

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

NABILAH ISLAM PARKES)	
CATHY WOOLARD and)	
RANDAL MANGHAM)	
)	
Petitioners,)	
)	
v.)	
)	CIVIL ACTION FILE NO.
BRIAN P. KEMP in his both his)	
official and individual capacities as the)	
Governor of the State of Georgia)	
)	
Respondent.)	
_____)	

PETITIONERS' PETITION FOR WRIT OF MANDAMUS

COMES NOW Petitioners, named above, and file this Petition for Writ of Mandamus pursuant to O.C.G.A. § 9-6-20 et seq., and O.C.G.A. § 45-10-1 et seq. for a Writ of Mandamus, to enforce statutory obligations and official duties imposed upon the Respondent pursuant to O.C.G.A. § 45-10-4. Petitioners show the following:

The Parties

1.

The Petitioners are all citizens of the State of Georgia, who have an interest in having the laws of the State of Georgia executed and the statutory duties imposed upon the Respondent enforced.

2.

Petitioner NABILAH ISLAM PARKES is currently the sitting Georgia State Senator representing Georgia Senate District 7 and is a candidate for that office in the upcoming, November 5, 2024 General Election.

3.

Petitioner CATHY WOOLARD is formerly the chairperson of the Fulton County Board of Elections and Registration.

4.

Petitioner, RANDAL MANGHAM, is currently a candidate for the Senate District 55 seat in the Georgia General Assembly in the upcoming November 5, 2024 General Election.

Jurisdiction and Venue

5.

Jurisdiction is proper in this court pursuant to GA CONST. Art. VI, Sec. IV, Par. I and O.C.G.A. § 15-6-8 and O.C.G.A. § 15-6-9.

6.

Venue is proper in this court as a suit against a public official in his official capacity is considered a suit against the governmental agency employing the public official for venue purposes. The Respondent's office is located in Fulton County, Georgia.

INTRODUCTION AND FACTUAL BACKGROUND

7.

The Petitioners have each filed separate formal ethics charges against three (3) members of the State Election Board.

8.

The State Election Board is an agency of the State of Georgia created by general statute. O.C.G.A. § 21-2-30.

9.

The Respondent has failed and refused to perform clear and mandatory duties imposed

upon him as the Governor of the State of Georgia to conduct a hearing upon the filing of formal ethics charges by the Petitioners against a member of a state board, commission, or authority, namely in this case the State Election Board. O.C.G.A. § 45-10-1 et seq.

10.

The Petitioners have no other adequate legal remedy to require the Respondent to perform the official public duties imposed upon him by O.C.G.A. § 45-10-4, i.e., to conduct a hearing on their formal ethics charges, except through this action for a writ of mandamus.

11.

Each of the Petitioners have submitted to the Respondent, in his capacity as the Governor of the State of Georgia, formal ethics charges concerning three (3) members of the State Election Board pursuant to O.C.G.A. § 45-10-1 et seq.

12.

On August 16, 2024, Petitioner CATHY WOOLARD submitted by hand deliver and regular mail a formal ethics charge to Respondent against three members of the Georgia State Election Board, namely, Rick Jeffares, Janice Johnston, and Janelle King, each a member of the State Elections Board. (See Exhibit "A").

13.

On August 17, 2024, Petitioner RANDAL MANGHAM submitted, via FedEx overnight delivery, formal ethics charges against Janice Johnston, Janelle King, and Rick Jeffares, each a member of the State Elections Board. (See Exhibit "B").

14.

On August 19, 2024, Petitioner NABILAH ISLAM PARKES, submitted via hand delivery, formal ethics charges against Janice Johnston, Janelle King, and Rick Jeffares,

each a member of the State Elections Board. (See Exhibit "C").

15.

O.C.G.A. § 45-10-4 requires that the "*Governor or his designated agent shall conduct a hearing for the purpose of receiving evidence relative to the merits of such charges.*" (emphasis added).

16.

The Petitioners have a clear legal right to have the Respondent perform his public duty to conduct a hearing on the ethics charges that they have submitted to him. O.C.G.A. § 45-10-4.

17.

Petitioners have standing to bring this action in their capacities as citizens of the State of Georgia, as the question presented by this Petition is one of public right and the object is to procure the enforcement of a public duty, therefore, no legal or special interest need be shown other than that the Petitioners are interested in having the laws executed and the duty in question enforced. O.C.G.A. § 9-6-24.

18.

Petitioners are entitled to a Writ of Mandamus both due to the failure of the Respondent to perform his public duty to conduct a hearing on the formal ethics charges that they have filed against three (3) members of the State Elections Board; for the improper performance of his public duties; and for a gross abuse of discretion in the manner in which he has performed his public duties by failing to initiate the process to conduct a timely hearing for the purpose of receiving evidence relative to the merits of the formal ethics charges they have submitted to him.

19.

Since the dates of his receipt of the formal ethics charges submitted by the Petitioners the

Respondent has failed and refused to conduct the hearing he is mandated to conduct pursuant to the requirements of O.C.G.A. § 45-10-4.

COUNT I

REQUEST FOR ISSUANCE OF A WRIT OF MANDAMUS FAILURE TO PERFORM STATUTORY DUTIES

20.

Petitioners incorporate by reference the previous paragraphs of this Petition in the Introduction and Factual Background section, specifically paragraphs 7 - 19, as if fully re-stated herein. Petitioners bring this claim against the Respondent in his official and individual capacities as the Governor of the State of Georgia.

21.

Upon the filing of formal ethics charges the Respondent is obligated by O.C.G.A. § 45-10-4 with the official duty and responsibility to *conduct a hearing for the purpose of receiving evidence relative to the merits of such charges.*

22.

