

Plaintiffs' Exhibit 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

AMERICAN ASSOCIATION OF PEOPLE
WITH DISABILITIES;
FEDERATION OF AMERICAN WOMEN'S
CLUBS OVERSEAS, INC.;
NEW MEXICO PUBLIC INTEREST
RESEARCH GROUP EDUCATION FUND;
and SOUTHWEST ORGANIZING PROJECT,

Plaintiffs,

v.

MARY HERRERA, in her capacity as
Secretary of State,

Defendant.

No. CV 08-00702 (JOB)

DECLARATION OF JAMISON TESSNEER

I, Jamison Tessneer, having been duly sworn, do hereby declare and swear that the following is true and correct:

1. I have personal knowledge of the facts set forth below, and if called to testify could and would testify competently thereto.
2. From August 2006 to April 2007, I served as a paid campus organizer who helped the members of the group Students for New Mexico Public Interest Research Group ("Students for NMPIRG") at the University of New Mexico in Albuquerque to organize and run various issue-oriented campaigns for the New Mexico Public Interest Research Group ("NMPIRG") and the New Mexico Public Interest Research Group Education Fund ("NMPIRG Education Fund").
3. As an organizer, I attempted to teach my students how to become effective leaders. In August through November 2006, I spent approximately 70 percent of my time organizing voter registration activities and approximately 30 percent of my time organizing other campaigns addressing poverty, the environment, and other issues.

NMPIRG Education Fund Voter Activities

4. In advance of the 2006 election, from August to November 2006, I helped Students for NMPIRG conduct a voter registration drive called “the New Voters Project” on behalf of the NMPIRG Education Fund. The New Voters Project is a non-partisan, national voter registration drive organized by the Student PIRGS, in which the NMPIRG Education Fund was participating.
5. Students for NMPIRG assisted in registering just over 1,000 new voters in advance of the 2006 election, in addition to roughly an additional 25-100 other voters after the election.
6. To my knowledge, Students for NMPIRG was the only organization in New Mexico that participated in the New Voters Project on behalf of the NMPIRG Education Fund in 2006.
7. In previous years, NMPIRG has conducted the most comprehensive voter registration efforts on the University of New Mexico campus and has become known by students and faculty as the main campus resource for voter registration. NMPIRG’s voter registration efforts have solidified its position and credibility in the campus community.
8. Voter registration is a cornerstone of NMPIRG’s work on the University of New Mexico campus because it allows NMPIRG to engage the student body in the political process when students are first eligible to vote. By registering students to vote, Students for NMPIRG conveys in a concrete way its message that political participation is important to our democracy.
9. When a volunteer from NMPIRG assists in registering a new student to vote, the volunteer also asks that person if he or she is interested in volunteering with NMPIRG to help other students register and to engage in other NMPIRG campaigns. If the prospective voter agrees, NMPIRG follows up with that student to further engage the individual in NMPIRG’s work. Voter registration serves as a main conduit for NMPIRG to recruit volunteers for its campaigns.
10. When assisting students to register to vote, NMPIRG volunteers speak to prospective voters about political issues that are relevant to young people. For instance, a volunteer might ask a potential registrant if he or she cares about the cost of higher education. If the individual answers affirmatively, the volunteer would then explain that 18-29 year olds need to vote to make their voices heard on issues that matter specifically to young people, like the cost of education.

The Effect of New Mexico’s Third-Party Voter Registration Law on NMPIRG Education Fund’s Voter Registration Activities

11. When I first came to the University of New Mexico, in 2006, I set a conservative goal for the organization of assisting 1,400 students to register to vote. This goal was based on my previous work as a campus organizer in Minnesota and I anticipated that the goal would be easily attainable. During the course of our 2006 voter registration drive in New

Mexico, Students for NMPIRG was not able to come close to assisting 1,400 students to register, and we were ultimately forced to drop our registration target to 1,000 students. I believe that the New Mexico voter registration statute is the reason that we were unable to reach our goal of 1,400 new voter registrations.

12. One of the biggest obstacles that New Mexico's third-party registration law posed to our voter registration drive was the requirement that each student participating in voter registration be certified and attend a mandatory training class at the office of the County Clerk in downtown Albuquerque. It was a constant challenge to get students certified downtown because:
 - a. Classes were only given on Tuesdays and Thursdays, at a downtown location during business hours, and many students could not attend these sessions due to classes, job obligations or transportation difficulties.
 - b. Even those students who showed up for the classes were often unable to get certified because if a minimum number of participants did not show up, the classes were cancelled without warning. In particular, numerous classes were cancelled without notice in the crucial weeks leading up to the October 2006 voter registration deadline.
 - c. In my experience, it is difficult to convince students to show up for scheduled meetings on campus. Getting students to come downtown for a training session is very difficult to achieve.
13. We were ultimately only able to get 5-10 students certified downtown during the entire fall semester of 2006. However, we were successful in getting the County Clerk's office to hold training sessions on campus in the fall of 2006. We were therefore able to get another 25 or so students certified during that session, giving us a core group of 30-35 students who were certified for our 2006 voter registration campaign. We attempted to have more students certified as voter registration agents, but the logistical difficulties associated with the training requirement made it difficult for many students to attend the trainings.
14. Because of the shortage of certified students, we relied upon an additional group of 50 volunteers to convince other students to register. Because those students were not certified, however, they were much less effective at encouraging students to register than they otherwise would have been. We were forced to send the volunteers out into the field to ask prospective voters to come back to a table where certified students could sign them up to vote. This process was highly inefficient and led to fewer registrations for at least two reasons:
 - a. First, students who were certified to assist in the registration process had to stay at tables and wait for other students to bring them potential voters. Because these students were busy processing the forms for prospective voters brought in by the non-certified volunteers, they could not add significantly to the voter registration totals.

