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To whom it may concern:

We have received multiple reports, through the Election Protection Hotline, of St. Louis County voters denied the primary ballot of their choice. Voters who requested Democratic Party ballots when they went to cast votes at their polling places were instead given nonpartisan ballots. When these voters noticed the error and attempted to correct it, they were refused new ballots or told to return later.

This is wrong. **If a voter is given an incorrect ballot, they have the right to return that ballot and get a new one.** See, e.g., Second Chance Voting Education Posters, <https://www.sos.mo.gov/elections/hava/posters>. **Missouri voters must be permitted to “start over” no matter whether they are using paper ballots or voting electronically.** See, e.g., Voting On Election Machines, <https://www.sos.mo.gov/elections/govotemissouri/howtovote>. **The election authority must destroy (“spoil”) the incorrect ballot and must give the voter a new, correct ballot immediately,** no matter who is at fault for the spoiled ballot.

The ACLU of Missouri and Advancement Project are deeply concerned when voters report interference and particularly concerned when interference is not promptly remedied. Hindering a citizen’s right to vote is a miscarriage of the democratic process at its most fundamental level. Missourians so cherish the right to cast a ballot that we have enshrined that right in our state constitution, directing that *all* elections be “free and open” and that *no one* “interfere to prevent the free exercise of the right of suffrage.” MO. CONST. art. I, sec. 25. That constitutional provision establishes “with unmistakable clarity” that the right to vote is fundamental. See *Weinschenk v. State*, 203 S.W.3d 201, 211 (Mo. banc 2006).

Primary elections are an “integral part of the procedure of choice” that underlies our system of government. *United States v. Wilson*, 72 F. Supp. 812, 815 (W.D. Mo. 1947). The



General Assembly has recognized that “[p]olitical parties play a vital and necessary role in national, statewide, and local elections” and therefore has enacted statutory protections for voters and candidates in primary elections. *State ex rel. McClellan v. Kirkpatrick*, 504 S.W.2d 83, 86 (Mo. banc 1974); *see also generally* Mo. Rev. Stat. Chapter 115. Polling places must remain open and operable throughout voting hours. *E.g.*, Mo. Rev. Stat. § 115.407. Further, voters “shall be entitled” to receive the ballot of the political party “designated by the voter.” Mo. Rev. Stat. § 115.397. An election authority that fails to provide the ballot of the party designated by the voter is committing a violation of that person’s constitutional and statutory rights—a violation that “strike[s] at the heart of representative government.” *Griffin v. Burns*, 570 F.2d 1065, 1075 (1st Cir. 1978).

The ACLU of Missouri and Advancement Project call upon the St. Louis County Board of Elections to address this problem immediately, to monitor polling places for the remainder of the day, and to thoroughly investigate the situation to prevent it from happening again.

Sincerely,

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Executive Director



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