IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

NAACP Virginia State Conference,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Civil Action No. 1:25-cv-1937**
	)	
John O'Bannon, in his official capacity as a member of the Virginia State Board of Elections, *et al.*,	)	
	)	
Defendants.	)	

ELECT DEFENDANTS' MEMORANDUM
IN SUPPORT OF MOTION TO DISMISS AMENDED COMPLAINT

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INTRODUCTION

Plaintiff claims in its amended complaint that various state and local election officials unlawfully reject certain college students' voter registration applications for failure to provide information about their residence on campus. But the Virginia Commissioner of Elections and members of the State Board of Elections do not reject voter registration applications; in fact, they do not process voter registration applications *at all*. And in any event, information about students' residence is plainly material to the determination of where those students are entitled to vote. This Court thus lacks jurisdiction over Plaintiff's claims against the state election officials, and the claims fail on the merits.

Plaintiff lacks standing to bring its claims because it fails to allege that any of its members were prohibited from voting based on the denial of any voter registration applications and because an advocacy organization is not harmed by spending money on advocacy. Further, Plaintiff cannot establish traceability or redressability because the state election officials do not reject voter registration applications. For similar reasons, Plaintiff cannot overcome sovereign immunity: the state election officials lack the requisite special relationship to the challenged conduct, and Plaintiff is attempting to require state officials to follow purported *state law* voting qualifications.

Plaintiff's claims also fail on the merits. Its constitutional claims fail the *Anderson-Burdick* test because of Virginia's strong interest in ensuring accurate voter registrations and the minimal burden on voters: indeed, Virginia allows for same-day registration and the ability to cast a provisional ballot, both of which undermine any theory of burden. Plaintiff's materiality claim fails because information about students' residence is material to determining whether a voter is qualified to vote under Virginia law. And Plaintiff also fails to meet the requirements for injunctive relief. This Court should therefore grant the motion to dismiss.

BACKGROUND

The Virginia Department of Elections (ELECT) exists to promote and support "accurate, fair, open and secure elections for the citizens of the Commonwealth." *About Us*, ELECT, *available at* https://tinyurl.com/2kybbmbr.[1] ELECT conducts administrative and programmatic operations for the State Board of Elections (Board) and also discharges the Board's duties. *Board*, ELECT, *available at* https://tinyurl.com/47vcjk65. The Board supervises, coordinates, and adopts regulations that govern local electoral boards, registrars, and officers of election; provides electronic applications for voter registration and delivery of absentee ballots to eligible military and overseas voters; establishes and maintains a statewide automated voter registration system to include proposed procedures for ascertaining current addresses of registrants; prescribes standard forms for registration, transfer, and identification of voters; and requires record cancellation for ineligible registrants. Va. Code §§ 24.2-103, -105, -404 & -455.

The Virginia Constitution enumerates certain requirements for qualified voters in the Commonwealth. Va. Const. art. II § 1. One of these requirements is that "each voter shall be a resident of the Commonwealth and of the precinct where he votes," with residence requiring "both domicile and a place of abode." *Id.* A "place of abode" is defined in the Virginia Code and the Administrative Code as the "physical place where a person dwells." 1 VAC § 20-40-10. Virginia law states that any person who is not already registered to vote, but would otherwise be a qualified voter, may register to vote as provided by law. Va. Code § 24.2-400. To register to vote, an applicant must provide information sufficient for local general registrars to place the applicant into

[1] "[Courts] routinely take judicial notice of information contained on state and federal government websites." *United States v. Garcia*, 855 F.3d 615, 621 (4th Cir. 2017).

a precinct consistent with the Virginia Constitution's requirement. *See* Va. Code § 24.2-418; Va. Const. art. II § 1; ECF No. 83-1 (Affidavit of Ashley Coles (Coles Aff.)) ¶¶ 7, 10, 16.

Neither ELECT nor the Board has the authority to review, deny, or accept individual voter registration applications. *See* Va. Code § 24.2-114; Coles Aff. ¶ 13. Instead, local general registrars review and process voter registration applications in accordance with Virginia law. Va. Code § 24.2-114(6); Coles Aff. ¶¶ 10, 13, 19. When the applicant does not provide information sufficient for the local general registrar to determine the location at which the applicant intended to register, then the registrar must deny the application. 1 VAC § 20-40-40. When the applicant provides all of the information that the law requires, but the application has one of five specific defects listed in 1 VAC § 20-40-40(C)—including an address that is not normally used for residential purposes, or a mailing address that is in a separate county from the residential address—then the registrar will ask the applicant to resolve the issue but must deny the application if the applicant cannot resolve the issue before the deadline. 1 VAC § 20-40-40(C). In contrast, when the application contains all information that the law requires but also contains internal discrepancies, the local general registrar may follow up through informal means to resolve those discrepancies. 1 VAC § 20-40-40(B).

A qualified applicant may register to vote by any one of several methods and may do so up to 11 days prior to the final election day in a general election. *See* Va. Code §§ 24.2-411, -411.2, -411.3, -412, -416; Coles Aff. ¶ 9. Any voter who fails to adequately register before that deadline may nonetheless register in-person up to and on Election Day. Va. Code § 24.2-420.1. An eligible voter may register in-person either at his general registrar's office (before election day), or at the polling place in the precinct in which he resides, including at the very time that he casts his provisional ballot on Election Day itself. *Id.*; Coles Aff. ¶¶ 9, 10. This process is available to any

eligible resident, including residents whose registration was previously rejected. Va. Code § 24.2-420.1 ("*[A]ny person* who is qualified to register to vote shall be entitled to register in person up to and including the day of the election." (emphasis added)); Coles Aff. ¶¶ 6, 9, 10. The local electoral board meets on the day after Election Day to determine whether each person who submitted a provisional ballot was a qualified voter in the precinct in which he offered the provisional vote. Va. Code § 24.2-653.01. The local electoral board makes that determination in conjunction with the local general registrar's review of the voter's application. Va. Code § 24.2-653.01(C); Coles Aff. ¶ 10. The local electoral board may take up to 10 days after the election to review and determine the validity of all the provisional ballots. Va. Code § 24.2-653.01(A); Coles Aff. ¶ 10.