- b. Second, the non-certified volunteers were less effective than if they had been certified because they often had to send voters across campus to register at a table in a different location. Convincing students to walk a distance to register is much less effective than providing them an immediate opportunity to register in person. Many prospective voters who were asked by non-certified volunteers to walk back to the designated voter registration tables did not do so.
15. The productivity of our 2006 voter registration drive was hampered even further because the certification requirement eliminated the spontaneity that can be key to voter registration drives. In my prior experience conducting voter registration drives, we were often successful in getting passersby not only to register to vote, but also to spontaneously grab clipboards and start to assist new voters to register on the spot. This is obviously something that we could not do under New Mexico's third-party registration law. We also could not reach out to newly registered voters the next day to help in our registration efforts, because those persons had to wait until the next training from the County Clerk's office.
16. In addition, I have found that conducting voter registration activities in classrooms is more difficult under New Mexico's third-party voter registration law. One of the most effective tools at registering large numbers of young people at one time is to address large classes of students. In my experience, however, the biggest constraint in getting students to do classroom registration is that young people are terrified of public speaking. Only a fraction of the 30-35 certified students that we had in 2006 were willing or able to address large classrooms. If we were able to draw upon an additional 50 non-certified volunteers to register classrooms, I am confident that we would have been able to go to more classrooms to register more students in 2006.
17. Limiting each certified voter registration agent to no more than 50 forms at a time similarly served as a bar to assisting prospective voters register and to engaging members of the community as discussed above. On multiple occasions in 2006, I used up my 50 allocated forms, and was forced to turn away prospective voters because I did not have any more forms.
18. Early on in the fall of 2006, I tried to ease the burden of the 50-form provision by volunteering to return forms on behalf of my students. I was expressly told by an employee of the County Clerk's Office that we could not return forms on behalf of another person. Another employee of the County Clerk's office later called me indicating that he would allow me to turn in forms on behalf of my students, so long as I returned them directly to his office. However, I still could not pick up forms on behalf of my students; each student was forced to go back to the County Clerk's office every time he or she ran out of forms. I frequently ran trips back and forth to the County Clerk with my students to try to get more forms. These trips necessarily sacrificed time and money that could have been used registering new voters and interacting with members of the community.
19. I once specifically asked officials at the County Clerk's Office if we could use federal voter registration forms, instead of the state forms, to avoid the 50-form requirement. I

was told that we should use the state forms. I did not press the issue or try to get my students to use the federal forms because I did not want to get any of my students in trouble.

20. As with the 50-form requirement, the 48-hour requirement forced me and certain of my students to make many more trips to the County Clerk than we otherwise would have, costing us valuable time that could have been spent registering new voters.
21. In the absence of the 48-hour requirement, we would have made one or two trips to the County Clerk's office a week, rather than the one or two trips a day that we made in 2006.
22. I also found the criminal and civil penalties associated with the 48-hour requirement to be extremely chilling to the entire process of voter registration. The certification class that I attended made a point of emphasizing the penalties that could be applied if one missed the 48-hour deadline. Several of our volunteers who were trained never actually registered any voters, and I believe they may have been scared off by the training session.
23. The 48-hour requirement led to many incidents in which my students came to me in a frightened state because they had accidentally held onto a voter registration form beyond the 48-hour deadline, and were afraid they would get in criminal trouble. I told them that we would work through the issue, but I could not guarantee them that there would be no punishment. The possibility of penalties – criminal penalties in particular – cast a shadow on the entire process of voter registration. We would have had more volunteers, and more enthusiastic and productive volunteers, if not for New Mexico's third-party registration law.
24. Assisting in voter registration is an opportunity for young people to talk to their peers about issues that matter, to build their leadership skills, and to begin to become involved in the political process.
25. I firmly believe that fewer young people in New Mexico are involved in the political process today because of the chilling effect of the new law on our voter registration operations.

I declare under penalty of perjury under the laws of the United States of America (and pursuant to 28 U.S.C. § 1746) that the foregoing is true and correct and that this declaration is executed this 1st day of July 2010 in Minneapolis, MN
[CITY] [STATE]



Jamison Tessneer