Under Georgia law, the duty of the Governor to conduct a hearing is mandatory and not discretionary.

23.

O.C.G.A. § 45-10-4 provides that upon formal charges being filed with the Governor relative to a violation of O.C.G.A. § 45-10-3 he must conduct a hearing for the purpose of receiving evidence relative to the merits of the charges.

24.

Each of the Petitioners have filed separate formal charges with the Respondent alleging violations of the ethics standards set forth in O.C.G.A. § 45-10-3 to include:

- a) That the three (3) identified members of the State Election Board failed to uphold the laws and regulations of the State of Georgia when they violated the Open Meetings Act by calling and participating in an illegal meeting on July 12, 2024, in violation of multiple notice, posting, and agenda procedural safeguards enumerated in the Open Meetings Act;
- b) That the three (3) identified members of the State Election Board have publicly expressed a disregard for the legal advice of the Georgia Attorney General and the Georgia Department of Law, (hereinafter collectively referred to as “the AG”), by consistently acting contrary to the advice of the AG in official matters relating to their public duties as members of the State Election Board, in both word and deed, wherein the AG is the complete and exclusive legal authority for the State Election Board, and;
- c) That the three (3) identified members of the State Election Board have solicited, accepted and acted upon the legal advice of counsel outside of the AG in official matters relating to their public duties as members of the State Election Board, in contravention of the law prohibiting them from employing outside counsel and in violation of the law that the AG is the exclusive legal authority over the executive branch of government including the State Election Board;
- d) That the three (3) identified members of the State Election Board have voted and participated to change the rules and regulations of the State Election Board to favor one political party and its candidates over others in violation of the ethical requirement that board members “*never engage in other conduct which is*

unbecoming to a member or which constitutes a breach of public trust.” O.C.G.A. § 45-10-3(8); and

- e) With respect to State Election Board member Rick Jeffares, Mr. Jeffares has violated his ethical obligations by soliciting for personal benefit consideration to be appointed to the Southeast Regional Director's position at the EPA in a potential upcoming Trump administration in violation of O.C.G.A. § 45-10-3(6), which prohibits him from soliciting, accepting, or agreeing to accept “*gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties*”.

25.

O.C.G.A. § 9-6-20 provides that “*whenever, from any cause, a defect of legal justice would ensue from a failure to perform or from improper performance, the writ of mandamus may issue to compel a due performance ...*”.

26.

By failing to conduct a hearing into the formal charges filed against the identified three (3) members of the State Election Board the Respondent has engaged in the “*improper performance*” of, and a neglect of, his obligated duty to conduct such a hearing. O.C.G.A. § 45-10-4.

COUNT II

REQUEST FOR ISSUANCE OF A WRIT OF MANDAMUS GROSS ABUSE OF DISCRETION IN THE PERFORMANCE OF STATUTORY DUTIES

27.

Petitioners incorporate by reference the previous paragraphs of this Petition in the

Introduction and Factual Background section, specifically paragraphs 7 - 19, as if fully re-stated herein. Petitioners bring this claim against the Respondent in his official and individual capacities as the Governor of the State of Georgia.

28.

Under Georgia law a writ of mandamus will lie to compel a public official to perform a discretionary act where the failure to perform the act constitutes a gross abuse of discretion which is arbitrary, capricious, and unreasonable.

29.

Against the advice of the AG and the Secretary of State and numerous election and registration officials, including the Georgia Association of Voter Registration and Election Officials, the three (3) identified board members have recently passed several new controversial rules and regulations of the State Election Board, which were motivated by partisan political considerations, and which by most accounts will introduce chaos and confusion into the November 5, 2024 General Election process due the lateness of the rule changes so close to the date of the General Election on November 5, 2024.

30.

Georgia law generally requires that in matters pertaining to the determination of elections that such matters proceed without delay to a determination on an expedited basis. O.C.G.A. §§ 21-2-524 and 21-2-525.

31.

By analogy, under the procedures the General Assembly has established for contesting the results of an election, pursuant to O.C.G.A. § 21-2-525(a), a challenger must file his/her election contest within five (5) days after the official consolidation of the returns and the judge

must set a date for a hearing no later than twenty (20) days after the consolidation of the returns for the particular election being contested, and an appeal from the judge's decision must be filed within ten (10) days. O.C.G.A. § 21-2-528.

32.

Similarly, when challenging the qualifications of a candidate for federal or state office, the challenger must file his/her challenge within "two weeks" (14 days) after the deadline for qualifying and an appeal must be filed within ten (10) days from an adverse decision by either the challenger or the candidate being challenged. O.C.G.A. § 21-2-5.

33.

The courts have held that there is a clear public interest in the prompt handling of matters involving elections. *Swain v. Thompson*, 281 Ga. 30, 31, 635 S.E.2d 779 (2006); *Schmitz v. Barron*, 312 Ga. 523, 863 S.E.2d 121 (2021); *Martin v. Fulton County Board of Registration and Elections*, 307 Ga. 193, 194, 835 S.E.2d 245 (2019); *Catoosa County Republican Party et al. v. Henry et al.*, Georgia Supreme Court Case No. S24A0917, decided Sept. 17, 2024.

34.

It has now been over 30 days since the Respondent received the Petitioners' formal charges against the three (3) identified individuals without any action on his part to initiate the process to conduct the mandatory hearing he is required to conduct by law.

35.

The Respondent has committed a gross abuse of discretion in delaying to conduct the mandatory hearing and initiating the process under the Administrative Procedures Act to hold a hearing as required by law in this election matter which is to be conducted on an expedited basis.