To assist local registrars in processing voter registration applications, ELECT sometimes issues advisories that serve as formal guidance on registration requirements. *See* Coles Aff. ¶ 25; *see also* Va. Code § 24.2-103 ("The State Board, through [ELECT], shall. . . issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws."). Local registrars have discretion to determine whether an applicant has provided information sufficient for voter registration; were ELECT to issue any guidance regarding processing student voter registration applications that lack a dorm room number, campus mailing address, or mailbox number, that guidance would be nonbinding upon local general registrars, who would retain discretion to determine that the applicant's information is insufficient to place the applicant into the right precinct. *See* 1 VAC § 20-40-40; Coles Aff. ¶ 25. And upon information and belief, neither ELECT nor the Board has issued any regulations or formal guidance to local registrars advising them to deny voter registration

applications of students based on the lack of a specific dorm room number, campus mailing address, or mailbox number. Coles Aff. ¶ 25.

2025 was a statewide election year for Virginia. In addition to statewide elections for Governor, Lieutenant Governor, and Attorney General, voters' ballots included choices for local elections and referenda that varied by precinct. Coles Aff. ¶ 8. Early voting for the election began on September 19, 2025, and Election Day was November 4, 2025. *See* ECF No. 83 at 17. The final day for voters to register through the standard process was October 24, 2025, *id.*, but after that point eligible voters still were free to register in person and vote on Election Day. Va. Code §§ 24.2-420.1, -653.01; Coles Aff. ¶¶ 9, 10.

In October 2025, Plaintiff NAACP Virginia State Conference filed this lawsuit against the Virginia Commissioner of Elections and members of the Virginia State Board of Elections (collectively, the ELECT Defendants), as well as several local registrars and members of local boards of elections. ECF No. 1. The ELECT defendants moved to dismiss the complaint because Plaintiff lacked standing, sovereign immunity barred their claims, and the complaint did not state a claim. ECF Nos. 82, 83. In January 2026, Plaintiff filed an amended complaint, naming the current Commissioner of ELECT and the same Board members as the original complaint. ECF No. 88 at 1. In March 2026, this Court denied as moot the motion to dismiss the original complaint. ECF No. 105. The amended complaint is now the operative complaint. *Id.*

Plaintiff's amended complaint alleges that the defendants denied students' voter registration applications when those students failed to provide "a college dormitory name, a dorm room, a campus mailing address, and/or mail box number." Amd. Compl. ¶ 1. The amended complaint brings four counts, three of which apply to the ELECT defendants: a 42 U.S.C. § 1983 claim for alleged violations of the First and Fourteenth Amendments regarding the right to vote

(Count I); a 42 U.S.C. § 1983 claim for alleged violations of the equal protection clause Fourteenth Amendment (Count II); and alleged violations of the Materiality Provision of the Civil Rights Act, 52 U.S.C. § 10101(A)(2)(B) (Count III). *Id.* ¶¶ 82–103. Plaintiff asks for declaratory and injunctive relief and attorney's fees. *Id.* at pp. 29–31 (prayer for relief).

LEGAL STANDARD

The plaintiff has the burden of establishing subject-matter jurisdiction and standing. *Taubman Realty Grp. v. Mineta*, 320 F.3d 475, 480 (4th Cir. 2003). "A court is to presume . . . that a case lies *outside* its limited jurisdiction unless and until jurisdiction has been shown to be proper." *United States v. Poole*, 531 F.3d 263, 274 (4th Cir. 2008) (citation omitted). In considering a Rule 12(b)(1) motion to dismiss for lack of subject-matter jurisdiction, a court "may consider evidence outside the pleadings without converting the proceeding to one for summary judgment." *Richmond, Fredericksburg & Potomac R.R. Co. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991) (citation omitted).

"To survive a motion to dismiss [under Rule 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Because a Rule 12(b)(6) motion "does not resolve contests surrounding facts, the merits of a claim, or the applicability of defenses," *Tobey v. Jones*, 706 F.3d 379, 387 (4th Cir. 2013) (citation omitted), "a court 'must accept as true all of the factual allegations contained in the complaint' and 'draw all reasonable inferences in favor of the plaintiff,'" *Kensington Volunteer Fire Dep't, Inc. v. Montgomery Cty.*, 684 F.3d 462, 467 (4th Cir. 2012) (citation omitted). Courts may also "consider documents that are explicitly incorporated into the complaint by reference, and those attached to the complaint as exhibits." *Goines v. Valley Cmty. Servs. Bd.*, 822 F.3d 159, 166

(4th Cir. 2016) (internal citations omitted). A court, however, "need not accept the legal conclusions drawn from the facts." *Eastern Shore Mkts., Inc. v. J.D. Assocs. Ltd. Pshp.*, 213 F.3d 175, 180 (4th Cir. 2000) (citation omitted).

ARGUMENT

I. This Court lacks jurisdiction over Plaintiff's claims

A. Plaintiff lacks Article III standing

"The requirement that jurisdiction be established as a threshold matter . . . is 'inflexible and without exception.'" *Ruhrgas Ag v. Marathon Oil Co.*, 526 U.S. 574, 577 (1999) (alterations in original, citation omitted). This Court lacks jurisdiction over Plaintiff's claims because (1) Plaintiff lacks Article III standing, and (2) sovereign immunity bars Plaintiff's claims.

