81. This process occurs in the location where the early ballots are processed, not at the drop box.

The prescribed process for challenging early ballots obviates the need for any poll observer to be present at or near a ballot drop box. Consequently, the only reason a poll observer would be positioned near a drop box would be to intimidate those attempting to vote based on the voter’s appearance. This kind of intimidation would clearly violate three federal statutes as well as state law: the Ku Klux Klan Act of 1871 (42 U.S.C. § 1985(3)), the Civil Rights Act of 1957 (52 U.S.C. 10101(b)), and the Voting Rights Act of 1965 (52 U.S.C. § 10307(b)). We urge you to implement a security plan that avoids voter harassment at the drop box.



Finally, there have been [documented incidents](#) of “vigilantes” attempting to force themselves inappropriately into the voting process. We urge you to include provisions in your security plan to prevent non-credentialed individuals from entering polling places or vote processing areas and to prevent such persons from disrupting polling places or vote counting activities.

We believe our effort to prevent intimidation and harassment should be in cooperation with and in support of your plans. Please contact any of the undersigned about scheduling a conference call to enable us to understand your current anti-intimidation plans or send copies of the relevant portions of your plans and trainings that address these issues.

Thank you.

Signed,

s/

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Election Protection Arizona
 Council on American-Islamic Relations of Arizona
 All Voting Is Local - Arizona
 Arizona Center For Empowerment
 One Arizona
 ASU Indian Legal Clinic
 Instituto Lab
 New American Leaders



Fuerte Arts Movement
 Planned Parenthood Advocates of Arizona
 Black Phoenix Organizing Collective
 Mi Familia Vota
 Mountain Park Health Center
 Arizona Dream Act Coalition
 Voting Rights Lab
 Our Voice Our Vote
 Arizona Voter Empowerment Task Force
 Arizona Advocacy Network

cc: Secretary of State Katie Hobbs
 Bo Dul, Election Services Director