WHEREFORE Petitioners pray that:

1) This Court issue a Mandamus Nisi to Respondent requiring Respondent to show cause at a time and place to be designated by the Court, not less than ten days nor more than thirty days from the date of service of this Petition, as to why a Writ of Mandamus should not be issued against the Respondent;

2) That this Court find that a defect of legal justice would ensue from a failure of the Respondent to perform his mandatory duties as a public official to conduct a hearing as required by law on the formal charges filed with him by the Petitioners; that the decision by the Respondent to delay the initiation of the process of conducting a hearing for a period of time of over 30 days is a gross abuse of discretion by the Respondent, and that there is no other specific legal remedy for the legal rights Petitioners seek to have performed;

3) That the Court issue an order compelling and ordering the Respondent to refer the matter of the formal charges filed by the Petitioners to the Office of Administrative Hearings for the conduct of an administrative hearing on the formal charges filed by the Petitioners as has previously been done by his office when such charges are filed against a member of a board, commission, or authority, in accordance with Chapter 13 of Title 50, the Georgia Administrative Procedure Act; and

4) For such other and further relief as the court deems necessary, appropriate and equitable.

This 24th day of September 2024.

155 Bradford Square
Suite B
Fayetteville, GA 30215
(770) 778-8810
(770) 716-2439 (fax)

Respectfully submitted,
WAYNE B. KENDALL, P.C.

/s/ Wayne B. Kendall
Wayne B. Kendall
Attorney for Petitioners
Georgia Bar No. 414076

Exhibit “A”

RETRIEVED FROM DEMOCRACYDOCKET.COM

August 16, 2024

Governor Brian P. Kemp
206 Washington Street
Suite 203, State Capitol
Atlanta, GA 30334

Hand-Delivered and by Mail

Dear Governor Kemp:

I know that you are deeply committed to maintaining the integrity of our State's elections. As a former Georgia elected official as well as former chair of the Fulton County Board of Elections, I share that commitment. That is why I feel compelled, again, to write to express my grave concerns about the conduct of three members of the State Election Board (the "Board"): Rick Jeffares, Janice Johnston, and Janelle King. Since the appointment of Member King in May, these three members have made significant changes to the rules governing Georgia's elections even though the election is just months away. They have also knowingly and willfully violated state law in pursuing those ends, and have repeatedly disregarded the advice of the Attorney General's office, turning instead to outside parties for both legal counsel and the substance of proposed rules.

Their conduct raises concerns that the Board members are not fulfilling their duty to ensure the "fair, legal, and orderly conduct" of Georgia elections. On the contrary, they have created, at minimum, the appearance that their actions are intended to advance their own political preferences. The members have done nothing to dispel that appearance of impropriety, instead receiving a standing ovation at a Trump rally and openly discussing a position in the Trump administration. Taken together, these actions pose a serious risk of creating confusion about the rules governing the rapidly approaching election and undermining voter confidence in the integrity of Georgia's elections.

To that end, this letter serves as a formal complaint under O.C.G.A. § 45-10-4 against Members Jeffares, Johnston, and King. Each of these members has engaged in conduct that violates the Georgia Code of Ethics for Members of Boards, Commissions, and Authorities found at O.C.G.A. § 45-10-3. Specifically, Members Jeffares, Johnston, and King have knowingly and willfully (1) failed to uphold the laws and regulations of the State of Georgia, in violation of O.C.G.A. § 45-10-3(1), and (2) engaged in conduct that amounts to a breach of the public trust, in violation of O.C.G.A. § 45-10-3(8).

This complaint is directed to you solely in your capacity as the official responsible for receiving formal ethics complaints and resolving them under state law. As in previous ethics

cases, I ask you to order the Office of State Administrative Hearings to conduct a hearing on the charges set forth below. Due to the significant public interest in resolving the charges prior to the general election in November, I ask you to order that the hearing be held promptly—if possible, within 30 days of the date of the order.

I. Background

The State Election Board is responsible for, among other things, promulgating rules and taking such other actions as are “conducive to the fair, legal, and orderly conduct” of elections in Georgia.¹ The Board is also responsible for conducting investigations into alleged fraud, irregularities, and other election administration issues “when necessary or advisable” to do so. The Board thus plays an essential role in maintaining the integrity of Georgia’s elections and voters’ confidence in the election process—but only if Board members approach their duties fairly and ethically, without seeking to advantage one political party or candidate.

The composition of the Board has changed significantly this year. The Senate appointed Rick Jeffares, a former state senator, on January 11, 2024, and the Speaker of the House appointed Janelle King on May 17, 2024.² Josh McKoon, the chair of the Georgia Republican Party, viewed King as the final vote the party needed to ensure Trump’s victory in Georgia. He stated at the time: “I believe when we look back on November 5, 2024, we’re going to say getting to that 3-2 election integrity-minded majority on the state election board made sure that we had the level playing field to win this election.”³ The third member referenced is Janice Johnston, who has served as the Republican Party’s appointee on the Board since 2022.

Since May, Members Jeffares, Johnston, and King have passed a number of controversial election rules, including changes to the rules governing the process of certifying election results and the return of absentee ballots. Many of these rules have been criticized both as inconsistent with state and federal law and as likely to generate significant confusion heading into this year’s election. This letter, however, is not based on any substantive disagreements with the Members’ policy decisions, their past political affiliation, or their private political preferences. Instead, it is the circumstances surrounding their actions that raise serious questions about their willingness to disregard the law for partisan ends.

The first regularly scheduled Board meeting after Member King’s appointment took place on July 9. McKoon, the Georgia Republican Party chair, privately emailed the text of two

1 O.C.G.A. 21-2-31(2), (10).

O.C.G.A. 21-2-31(5).