Plaintiff lacks Article III standing under either an associational or organizational standing theory. "Standing is part and parcel of the constitutional mandate that the judicial power of the United States extend only to 'cases' and 'controversies.'" *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 313 (4th Cir. 2013) (quoting U.S. Const. art. III, § 2) (citation omitted). To establish "the 'irreducible constitutional minimum' of standing," a plaintiff must show that it "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). A plaintiff "bear[s] the burden of . . . showing that the defendant's actual action has caused the substantial risk of harm," *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 414 n.5 (2013), and the "alleged injury be 'fairly . . . traceable to the challenged action of the defendant, and not . . . the result of the independent action of some third party not before the court." *Rouse v. Fader*, --- F.4th ---, 2026 WL 806546, at *5 (4th Cir. Mar. 24, 2026) (citations omitted).

The same standing rules apply when membership organizations attempt to invoke federal

jurisdiction. *See Lane v. Holder*, 703 F.3d 668, 674 (4th Cir. 2012). An organization can establish Article III standing in two ways: it either can show that at least one of its members has standing and that the organization can properly represent the member's interests without their participation (associational standing), or it can satisfy the traditional standing test itself (organizational standing). *See Southern Walk at Broadlands Homeowner's Ass'n v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 182 (4th Cir. 2013). Plaintiff here establishes neither.

First, Plaintiff lacks associational standing. "An association has associational standing when at least one of its 'identified' members 'would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.'" *Outdoor Amusement Bus. Ass'n v. DHS*, 983 F.3d 671, 683 (4th Cir. 2020) (quoting *Friends of the Earth, Inc. v. Laidlaw Env't. Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000)). Thus, to establish associational standing, Plaintiff must specifically "identify members who have suffered the requisite harm." *Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009); *see also*, *e.g.*, *Southern Walk at Broadlands*, 713 F.3d at 184–85 (denying organizational standing when plaintiff "has failed to identify a single *specific member* injured by" the challenged action).

Plaintiff does not identify a single specific member whose voter registration has been rejected, much less for the specific reason it challenges here. Indeed, the most it can allege is that, "generally, the NAACP has registered voters, including many college students, in" Virginia cities with universities. Amd. Compl. ¶ 14. But that allegation lacks the crucial step: that one of its "many college student[]" members is one of the college students who had their registration rejected because of the defendants' allegedly unlawful conduct. Without a named injured member, there can be no plausible case for associational standing.

Likewise, Plaintiff attempts to generate associational standing by attaching certain students' alleged registration denial letters, *see* Amd. Compl. Exs. 2, 3, 5, 6, but Plaintiff does not allege that these students are members of the organization, *see generally* Amd. Compl. That failure deprives Plaintiff of associational standing. *Southern Walk at Broadlands*, 713 F.3d at 184–85; *see also Pickens Cty. Branch of the NAACP v. School Dist. of Pickens Cty.*, 2025 WL 2844248, at *12 (D.S.C. Oct. 7, 2025) (dismissing for lack of standing when the complaint "contain[ed] no allegations that any Pickens NAACP member" was harmed).[2]

Nor can Plaintiff argue that it is *probable* that one of the organization's members suffered an injury in fact, because binding case law still would require the organization to "make specific allegations establishing that at least one identified member had suffered or would suffer harm." *Summers*, 555 U.S. at 498. The amended complaint contains no such allegation.

The lack of an identified member is glaring, given that the ELECT defendants noted this omission in their motion to dismiss the original complaint. ECF No. 83 at 16–17. Rather than disputing the necessity of this legal requirement, or satisfying it in its amended complaint, Plaintiff simply filed an amended complaint that still has not identified a member of its organization who has standing in his own right. *See generally* Amd. Compl. That omission is fatal to associational standing.

In any event, litigating about the outcome of *individual* voter registrations, which would in large part turn on what information those individuals actually provided when attempting to register and where they actually resided, would require the participation of those individual members—

[2] In January 2026, the plaintiffs in *Pickens Cty. Branch of the NAACP* filed an amended complaint. Amd. Compl., *Pickens Cty. Branch of the NAACP*, No. 8:23-cv-01736 (D.S.C. Jan. 6, 2026) (ECF 74). The following day, the court struck the complaint as untimely. Order, *Pickens Cty. Branch of the NAACP*, No. 8:23-cv-01736 (D.S.C. Jan. 7, 2026) (ECF 75). No notice of appeal appears on the docket.

thus foreclosing associational standing. *See Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181, 199 (2023).

Second, Plaintiff lacks organizational standing. Organizations have standing "to sue on their own behalf for injuries they have sustained," *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 n.19 (1982) (citation omitted), but they still must satisfy the same standards for injury-in-fact, causation, and redressability that apply to individuals, *id.* at 378–79. Much like natural persons, "an organization may not establish standing simply based on the intensity of the litigant's interest or because of strong opposition to the government's conduct." *FDA v. Alliance for Hippocratic Med.*, 602 U.S. 367, 394 (2024) (internal citation omitted); *see also White Tail Park, Inc. v. Stroube*, 413 F.3d 451, 462 (4th Cir. 2005) (explaining that an organization lacked standing because it failed to identify "the precise nature" of its interest). Likewise, "an organization . . . cannot spend its way into standing simply by expending money to gather information and advocate against the defendant's action." *Alliance for Hippocratic Med.*, 602 U.S. at 394.

