

# Plaintiffs' Exhibit 5

**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 LEIGHANNE COLE

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

1. I am the Field Director of New Mexico PIRG Education Fund, Inc ("NMPIRG"), which is a 501(c)(3) organization. New Mexico PIRG Education Fund, Inc., supervises Students for New Mexico Public Interest Research Group ("Students for NMPIRG"), a student group at the University of New Mexico at Albuquerque ("VNM") that conducts its own issue-oriented educational campaigns and participates in non-partisan campaigns conducted by New Mexico Public Interest Research Group Education Fund ("NMPIRG Education Fund").
2. One of the New Mexico PIRG Education Fund campaigns in which Students for NMPIRG participates is the "New Voters Project." The New Voters Project is a non-partisan voter registration campaign organized by "the Student PIRGS," a national federation of the PIRG organizations in various states. We participate in the New Voters Project through the NMPIRG Education Fund, which has provided us with funding for a paid organizer in certain semesters to assist in voter registration efforts.
3. For purposes of this Declaration, "NMPIRG" collectively refers to Students for NMPIRG, NMPIRG Education Fund and the New Voters Project.

4. I have been the Field Director of NMPIRG since August 2006, and have played a key role in coordinating the voter registration activities that Students for NMPIRG has conducted on behalf of the NMPIRG Education Fund since that time. Starting in July 2010, NMPIRG will have two paid employees including me, one full time and one part-time, involved with voter registration in New Mexico.
5. As a result of my employment with NMPIRG, and my review of the files referenced below, I have personal knowledge of the facts set forth in this declaration and if called to testify could and would testify competently to the following.
6. NMPIRG maintains records in both electronic and paper formats relating to voter registration. These records have been compiled and are maintained by NMPIRG in the course of regularly conducted business activity. I have personally reviewed these records, which collectively are one source of my knowledge concerning the facts herein. I regularly review such records in the ordinary course of my employment with NMPIRG, and in reviewing NMPIRG's records concerning voter registration, I observed the same standard of care applicable in reviewing similar records in the ordinary course of my employment.
7. Among the business records kept by NMPIRG are documents that track voter registration activities of NMPIRG. These documents reflect transactions and/or events with respect to NMPIRG's voter registration and are created in the ordinary course of business and contemporaneously with each transaction, event, or interaction by a NMPIRG employee or volunteer with personal knowledge of the transaction, event, or interaction.
8. One of these records is the 2004 Democracy Alliance Report Form, a true and correct copy of which is attached hereto at Tab 1. The 2004 Democracy Alliance Report Form shows that NMPIRG provided some level of assistance to 29,951 persons applying to register to vote in the State of New Mexico in 2004. *See* 2004 Democracy Alliance Report Form at AAPD0000172.
9. Another of these records is the 2006 Democracy Alliance Report Form, a true and correct copy of which is attached hereto at Tab 2. The 2006 Democracy Alliance Report shows that NMPIRG provided some level of assistance to 1,001 persons applying to register to vote in the State of New Mexico in 2006. *See* 2006 Democracy Alliance Report Form at AAPD0000168-69.
10. Attached hereto at Tab 3 is a true and correct copy of *New Voters Project Campaign Kit Fall 2006*, which was part of the issue-oriented campaigns NMPIRG conducted independently and as part of the NMPIRG Education Fund in 2006. *See New Voters Project Campaign Kit Fall 2006* at AAPD0000285-340.
11. Attached hereto at Tab 4 is a true and correct copy of *New Voters Project Campaign Kit Fall 2008*, which was part of the issue-oriented campaigns NMPIRG conducted independently and as part of the NMPIRG Education Fund in NMPIRG used in 2008. *See New Voters Project Campaign Kit Fall 2008* at AAPD0000346-407.

12. Attached hereto at Tab 5 is a true and correct copy of a pamphlet used by NMPIRG to attract and train prospective third party voter registration agents in 2006 (“Pamphlet”). The Pamphlet informed NMPIRG volunteers in May 2006 that the voter registration forms “MUST be in within 48 hours of being filled out,” which required that the volunteers carry each form to the County Clerk’s office within forty-eight hours of completion. *See* Pamphlet at AAPD0000225.
13. I understand that Students for NMPIRG is the only group presently conducting voter registration drives for the NMPIRG Education Fund and is the only group that has done so since 2004.
14. NMPIRG employed 15 field organizers and 3 staff managers to undertake large-scale voter registration efforts in New Mexico in 2004, and assisted in registering 29,951 New Mexico voters that year. (*See* 2004 Democracy Alliance Report Form at AAPD0000171-172.) In 2006, fewer Student PIRG resources were allocated for New Mexico voter registration efforts, in part, because the requirements of New Mexico’s Voter Registration law significantly increased the resources required to assist prospective New Mexico residents registering to vote as compared to assisting prospective voters in other states. With two paid staff members (one full time and one part time) in 2006, NMPIRG assisted in registering 1,001 New Mexico voters (*See* 2006 Democracy Alliance Report Form at AAPD0000168-169.)

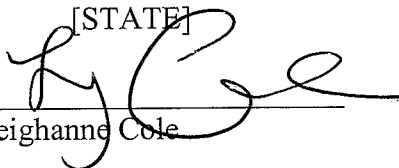
#### NMPIRG’s Voter Registration Activities

15. Voter registration activities are vital to NMPIRG Education Fund as an avenue to express the importance of civic participation and as a recruiting tool for the organization. By performing voter registration activities, NMPIRG impresses upon students that they have a voice in the political process, but that politicians will not pay attention to the issues that matter to them unless they vote.
16. When assisting a prospective voter in the voter registration process, NMPIRG volunteers talk to registrants about the importance of voting and may also talk generally about the issues that are important to students, such as making college affordable, alleviating local hunger and homelessness, and making textbooks affordable. Volunteers emphasize that students have to vote to affect change on the issues that matter to them.
17. Voter registration activities are also one of the most effective tools for NMPIRG to recruit new volunteers for its campaigns. Voter registration provides the first contact to engage students in a discussion about the importance of voting. After registering to vote with the assistance of NMPIRG, students are much more likely to volunteer with NMPIRG.
18. When a NMPIRG member assists a prospective voter register to vote, the NMPIRG member asks if the individual would be interested in assisting in NMPIRG’s voter registration efforts. If so, before 2005, NMPIRG would call the voter later that day and

ask the person to start helping to register voters the following days. After a training provided by Students for NMPIRG, the new volunteer would be asked to coordinate a small scale event, such as one hour of voter registration activities. After that small event, the volunteer would be asked to coordinate a larger event, such as an all-day phone bank or registration day. From there, the responsibilities of the volunteer would increase over time.

19. After New Mexico's third-party voter registration law took effect, NMPIRG's internal training was no longer sufficient for new members to assist prospective voters register to vote and newly-registered voters were no longer able to assist NMPIRG in voter registration activities the next day. Instead, the newly-registered voter had to attend training at the County Clerk's office before participating in NMPIRG's voter registration efforts. Consequently, since the law took effect, fewer people assist with NMPIRG's voter registration efforts, and NMPIRG assists fewer New Mexico residents to register to vote and NMPIRG recruits fewer volunteers through its efforts.
20. The New Voter's Project ("NVP") is also the main recruitment tool for NMPIRG's other educational campaigns. After the NVP ends, NM PIRG then engages the NVP volunteers in its issue campaigns. In this way, NMPIRG's voter registration efforts provide an introduction into all of NMPIRG's educational work.

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 1 day of July, 2010 in Boston, Massachusetts  
[MONTH] [CITY] [STATE]

  
Leighanne Cole