2 <https://sos.ga.gov/page/about-state-election-board>

3 <https://www.theguardian.com/us-news/article/2024/jun/03/georgia-republican-janelle-king-trump-election>

The remaining two Board members are Chair John Fervier, appointed by you in January 2024, and Sara Tindall Ghazal, appointed as the Democratic Party’s representative in June 2021.

proposed rules to Member Jeffares the day before the meeting, along with accompanying talking points.⁴ One proposal required county election boards to post daily ballot counts online, and the other increased the number of partisan monitors during the vote-counting process.⁵ Neither proposal was addressed at the July 9 meeting. Rather than waiting to discuss the proposals at the Board’s next properly scheduled meeting, Members Jeffares, Johnston, and King orchestrated a private meeting at which the two rules suggested by McKoon could be considered without public participation and without the remaining Board members’ input. This meeting took place on July 12 and is discussed in greater detail below. Notably, on the date of the meeting, prominent Trump ally Cleta Mitchell posted the following on Twitter: “There are now 3 great members of the GA State Election Board – support them. They are fighting hard for us!!! The Dems + Kemp + Raffensperger + Carr are fighting our great SEB Members. Fight back!”

Since the July meeting, questions have continued to arise about the coordination between Members Jeffares, Johnston, and King and Trump and the Republican Party. At a rally in Atlanta on August 3, Trump called out the three members by name in his speech, describing them as “pit bulls fighting for honesty, transparency, and victory.”⁶ He specifically praised one of the rules the Members had passed at their unlawful July 12 meeting, and he repeated his frequently debunked claim that he had won the 2020 election in Georgia. Member Johnston attended the rally, sat in the second row, and stood for applause while Trump repeatedly thanked her.⁷ Member King later stated she was “grateful for [Trump’s] encouragement and support.”⁸

The next regularly scheduled Board meetings took place on August 6 and 7, shortly after the Trump rally. On August 6, the Board passed a particularly controversial rule that allows local election officials to conduct a “reasonable inquiry” into the accuracy of the vote count before voting to certify election results.⁹ This type of regulation is unprecedented nationally, but it is consistent with a broader strategy among Trump allies to lay the groundwork for refusing to certify presidential election results if he loses in November.¹⁰

On August 7, Member Johnston moved to reopen a complaint into the administration of the 2020 election in Fulton County. As explained further below, that complaint had been

4 <https://www.ajc.com/politics/election/emails-show-republican-leaders-involvement-in-georgia-election-rules/BHUKJ6LZIENDLU5BPALXJ24ZY/>

5 *Id.*

<https://twitter.com/CletaMitchell/status/1811865618762940906>

6 <https://www.washingtonpost.com/politics/2024/08/08/trump-georgia-election-board-interference/>

7 https://www.washingtonpost.com/politics/2024/08/07/georgia-2020-election-fulton-county-trump-investigation/23ceddea-5513-11ef-9a60-5b6e8b4da7c0_story.html; <https://www.washingtonpost.com/politics/2024/08/08/trump-georgia-election-board-interference/>

8 <https://www.washingtonpost.com/politics/2024/08/08/trump-georgia-election-board-interference/>

9

<https://sos.ga.gov/sites/default/files/2024-07/Notice%20of%20Proposed%20Rulemaking%20-%20183-1-12-.02.pdf>

10 https://www.nytimes.com/2024/07/13/us/politics/republican-election-campaign-2024.html?utm_source=substack&utm_medium=email; <https://www.theguardian.com/us-news/article/2024/aug/12/trump-overturn-result-presidential-election-vote>

<https://www.theguardian.com/us-news/article/2024/aug/12/trump-overturn-result-presidential-election-vote>

formally closed by a 2-1 vote in May 7¹¹—ten days before Member King’s appointment. The Board did not point to any new facts that justified reversing course, and the Attorney General’s office had advised that it would be improper to reopen the fully adjudicated complaint. The Members proceeded to do so anyway, based partly on advice that Member Johnson improperly received from an outside lawyer for the Georgia Republican Party. Trump reposted a video of the meeting on Truth Social and called for the Attorney General to take action on the reopened complaint into Fulton County. He wrote: “We can’t let this happen again. WE MUST WIN GEORGIA IN 2024!!!”¹²

These circumstances raise serious questions about the Members’ willingness to disregard state law for partisan ends—and potentially for personal gain as well. Member Jeffares has admitted that he is positioning himself as a candidate for a position in a second Trump administration. He recently described telling a former Trump campaign adviser, “[I]f y’all can’t figure out who you want to be the EPA director for the south-east, I’d like to have it.”¹³

II. The Members Have Failed to Uphold the Laws and Regulations of the State of Georgia

The Georgia Code of Ethics mandates that members of state boards, including the State Elections Board, uphold all Georgia state laws and regulations. O.C.G.A. § 45-10-3(1). Members Jeffares, Johnston, and King violated this provision by willfully and knowingly violating the Open Meetings Act on July 12—conduct that amounts to a criminal offense under state law. These members acted directly against the advice of the Attorney General’s Office, both in proceeding with the July 12 meeting and in reopening the complaint into Fulton County’s administration of the 2020 election, further illustrating their disregard for state law. Finally, last week’s meeting confirmed that at least one member, Member Johnston, is taking advice from outside counsel—yet another direct violation of state law.