Here, the amended complaint alleges no more than abstract organizational interests and voluntary budgetary decisions based on those interests. The direct harm that Plaintiff alleges is that it had to "divert resources in this and future elections" by coordinating with college leadership, broadcasting public service announcements, and "develop[ing] digital graphics to promote awareness," thereby causing the group "pecuniary harm" and "partially thwart[ing]" its mission. Amd. Compl. ¶ 15. But an organization's "own budgetary choices" concerning the allocation of funds, such as "educating members," are not enough to establish an injury in fact. *Lane*, 703 F.3d at 675 ("Although a diversion of resources might harm the organization by reducing the funds available for other purposes, 'it results not from any actions taken by [the defendant], but rather from the [organization's] own budgetary choices.'" (alterations in original, citation omitted)); *see*

also Tennessee Conf. of the NAACP v. Lee, 105 F.4th 888, 903 (6th Cir. 2024) (per curiam) (holding that "the decision to spend money to minimize the alleged harms" to other parties caused by government action did not supply organizational standing). Likewise, the U.S. Supreme Court has recently reaffirmed that an organization cannot establish standing simply because it feels compelled "to inform the public" that it believes the government's actions are allegedly harmful or illegal. *Alliance for Hippocratic Med.*, 602 U.S. at 395. Otherwise, every organization could "spend its way into standing" to challenge any law that the organization opposed, and Article III's limitations on the power of the federal judiciary would be illusory. *Id.* at 394; *see Lane*, 703 F.3d at 675. Plaintiff's allegations here are therefore insufficient.

In addition, Plaintiff lacks standing against the ELECT Defendants specifically because they neither make nor control the decisions that Plaintiff challenges here. Plaintiff's lawsuit rests on the allegation that students in Virginia are unlawfully denied voter registration for failure to include certain specific residence information. Amd. Compl. ¶¶ 2–4; *see generally* Amd. Compl., but the ELECT Defendants neither make registration decisions nor control those who do so, *see* Coles Aff. ¶¶ 13, 23–25. That is handled by local general registrars. *See* Coles Aff. ¶¶ 13, 16, 18, 19, 23. Plaintiff's allegations thus lack both traceability and redressability as to ELECT, either of which—much less both—is sufficient to deprive Plaintiff of standing against the ELECT Defendants. *Diamond Alternative Energy, LLC v. Environmental Prot. Agency*, 606 U.S. 100, 120 (2025) (explaining that one of the "primary goals" of the redressability requirement is "to ensure that plaintiffs do not sue the wrong parties"); *Sheppheard v. Morrisey*, 143 F.4th 232, 243 (4th Cir. 2025) (the traceability prong of standing "is not met when an injury results from 'the independent action of some third party not before the court'" (quoting *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41–42 (1976)); *Iota Xi Chapter of Sigma Chi Fraternity v. Patterson*, 566 F.3d

138, 149 (4th Cir. 2009) ("Because the [] claim is not redressable, the plaintiffs lack standing to pursue it."). The ELECT Defendants are the wrong parties here because they lack authority to ameliorate the alleged harm.

Under any theory, Plaintiff lacks standing, and thus this Court lacks jurisdiction to adjudicate its claims against the ELECT defendants.

B. Sovereign immunity also bars Plaintiff's claims

Sovereign immunity is an additional bar to Plaintiff's claims. Sovereign immunity "denies to the federal courts authority to entertain a suit brought by private parties against a state without its consent." *Ford Motor Co. v. Department of Treasury of State of Ind.*, 323 U.S. 459, 464 (1945); *King v. Youngkin*, 122 F.4th 539, 543 (4th Cir. 2024) ("The Eleventh Amendment and the broader principles of federalism it reflects generally prevent private parties from suing a State without its consent."). Because the States necessarily act through their agents, the States' sovereign immunity extends to state officials sued in their official capacities. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989). Sovereign immunity bars official-capacity claims against state defendants unless the Commonwealth waives immunity, Congress has validly abrogated the Commonwealth's immunity, or the exception explained in *Ex parte Young*, 209 U.S. 123 (1908), applies. *See Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 253 (2011).

Here Plaintiff does not, and could not, allege that the Commonwealth has waived its immunity or consented to be sued. *See generally* Amd. Compl. Nor has Congress abrogated that immunity; Plaintiff alleges constitutional and federal statutory claims pursuant to 42 U.S.C. § 1983, Amd. Compl. ¶¶ 82–103, but "it has long been settled that" Congress did not abrogate the States' sovereign immunity in Section 1983. *In re Sec'y of the Dep't of Crime Control & Pub. Safety*, 7 F.3d 1140, 1149 (4th Cir. 1993) (citing *Quern v. Jordan*, 440 U.S. 332, 342 (1979). Sovereign immunity therefore bars Plaintiff's claims unless it can demonstrate that the claims fall

within the narrow *Ex parte Young* exception.

The *Ex parte Young* exception "permits a federal court to issue prospective, injunctive relief against a state officer to prevent ongoing violations of federal law" but has limited application. *Bland v. Roberts*, 730 F.3d 368, 390–91 (4th Cir. 2013) (citation omitted). It applies only to officials who bear a "special relation" to the "challenged statute" and who have "acted or threatened" to enforce the statute. *McBurney v. Cuccinelli*, 616 F.3d 393, 399, 402 (4th Cir. 2010) (quotation marks omitted). Those officers must be "clothed with some duty in regard to the enforcement of the laws of the State, and [] threaten and are about to commence proceedings . . . to enforce [an unconstitutional act] against parties affected." *Ex parte Young*, 209 U.S. at 155–56. Otherwise, sovereign immunity applies.

