



OFFICIAL ELECTION BULLETIN

July 6, 2020

TO: County Election Officials and County Registrars

FROM: Chris Harvey, State Elections Director

**RE: Updated Voter Registration Deadline for Primary Runoffs Given
Conflicting Federal and State Laws**

The National Voter Registration Act (NVRA) requires that states set voter registration deadlines no further back than 30 days prior to a federal election. 52 USC § 20507(a)(1)(A). In 2017, in NAACP v. Kemp, (1:17cv01397-TCB), U.S. District Judge Tim Batten determined that the NVRA voter registration deadline provision applies to runoff elections as well, requiring Georgia to accept voter registrations submitted up to 30 days prior to a federal runoff election. Prior to that, following O.C.G.A. § 21-2-152(c), voters had to be registered for the primary in order to be eligible to vote in federal, state, or local primary runoffs.

That court decision has set up an irreconcilable conflict with federal and state law regarding voter registration deadlines for primary runoffs.¹ The Secretary of State's office has tried numerous different ways to reconcile the conflict, including attempting to set up federal only ballots for new registrations, but there is no solution that does not potentially disenfranchise eligible electors from contests that they would otherwise be eligible to vote in (especially when taking into account transfer voters from one county to another or address changes from one district to another).

After conferring with the Attorney General's office, the Secretary of State's office has determined that due to this conflict between federal and state law, the state has to follow the federal law. See U.S. Constitution, Art. VI, Para. 2 (Supremacy Clause). The NVRA has to control over conflicting state law.

Therefore, in order to be in compliance with the NVRA and not potentially disenfranchise eligible voters from other contests they are eligible to vote in, the voter registration deadline for all primary runoff elections held on August 11th is now July 13th. All voter registrations, transfers, and address changes or other updates need to be processed and all registrations or updates submitted by July 13 will apply to the August 11 primary runoff.

¹ Note that the issue is not present in general election runoffs, because state and local runoffs from a general election are not held on the same day as federal general election runoffs.