A. Willful and Knowing Violation of the Open Meetings Act

As discussed in depth below, Members Jeffares, Johnston, and King went to great lengths to conduct an official Board meeting in private without the participation of the general public, knowing that the other two Board members would be unable to attend. These Members knowingly and willfully disregarded a clear instruction from the Attorney General’s office that the meeting would likely violate the Open Meetings Act. The Members forged ahead anyway, passing two controversial election rules at their unlawful meeting. Their conduct violates both the letter and the spirit of the Open Meetings Act, which aims to “protect the public . . . from ‘closed door’ politics and the potential abuse of individuals and the misuse of power such

11 <https://georgiarecorder.com/2024/08/08/georgia-election-boards-right-wing-faction-revisits-fultons-2020-presidential-election/>

12 <https://truthsocial.com/@realDonaldTrump/posts/112922807055677257>

13 <https://www.theguardian.com/us-news/article/2024/aug/13/sara-tindall-ghazal-georgia-state-election-board>

policies entail.”¹⁴ That conduct is also a criminal offense under the Open Meetings Act, and, as relevant here, a clear violation of the Code of Ethics.

The Open Meetings Act mandates that, with few exceptions, “all meetings shall be open to the public.” O.C.G.A. § 50-14-1(b)(1). It further specifies that “all votes at any meeting shall be taken in public after due notice of the meeting and compliance with the posting and agenda requirements of this chapter.” *Id.* To ensure appropriate public access to meetings, the Act sets forth various procedural requirements, including notice, agenda, quorum, and teleconference protocols.

The unlawful July 12 meeting did not comply with any of these procedural requirements. As background, the Board had held a regularly scheduled meeting on July 9. Notice for the July 9 meeting was provided by email to the notifications@sos.ga.gov email listserv and posted to the Board’s website. The Board provided a livestream link for the July 9 meeting for members of the public who were unable to attend in-person, and the entire meeting was transcribed by a court reporter. The agenda for the July 9 meeting was circulated to the email listserv the day before the meeting. Each of these procedures is standard practice for SEB meetings.

At the July 9 meeting, the Board was unable to attend to all agenda items. Chair Fervier recessed the meeting and announced that the Board would reconvene the following day. Members Jeffares and Johnston indicated they had conflicts and would not be able to attend the July 10 meeting, but Chair Fervier and Members Tindall Ghazal and King did not note any conflicts. Thus, on July 9 at 5:18 pm, a Continued Meeting notice was sent to the email listserv confirming the July 9 meeting would be continued on July 10 at 9:00 am. The notice provided that the continued meeting would be livestreamed.

Before the meeting could begin on July 10, Chair Fervier was notified by text message that Member King would be unable to attend the meeting due to a conflict. The Board therefore lacked a quorum for the Continued Meeting and could not convene. Chair Fervier informed meeting attendees that the meeting would be rescheduled. According to public reports, Chair Fervier then “sought and received oral guidance from the Attorney General’s office about how to properly reschedule the meeting – and was told he would need to provide seven days’ notice and that the meeting would need to be available to the public (i.e., via livestream).”

On July 11, Member Jeffares asked Chair Fervier and Tindall Ghazal if they would be available to convene the next day, July 12. Neither was available. Also on July 11, all five Board members received an email from an attorney at the Attorney General’s office advising that the

¹⁴ *EarthResources, LLC v. Morgan County*, 281 Ga. 396, 399 (2006) (citing *Atlanta Journal v. Hill*, 257 Ga. 398, 399 (1987)).

Compl. ¶ 40, *American Oversight v. Ga. State Election Bd.*, No. 24CV009124 (Ga. Sup. Ct.).

proposed July 12 meeting could violate Georgia’s Open Meetings Act. The Attorney General’s office advised the following:

- The Act generally requires a minimum of one week’s notice for non-emergency meetings or for meetings not arising under “special circumstances”;
- Even emergency or “special circumstances” meetings generally require 24 hours’ notice, as well as an ad placed in the county legal organ;
- Although the Open Meetings Act provides for members to attend a meeting by teleconference, any such meeting must otherwise comply with various statutory requirements—including, for example, notice requirements and ensuring that members of the public can fully participate by providing appropriate technological accommodations for those planning to participate by teleconference to ensure all participants can hear all meeting content; and
- A quorum must be present in person in order to comply with the Act, even if it is permissible for a member to otherwise participate by teleconference.¹⁵

The Attorney General’s office also expressed doubt as to whether emergency or special circumstances existed for this meeting and requested that the Board members advise the Attorney General’s office if there were in fact such circumstances.

Despite these warnings, Members Jeffares, Johnston, and King pushed forward with the July 12 meeting, without their colleagues. The only “notice” issued for the July 12 meeting was a perfunctory notice signed by Member Jeffares and placed outside the meeting room in the Georgia State Capitol Building. This notice was not posted on the Board’s website nor circulated via the email listserv, as is standard Board practice. The Board did not issue a full agenda ahead of the meeting, and it did not offer any livestream options for the general public. And on the day of the meeting, Member Johnston was not physically present and instead joined by teleconference. Thus, the Board lacked enough members physically present to establish a quorum.

At the July 12 meeting, Members Jeffares, Johnston, and King proceeded to pass two highly controversial election administration rules—without the participation of the full Board and without the participation of the general public. Indeed, one of the rules passed during the July 12 meeting had never been publicly noticed or disseminated, and thus had never been subject to public comment. The text of both rules had instead been privately sent to Member Jeffares by the chair of the Georgia Republican Party.