Plaintiff's claims fall outside the narrow *Ex parte Young* exception: none of claims establish the required special relationship between the alleged violations and the ELECT Defendants. The ELECT Defendants lack authority to review, accept, and reject voter registrations, which actions are the basis of Plaintiff's claims. Coles Aff. ¶¶ 10, 13, 23, 25. They thus are not "clothed with some duty" to enforce the allegedly illegal action "against parties affected," as that exception requires. *Ex parte Young*, 209 U.S. at 155–56. Plaintiff challenges "student voter registration rejections" and contends that "Defendants have denied college students the right to register to vote." Amd. Compl. ¶¶ 87, 100. But the ELECT Defendants do not have any authority to reject voter registrations because that power lies exclusively with other parties. Va. Code § 24.2-114. Nor has Plaintiff alleged that the ELECT Defendants have, or even could have, rejected any voter registration applications at all. Indeed, nearly all of Plaintiff's requested relief is addressed exclusively to the Local Defendants. Amd. Compl. pp. 29–30 (asking this Court to "[d]eclare [unlawful] *Local Defendants'* rejection of voter registration applications"; to grant

injunctive relief against "*Local Defendants*" by ordering them to "cease rejecting" applications, "accept otherwise valid" applications, and "accept otherwise valid same day" applications); *see also id.* (merely requesting this Court order the ELECT Defendants to "take all reasonable steps to provide notice to Virginia college and university students of the relief" this Court may grant, and to "issue guidance or otherwise inform Virginia registrars that they must cease rejecting" the disputed applications). Thus, Plaintiff has not alleged any action or authority by the ELECT Defendants to enforce the allegedly illegal action "against parties affected," as that exception requires. *Ex parte Young*, 209 U.S. at 155–56. Sovereign immunity bars their claim.

Nor can Plaintiff circumvent this protection by broadening the scope of the inquiry. Plaintiff points to instances of general "ELECT Guidance," *see, e.g.*, Compl. ¶¶ 45–48, but that guidance does not bind local general registrars in the first place. Coles Aff. ¶ 25. And general authority is not enough in any event; as the Fourth Circuit has explained, the mere "[g]*eneral authority* to enforce the laws of the state" is insufficient to satisfy the *Ex parte Young* exception to a State's sovereign immunity. *Waste Mgmt. Holdings, Inc. v. Gilmore*, 252 F.3d 316, 331 (4th Cir. 2001) (citation omitted). The narrower "connection with the enforcement of the [challenged] act," is necessary, because otherwise the "suit would essentially make the State a party." *Doyle v. Hogan*, 1 F.4th 249, 255 (4th Cir. 2021) (quoting *Ex parte Young*, 209 U.S. at 157 (quotation marks omitted)). The amended complaint lacks connection because Plaintiff never identified how the ELECT Defendants can "enforce" the registration decisions Plaintiff challenges. The ELECT Defendants thus are not subject to the *Ex parte Young* exception and should be dismissed from this suit.

Further, despite cloaking Count III in the garb of the Civil Rights Act's materiality provision, 52 U.S.C. § 10101(a)(2)(B), Count III is for all practical purposes a state-law claim to

which the *Ex parte Young* exception is categorically inapplicable. Count III alleges that information regarding a voter's "dormitory name, dorm room number, campus mailing address, and/or mail box number" is categorically "immaterial" to the voter's "qualifications necessary to vote under Virginia law." Amd. Compl. ¶ 100. It is hornbook law that "the *Ex parte Young* exception requires the allegation of an ongoing violation of *federal* law" and "does not apply to actions against State [defendants] seeking to compel their compliance with *State* law." *Antrican v. Odom*, 290 F.3d 178, 186–87 (4th Cir. 2002) (first emphasis added, citations omitted). In such a case, "the entire basis for the doctrine of" *Ex parte Young* "disappears" because a "federal court's grant of relief against state officials on the basis of state law, whether prospective or retroactive, does not vindicate the supreme authority of federal law." *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984). A State's "sovereign dignity reserves to its own institutions the task of keeping its officers in line with [state] law." *Bragg v. West Va. Coal Ass'n*, 248 F.3d 275, 297 (4th Cir. 2001). Indeed, "it is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law." *Pennhurst*, 465 U.S. at 106. Thus "sovereign immunity . . . bars a court's grant of any type of relief, whether retrospective or prospective, based upon a State official's violation of State law." *Bragg*, 248 F.3d at 293.

Count III seeks to force the state officers to comply with Plaintiff's understanding of state law. The question under the materiality provision of § 10101 is whether an error or omission is "material in determining whether" an individual registering to vote "*is qualified under State law* to vote in" an election. 52 U.S.C. § 10101(a)(2)(B) (emphasis added). The 2025 election at issue here was a purely state-law election—there were no federal offices on the ballot. And Plaintiff concedes that "the qualifications needed to register to vote" are pure questions of Virginia law—

specifically, the meaning of Article II, § 1 of the Constitution of Virginia. Amd. Compl. ¶ 99. Plaintiff alleges that Defendants have denied voter registrations for "failure to include immaterial information such as their dormitory name, dorm room number, campus mailing address, and/or mail box number" on applications. *Id.* ¶ 100. But whether those omissions are "material" requires construing the detailed requirements for establishing residency under Article II, § 1 of the Constitution of Virginia, which mandates that every "voter shall be a resident of the Commonwealth and of the precinct where he votes," with residence requiring "both domicile and a place of abode." *See* Coles Aff. ¶ 7. Setting aside the fact that this definition plainly renders specific residence information material, *see* Part II(B)(2), *infra*, it is equally plain that the interpretation of that definition is a question of Virginia rather than federal law. *See Sachs v. Horan*, 475 S.E.2d 276, 278 (Va. 1996) (defining "both domicile and place of abode" under the Virginia Constitution). And Plaintiff itself casts its argument in those terms, saying that "[r]ejecting voter registration applications for these reasons violate[s] *state* regulations." Amd. Compl. ¶ 89 (emphasis added). Count III does little more than ask this Court to superintend the ELECT Defendants in carrying out their duties as state officials carrying out state law—precisely the "great[] intrusion on state sovereignty" that the Supreme Court has cautioned federal courts to avoid. *Pennhurst*, 465 U.S. at 106. Count III is thus doubly barred by the ELECT Defendants' sovereign immunity.

II. Plaintiff's claims fail on the merits

A. Plaintiff fails to state a claim under the First Amendment and Fourteenth Amendment

Plaintiff's claims also fail on the merits, and the Court should, in the alternative, dismiss the claims under Rule 12(b)(6). Plaintiff fails to state a claim under the First or Fourteenth Amendments because the ELECT Defendants' actions did not unconstitutionally burden the right

to vote: the Commonwealth's requirements are reasonable, and same-day voter registration alleviates concerns that otherwise-eligible voters would be inadvertently prohibited from voting. Second, Plaintiff lacks a private right of action for its materiality claim, and information about residence is plainly material to ascertaining state qualifications to vote. Finally, Plaintiff fails to meet the factors necessary to obtain injunctive relief.

Counts I and II of the amended complaint fail on the merits. "[T]he Supreme Court has articulated a 'flexible standard'" to resolve "'[c]onstitutional challenges to specific provisions of a State's election laws'" known as the *Anderson-Burdick* test. *Fusaro v. Cogan*, 930 F.3d 241, 257 (4th Cir. 2019) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 788–89 (1983), and *Burdick v. Takushi*, 504 U.S. 428, 434 (1992)). Under that test, "[w]hen facing any constitutional challenge to a state's election laws, a court must first determine whether protected rights are severely burdened," because "[i]f so, strict scrutiny applies." *Id*. at 257–58 (quotation marks omitted). But any "reasonable, nondiscriminatory restrictions upon the First and Fourteenth Amendment rights" of voters are generally not severe and are therefore not subject to strict scrutiny. *Burdick*, 504 U.S. at 434 (quotation marks omitted). Where the burden is not severe, "the court must balance the character and magnitude of the burdens imposed against the extent to which the regulations advance the state's interests in ensuring that 'order, rather than chaos, is to accompany the democratic processes." *Fusaro*, 930 F.3d at 258 (quotation marks omitted). This balancing test is considerably more flexible than strict scrutiny, which would improperly "tie the hands of States seeking to assure that elections are operated equitably and efficiently." *Id*. (quoting *Burdick*, 504 U.S. at 433). Thus, where the burden is not severe, "the state need only 'articulate its asserted interests' . . . [and] is *not required* to support its legitimate interest with empirical evidence of any kind." *Democratic Party of Va. v. Brink*, 599 F. Supp. 3d 346, 363–64 (E.D. Va. 2022) (quoting

Sarvis v. Alcorn, 826 F.3d 708, 719 (4th Cir. 2016)). Courts must review laws imposing "[l]esser burdens" under a "less exacting review" in which a State's "important regulatory interests" will usually justify "reasonable, nondiscriminatory restrictions." *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) (quoting *Burdick*, 504 U.S. at 434).

Here, strict scrutiny is not triggered because the burden is minimal and the State's interest is substantial. First, the burden is reasonable and nondiscriminatory: requiring applicants to provide a precinct-level residence location is not onerous, and also is necessary to determine whether applicants are qualified to vote and at which precinct. The ELECT Defendants advise general registrars to require a description of the voter's location with "sufficient specificity to allow the general registrar to place the location in a defined precinct." *See* 1 VAC § 20-40-30. This basic information is a minimal burden; providing information sufficient to place the applicant in the proper precinct takes little from the applicant. And courts have reviewed substantially more burdensome requirements with *Anderson-Burdick*'s "less exacting review." *See Lee v. Virginia State Bd. of Elecs.*, 843 F.3d 592, 606–07 (4th Cir. 2016) (declining to apply strict scrutiny to a law requiring Virginians to present government-issued ID in order to vote). This light burden on the right to vote can be met "with only nominal effort," and therefore is not severe. *Clingman v. Beaver*, 544 U.S. 581, 591 (2005).

Second, the Commonwealth has a substantial interest in knowing where voters are located and assigning voters to the correct voting precincts. It is beyond debate that the "State has a substantial interest in the manner in which its elections are conducted." *Democratic Party of U. S. v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 126 (1981). And "the States have the power to require that voters be bona fide residents of the relevant political subdivision." *Dunn v. Blumstein*, 405 U.S. 330, 343 (1972). The Virginia Constitution properly requires that each voter "be a

resident . . . of the precinct where he votes." Va. Const. art. II § 1. The Commonwealth thus must obtain sufficient information in the physical address of each voter to ensure that this constitutional requirement is met. The requirement that applicants provide precinct-specific residence information both helps enforce Virginia's prerequisite qualifications and promotes the Commonwealth's interest in the orderly administration of elections and accurate record keeping. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) ("[T]he interest in orderly administration and accurate recordkeeping provides a sufficient justification for carefully identifying all voters participating in the election process."). For example, without precinct-specific address information, registrars would have a harder time planning and conducting elections in an orderly fashion because balancing voting volume by precinct would be arduous if not impossible. Thus, Virginia's interest in obtaining sufficient residence information from voters is substantial.