This series of events demonstrates that the Members intentionally engaged in conduct designed to exclude the public from fully participating in the July 12 meeting. This knowing and

¹⁵ Compl., *American Oversight v. Ga. State Election Bd.*, No. 24CV009124 (Ga. Sup. Ct.).
Compl., *American Oversight v. Ga. State Election Bd.*, No. 24CV009124 (Ga. Sup. Ct.).

willful violation of the Open Meetings Act is a criminal misdemeanor and can give rise to both criminal fines and civil penalties. It is also a clear breach of the Code of Ethics, as it shows an intentional disregard for the state law and procedure that Board members must agree to uphold.

B. Reopening the Investigation into the 2020 Election Against the Advice of the Attorney General

At the Board's August 7, 2024 meeting, Members Jeffares, Johnston, and King voted to resume an investigation into alleged irregularities in Fulton County during the 2020 presidential election. A complaint on that subject (SEB 2023-025) was resolved by a 2-1 vote of the Board in May 2024. The Board had resolved the complaint by sending Fulton County a letter of reprimand and requiring the Secretary of State, Fulton County, and the Board to agree on a monitor to oversee the county's administration of the upcoming presidential election.

Following its May 2024 meeting, the Board sought and received guidance from the Attorney General as to whether SEB 2023-025 was fully heard and properly closed. The Attorney General's office responded by letter advising that the complaint had been fully adjudicated and closed such that reopening the complaint would be improper.

Member Johnston nonetheless moved to reopen the complaint at the August 7 meeting, citing a letter from outside counsel. Chair Fervier ruled that Member Johnston's motion was out of order because, as the Attorney General's office had advised, the complaint had already been heard and adjudicated by the Board. Chair Fervier "caution[ed]" that voting to reopen the investigation would "put this board in legal jeopardy" based on the Attorney General's advice. Member Johnston moved to override the Chair's ruling, and Members Jeffares and King joined her in voting 3-2 to overturn the Chair's decision.

C. Improperly Consulting Private Outside Counsel in Direct Violation of Georgia Law

Georgia law unequivocally vests the Department of Law with "complete and exclusive authority and jurisdiction in all matters of law relating to the executive branch of the government and every . . . board . . . thereof." O.C.G.A. § 45-15-34; *see also id.* § 45-15-14 ("The Attorney General is vested with complete and exclusive authority and jurisdiction in all matters of law relating to state authorities . . ."). Accordingly, "no such state authority shall be authorized

After a lawsuit was filed under the Open Meetings Act, the Board voted to rescind the two rules adopted at the unlawful July 12 meeting and reconsider them at a later date. The rescission of the rules in response to outside pressure does not change the fact that the Members knowingly and willfully violated the Open Meetings Act by adopting them in the first place.

<https://www.usatoday.com/story/news/politics/elections/2024/08/08/donald-trump-georgia-election-reinvestigation/74715458007/>

without the approval of the Attorney General to employ other counsel in any matter whatsoever.” *Id.* § 45-15-14.

By her own words, Member Johnston admitted to violating this provision and consulting outside counsel regarding the legality of reopening the Fulton County investigation. At the August 7 meeting, Johnston stated: “We have received a letter from the Attorney General’s office, and I have a letter from outside legal counsel that has a differing opinion that the case, in support of my belief, that the case is not closed.”¹⁶ It has been publicly reported that the outside counsel Member Johnston consulted is a lawyer for the Georgia Republican Party.¹⁷ Johnston had no justification for violating the state prohibition on employing other counsel. Although she claimed she did so due to a potential “conflict of interest” by the Attorney General’s office, it is unclear whether she raised those allegations to the Attorney General and sought approval to obtain separate counsel.

III. The Members Have Engaged in Conduct That Amounts to a Breach of the Public Trust

In Georgia, government officials are deemed to be “caretakers of the public trust.”¹⁸ As such, Georgia citizens have “a right to expect their government officials will be beyond reproach”—that is, that government officials will not act in a manner that is or could be perceived as intended to gain a benefit for themselves or someone else. This duty is enshrined in the Code of Ethics: Board members must “never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust.” O.C.G.A. § 45-10-3(8).

The conduct of Members Jeffares, Johnston, and King demonstrates not only their disregard for the laws they have sworn to uphold, but also the extent to which they have breached the public trust by creating an unacceptable appearance that their goal is to secure Trump’s victory in Georgia by any means necessary. As explained, the Members have repeatedly disregarded legal advice from the Attorney General’s office, *i.e.*, their exclusive counsel under Georgia law in most circumstances. They have violated the Open Meetings Act and held unlawful meetings to push through controversial election rules. They have improperly sought outside counsel on official matters. And as recounted above, the circumstances surrounding each of these incidents strongly suggest that they have engaged in this conduct for overtly partisan reasons. These actions, individually and collectively, erode the public’s faith in the Board and amount to a breach of the public trust.

IV. The Governor Should Order a Prompt Administrative Hearing on These Charges

¹⁶ <https://www.youtube.com/watch?v=KmH1BPefQts> at 6:28:55 – 6:29:52.

¹⁷ <https://www.fox5atlanta.com/news/state-election-board-asks-ag-carr-investigate-fulton-county-government>

¹⁸ <https://law.georgia.gov/public-corruption>.

Id.

This letter has charged Members Jeffares, Johnston, and King with violating the Code of Ethics in two ways: (1) by failing to uphold the laws and regulations of the State of Georgia, in violation of O.C.G.A. § 45-10-3(1), and (2) by engaging in conduct that amounts to a breach of the public trust, in violation of O.C.G.A. § 45-10-3(8).

The next steps under the statute are clear. Upon receiving formal charges of an ethics violation, “the Governor or his designated agent shall conduct a hearing” to receive evidence and evaluate the merits of the charges. O.C.G.A. § 45-10-4. As the word “shall” makes clear, the Governor’s obligation to order a hearing in these circumstances is mandatory. In prior cases, the Governor has designated the Office of State Administrative Hearings (OSAH) to hear and resolve ethics complaints.¹ The Governor should follow the same course of action here.