Plaintiff argues that defendants unlawfully require information like a college student's dormitory name, room number, and mailing address for voter registration. Amd. Compl. ¶ 2. But a college dormitory name might be required to place an applicant in the proper voting precinct; some college campuses span multiple voting precincts, so a local general registrar might decide that a campus address that lacks a dormitory name failed to provide adequate information for voter registration purposes. *See* Coles Aff. ¶¶ 20, 24. Similarly, if a student provides a nonresidential address, then a general registrar might not know whether the student lives on campus, in a nearby neighborhood, or in a different city. *See id.* ¶ 20. As for the specific dormitory room numbers within a residential building, Plaintiff has not alleged any statement or guidance from the ELECT Defendants, and they are aware of none, that would prohibit successful registration to applicants who fail to provide that level of granularity. *See* Coles Aff. ¶ 25; *see generally* Amd. Compl.

Indeed, the amended complaint glosses over the fact that the Commonwealth's same-day registration process would mitigate any burden imposed by a registrar's initial denial of a registration or request for further residence information. First, a qualified applicant may register to vote by multiple methods up to 11 days prior to the final election day in a general election. *See* Va. Code §§ 24.2-411, -411.2, -411.3, -412, -416; Coles Aff. ¶ 9. And failing that, the qualified applicant still may register in-person even on Election Day, including at the very polling place in the precinct in which he resides. Va. Code § 24.2-420.1; Coles Aff. ¶ 10. Qualified persons may use this latter in-person option at the same time they cast their ballot. Coles Aff. ¶ 10. Thus, anyone denied registration for failure to sufficiently specify residence still can same-day-register with a proper residency whenever he chooses to vote. This option to submit a provisional ballot mitigates any burden imposed here. *See*, *e.g.*, *Crawford*, 553 U.S. at 199 ("The severity of that burden is, of course, mitigated by the fact that, if eligible, voters . . . may cast provisional ballots that will ultimately be counted."). These "reasonable, nondiscriminatory restrictions" certainly survive the "less exacting review" based on the Commonwealth's "important regulatory interests" and mitigation of remaining concerns. *Timmons*, 520 U.S. at 358.

In any event, the Commonwealth's voter registration requirements also would survive strict scrutiny if it applied. To satisfy the strict scrutiny standard, a regulation that "impos[es] severe burdens on [a plaintiff's] rights must be narrowly tailored and advance a compelling state interest." *Timmons*, 520 U.S. at 358. The Commonwealth has a compelling interest in ensuring that voters comply with the residency restrictions it has placed on voting. *See Dunn*, 405 U.S. at 343 ("[T]he States have the power to require that voters be bona fide residents of the relevant political subdivision."); *Carrington v. Rash*, 380 U.S. 89, 91 (1965) ("[A State] has unquestioned power to impose reasonable residence restrictions of the availability of the ballot."). Here, there is no less

restrictive means of determining the precinct in which a voter resides than requiring that the voter registration application contain sufficient information about the voter's physical residential address. Indeed, it is difficult to imagine how else the Commonwealth could determine residency. And, as described above, Virginia has ensured that this requirement will not restrict any individual's ability to vote because applicants can register to vote in person up to, and even on, Election Day itself. Accordingly, Virginia's interest in determining the residency of voters is strong enough "to pass constitutional muster." *Marston v. Lewis*, 410 U.S. 679, 680 (1973) (holding that a 50-day durational residency requirement for voters was constitutional). Plaintiff's challenge against the ELECT Defendants under the First and Fourteenth Amendments thus fails on the merits.

B. Plaintiff's materiality claim fails

Plaintiff also cannot succeed on the merits of its materiality claim—Count III. The Civil Rights Act provides that no person shall "deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any . . . registration, . . . if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election." 52 U.S.C. § 10101(a)(2)(B). The statute defines the phrase "qualified under State law" to mean "qualified according to the laws, customs, or usages of the State." *See id.* § 10101(e). Thus, to state a claim under this Materiality Provision, a plaintiff must allege the denial of the right to vote for reasons immaterial to the prerequisite qualifications to vote in a particular precinct. *See id.* Plaintiff's allegations are insufficient to state a claim.

To state a claim under this Materiality Provision, a plaintiff must allege the denial of the right to vote for reasons immaterial to the prerequisite qualifications to vote in a particular precinct. *See* 52 U.S.C. § 10101(a)(2)(B). Here, Plaintiff's claim fails, first, because it fails to allege that

the ELECT Defendants prohibited registration to applicants based on any "errors or omissions" that were immaterial to determining whether applicants are qualified voters. *Cf.* 52 U.S.C. § 10101(a)(2)(B). The Commonwealth requires voters to reside in the specific precinct in which they intend to vote. Va. Const. art. II, § 1 ("each voter shall be a resident of the Commonwealth and of the precinct where he votes."). And Va. Code § 24.2-101 further defines "[q]ualified voter" as a person who is "entitled to vote pursuant to the Constitution of Virginia," of age, a registered voter, and "a resident of the Commonwealth and of the precinct in which he offers to vote." But the amended complaint never adequately alleges that the ELECT Defendants sought anything beyond this information.

Indeed, there are many reasons that the allegedly requested information could be material. For example, it could enable a registrar to establish the proper precinct or salvage a precinct-location-deficient voter registration, and it could reasonably be required depending on what was provided on the student's attempted registration. Different buildings on the same campus might be located in different voting precincts, and dorms and off-campus housing could be located in different precincts from a centralized campus address. 52 U.S.C. § 10101(a)(2)(B) does not require registrars who receive an inadequate registration form to independently investigate the student's address of residence.

The Complaint quotes former Commissioner Beals as saying that "it is critical that we have [applicants'] address, their mail box number," Amd. Compl. ¶ 48; of course, either piece of information could be directly germane to determining the applicants' residence and precinct depending on the information otherwise provided. *See* pages 3, 23–24, *supra*; Coles Aff. ¶¶ 20, 24; *United States v. Paxton*, 148 F.4th 335, 341 (5th Cir. 2025) (requiring voters to provide a matching ID number on their mail-in voter applications and mail-in ballots was "plainly material

to determining whether an individual is qualified to vote"). The Complaint also quotes Commissioner Beals as saying that the mere "road address of a building" may not be adequate, which is particularly true when the address is a nonresidential address, and which Commissioner Beals noted in the context of explaining why it was important for registrants to provide a mailing address. Amd. Compl. ¶ 48 (quoting House Privileges & Election Committee Hearing, Aug. 18, 2025, *available at* https://tinyurl.com/bdwy2d64 at 10:52:55–53:27.) Nor does the Complaint anywhere allege that the ELECT Defendants guided, much less could require, registrars to deny voter registration based on the lack of a specific dorm room number within an identified dormitory. Plaintiff points to no ELECT guidance or requirements that went beyond seeking material information.

When an applicant fails to provide precinct-level residence information, the applicant has not provided information sufficient for voter registration. Plaintiff does not identify a single individual who was denied the right to vote for reasons immaterial to Virginia's prerequisite qualifications to vote. Omissions related to this voting perquisite are material to the qualification to vote and Plaintiff has failed to state a claim pursuant to 52 U.S.C. § 10101. Thus, Plaintiff's claim fails against the ELECT Defendants.

C. Plaintiff fails to meet the standard for injunctive relief

Plaintiff also seeks injunctive relief but fails to meet the standard for that relief. When a plaintiff seeks a permanent injunction it must demonstrate "(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006). Plaintiff

must allege all four factors, but here, it has not made that showing against the ELECT Defendants because it cannot demonstrate either irreparable harm, the balance of equities, or the public interest in its favor. *See, e.g.*, *Prescott v. Smith*, 2018 WL 10760296, at *6 (E.D. Va. June 26, 2018) (granting defendant's motion to dismiss plaintiffs' claim for permanent injunctive relief because, among other things, plaintiff failed adequately to allege irreparable harm); *Saphilom v. NewRez, LLC*, 2024 WL 3394784, at *2 (W.D. Va. June 28, 2024) (dismissing a claim for a permanent injunction because "it is unclear what—if any—irreparable harm she has suffered, why remedies available at law are inadequate, or why an injunction would be in the public interest").

First, Plaintiff cannot demonstrate irreparable harm. Primarily, Plaintiff cannot show irreparable harm because it cannot show harm *at all*. Again, Plaintiff has not identified a single member of its organization who is an eligible voter and is threatened with being unable to vote, and the alleged organizational injury is a voluntary redirecting of funds from certain organizational goals to other concerns, which regardless cannot be redressed now with the 2025 election having been concluded. Nor would any alleged harm be *irreparable*. Plaintiff cannot make this required showing because the Complaint does not sufficiently allege that the defendants prohibited a single eligible citizen, college student or otherwise, from voting. Any citizen who wishes to vote, even on Election Day itself, may still fill out a simple voter-registration form and vote that very day. *See* Va. Code § 24.2-420.1; Coles Aff. ¶ 10. And the ability "to cast a provisional ballot provides an adequate remedy for problem[s]" a person may encounter in the voting process. *Crawford*, 553 U.S. at 197–98. Thus, there is no irreparable harm to any voter here. *See Wise v. Circosta*, 978 F.3d 93, 100, 103 (4th Cir. 2020) (en banc) (holding that there is no irreparable harm from a voting regulation that "does not in any way infringe upon a single person's right to vote: all eligible voters

who wish to vote may do so on or before Election Day"). In this case any potential harm is mitigated, if not eliminated, by same-day registration and voting.

Second, the balance of equities and the public interest—which "merge when the Government is the opposing party"—counsel against injunctive relief here. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The relief that Plaintiff seeks is burdensome and disproportionate to any potential harm. Plaintiff asks this Court to require registration even where the application is missing such information as "dormitory/residence hall name" or "campus mailing address," Amd. Compl. pp. 29–30—information that is critical to enforce Virginia's registration laws, pgs. 23–24, *supra*. It would thus harm the public interest to prohibit the government from requiring this information. Plaintiffs also ask this Court to require Defendants to "individually contact[] all students" to inform them of the relief "by phone, in-person, or through email" where relevant, and also "through press releases to the media, and on Defendants' elections websites." Amd. Compl. p. 30. Not only would this requirement individually to contact all university students across the Commonwealth be burdensome, it is not even clear that it would be effective; the next federal election will not occur until next school year, by which point many students will have left and others taken their place, and the next state-wide election will not occur for two years with even more student turnover. The balance of equities and public interest do not weigh towards requiring that public resources be expended on individually informing untold numbers of students, who by next election might neither live on campus nor even in Virginia, that they need not provide adequate registration information in order to vote. This Court thus should deny Plaintiff's efforts to seek an injunction against the ELECT Defendants.

CONCLUSION

For the foregoing reasons, this Court should grant the ELECT Defendants' Motion to Dismiss.

RESPECTFULLY SUBMITTED,

JOHN O'BANNON, in his official capacity as Chairman of the State Board of Elections; **ROSALYN R. DANCE**, in her official capacity as Vice-Chairman of the State Board of Elections; **GEORGIA ALVIS-LONG**, in her official capacity as Secretary of the State Board of Elections; **CHRISTOPHER STOLLE** and **J. CHAPMAN PETERSEN**, in their official capacities as members of the State Board of Elections; and **STEVE KOSKI**, in his official capacity as Virginia Commissioner of Elections

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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on April 10, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all parties of record.

/s/Triston Chase O'Savio
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Counsel for the ELECT Defendants