Under Georgia law, a hearing to investigate alleged ethics violations “shall be held in accordance with” the Georgia Administrative Procedure Act. O.C.G.A. § 45-10-4. The Office of State Administrative Hearings is the appropriate entity to conduct that proceeding. It is the agency “responsible for [the] impartial administration of administrative hearings” in Georgia. *Id.* § 50-13-40(a). An administrative law judge presiding over the hearing would have the authority to ensure a full investigation into the facts, including by taking testimony and issuing and enforcing subpoenas as needed. *Id.* § 50-13-41(b).

The Governor should direct that the Office of State Administrative Hearings schedule a hearing as promptly as possible. Georgia law only requires that Board members charged with ethics violations receive 30 days’ notice prior to a hearing on the charges. O.C.G.A. § 45-10-4. That notice period would be appropriate here and, critically, would allow the matter to be heard and resolved before the general election. The Members have already shown their willingness to disregard the law, and there is reason to believe their aim is to ensure Trump’s victory in Georgia by any means necessary. Georgia voters deserve to have confidence that the State Election Board will respect the will of the voters, whatever it may be.

Sincerely,

Cathy Woolard
563 Memorial Drive SE
#501
Atlanta, GA 30312

¹ See *Roberts v. Deal*, 290 Ga. 705 (2012).

Exhibit “B”

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**RANDAL MANGHAM
for Georgia Senate 55**

**Post Office Box 870527
Stone Mountain, Georgia 30087
404-525-0100**

August 17, 2024

Office of Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, Georgia 30334

RE: Removal of State Election Board Members
Janice Johnston, Janelle King and Rick Jeffares

Dear Governor Kemp:

The purpose of this letter is to lodge a formal charge against the above-named individuals, Janice Johnston, Janelle King, and Rick Jeffares for violations of O.C.G.A. § 45-10-3 and to seek their removal as appointed members of the Georgia State Elections Board in accordance with the procedures outlined by statute in O.C.G.A. § 45-10-3.

As a candidate for the Georgia State Senate District 55 seat which election is scheduled for November 5, 2024 with a vested interest in the conduct of these individuals, the actions of these individuals may adversely impact the legitimate voice of Georgia voters, and candidates such as myself.

The charges justifying removal of each individual board member are outlined below:

Janice Johnston

Board member Johnston initiated and participated in an illegal meeting of the State Election Board (SEB) on July 12, 2024. Prior to the meeting, she was advised by the SEB's legal counsel at the State Law Department that conducting such a meeting would be illegal. She was also warned by the General Counsel of the Secretary of State's Office that the meeting would violate the Open Meetings Act. Additionally, she was advised by the chairman of the SEB, John Fervier, that the meeting would likely be illegal and would put the SEB in legal jeopardy. Nevertheless, and despite the contrary advice of legal counsel and with full knowledge that the meeting of July 12, 2024 was illegal Board member Johnston participated in the meeting remotely by video, which was held in Room 341 of

the State Capitol.

In scheduling and holding the July 12, 2024 meeting, board member Johnston knowingly and willfully violated multiple procedural safeguards of the Open Meetings Act enacted to ensure that government actions are conducted in public view. Her actions were taken in an effort to avoid participation by the full Board and the public. As a consequence of her actions, the SEB and its individual members were sued July 19, 2024 in Fulton County Superior Court, *American Oversight and John Doe vs. The Georgia State Election Board, et al.*, Fulton Superior Court File No. 24CV009124, thereby placing the Board in potential financial liability for attorney's fees and litigation expenses, and placing the individual members in jeopardy for the imposition of civil fines and penalties for violating the Open Meetings Act.

Janelle King

Board member King initiated and participated in an illegal meeting of the State Election Board (SEB) on July 12, 2024. Prior to the meeting, she was advised by the SEB's legal counsel at the State Law Department that conducting such a meeting would be illegal. She was also warned by the General Counsel of the Secretary of State's Office that the meeting would violate the Open Meetings Act. Additionally, she was advised by the chairman of the SEB, John Fervier, that the meeting would likely be illegal and would put the SEB in legal jeopardy. Nevertheless, and despite the contrary advice of legal counsel and with full knowledge that the meeting of July 12, 2024 was illegal, Board member King participated in the meeting which was held in Room 341 of the State Capitol.

In scheduling and holding the July 12, 2024 meeting, board member King knowingly and willfully violated multiple procedural safeguards of the Open Meetings Act enacted to ensure that government actions are conducted in public view. Her actions were taken in an effort to avoid participation by the full Board and the public. As a consequence of her actions, the SEB and its individual members were sued in Fulton County Superior Court, thereby placing the Board in potential financial liability for attorney's fees and litigation expenses, and placing the individual members in jeopardy for the imposition of civil fines and penalties for violating the Open Meetings Act.

Rick Jeffares

Board member Jeffares initiated and participated in an illegal meeting of the State Election Board (SEB) on July 12, 2024. Prior to the meeting, he was advised by the SEB's legal counsel at the State Law Department that conducting such a meeting would be illegal. He was also warned by the General Counsel of the Secretary of State's Office that the meeting would violate the Open Meetings Act. Additionally, he was advised by the chairman of the SEB, John Fervier, that the meeting would likely be illegal and would put the SEB in legal jeopardy. Nevertheless, and despite the contrary advice of legal counsel

and with full knowledge that the meeting of July 12, 2024 was illegal, Board member Jeffares participated in the meeting which was held in Room 341 of the State Capitol.

In scheduling and holding the July 12, 2024 meeting, board member Jeffares knowingly and willfully violated multiple procedural safeguards of the Open Meetings Act enacted to ensure that government actions are conducted in public view. His actions were taken in an effort to avoid participation by the full Board and the public. As a consequence of his actions, the SEB and its individual members were sued in Fulton County Superior Court, thereby placing the Board in potential financial liability for attorney's fees and litigation expenses, and placing the individual members in jeopardy for the imposition of civil fines and penalties for violating the Open Meetings Act.

As to Board Member Jeffares, there is the additional reason for removal in that he is quoted in a recent news publication as admitting that during a conversation with a former Trump campaign adviser, Brian Jack, that he solicited consideration to be appointed to the Southeast Regional Director's position at the EPA in an upcoming Trump administration. Brian Jack is a Trump supporter who is the Republican nominee running for the congressional seat in Georgia's 3rd District. This would be a clear violation of the Georgia Ethics Act by a sitting elections board member.

According to O.C.G.A. § 45-10-3, each member of all boards, commissions, and authorities created by general statute shall:

(1) Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;

...

(6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;

(7) Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties; and

(8) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust.

I submit that there is probable cause to believe that each of the aforementioned board members has violated one or more of the above stated ethical standards in the performance of their official duties as a member of the Georgia State Board of Elections. I ask that this letter be considered as a formal charge against Jance Johnston, Janelle King and Rick Jeffares and that these individuals be subject to a hearing in accordance with the procedures outlined in O.C.G.A. § 45-10-4.

O.C.G.A. § 45-10-4 confers upon the Governor the power to remove board members and the requirement to hold a hearing when a complaint is filed to determine the facts when board members violate the law. O.C.G.A. § 45-10-4 provides in pertinent part as follows:

*Upon formal charges being filed with the Governor relative to a violation of Code Section 45-10-3 on the part of a member of any such board, commission, or authority, the Governor or his designated agent **shall** conduct a hearing for the purpose of receiving evidence relative to the merits of such charges. (emphasis added)*

This will respectfully request a hearing with respect to the actions of the aforementioned three SEB board members, who have clearly and arrogantly shown contempt for the law in performing their public duties. These acts must be met with public integrity with resultant consequences and accountability as provided by law.

Thank you in advance for your assistance in this matter. If you have any questions, or concerns, you may contact me at the above address and phone number.

Sincerely,



Randal Mangham
For Georgia
State Senate District 55

Exhibit “C”

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Georgia Senate

COMMITTEES:
Government Oversight
Science and Technology
State Institutions and Property
Veterans, Military, and Homeland Security

August 19, 2024

Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, Georgia 30334

FORMAL COMPLAINT UNDER O.C.G.A. § 45-10-4
REQUEST FOR REMOVAL OF STATE ELECTION BOARD MEMBERS
JANICE JOHNSTON, JANELLE KING, AND RICK JEFFARES
FOR VIOLATING THE CODE OF ETHICS AND THE OPEN MEETINGS ACT

Dear Governor Kemp:

On behalf of the people of Georgia's 7th State Senate District, I hereby tender formal charges against State Election Board (SEB) members Janice Johnston, Janelle King, and Rick Jeffares (the "Respondents") alleging violations of the statutory Code of Ethics applicable to public employees as established in O.C.G.A. 45-10-3, the Open Meetings Act, and other violations.

The facts clearly show that acts that the Respondents have knowingly taken (and illegally concealed) are violations of their ethical obligations under the Code of Ethics and of the Open Meetings Act, and have placed the Board and the State of Georgia in legal and financial jeopardy. Protecting the integrity of our elections demands that ethical violations like these lead to the immediate removal of the Respondents from their positions of public trust.

ALLEGATION 1: THE RESPONDENTS HAVE INTERFERED WITH FREE AND FAIR ELECTIONS

In early August, the three Respondents, who constitute a majority on the Board, voted to adopt a rule that will [interfere with free and fair elections across the state of Georgia](#).

1. The rule empowers local elections officials to delay certifying election results for as long as they see fit, for any reason or no reason at all.
2. The rule is illegal. It violates decades of settled Georgia law, which has clearly established that election officials [must certify election results](#).
3. Local officials now have official permission to refuse to certify election results at all, throwing the electoral process into chaos across our state.

The Respondents' actions create a framework for **subverting the electoral will of the people of Georgia**. This violates their duties under the Code of Ethics (as detailed below) to uphold the law, avoid breaching the public trust, expose corruption, and not dispense special favors.

[Kristin Nabers](#), Georgia state director for All Voting Is Local Action: "Inconsistencies in certification could tie up both the counties and the state in expensive and time-consuming litigation. This could result not only in counties missing the certification deadline but also in undermining public trust and confidence in our elections."

ALLEGATION 2: THE RESPONDENTS ARE ILLEGALLY COORDINATING WITH THE GEORGIA REPUBLICAN PARTY

The Respondents, who constitute a majority on the Board, have **[illegally coordinated with the Georgia Republican Party, taking advice, guidance, and instruction](#)** as to how to subvert the law in their official capacity.

1. The Respondents received verbatim text of proposed rules from Georgia Republican Party Chair Josh McKoon.
2. They then **[advanced the rules](#)** in a secretly planned illegal meeting that violated the Open Meetings Act, as detailed below, which was not announced in advance and where the other members of the SEB were not present.
3. Respondent Rick Jeffares has **[solicited a position](#)** in a second Trump administration, apparently in a quid pro quo for supporting election subversion rules on the SEB.
4. Election conspiracy theorist Cieta Mitchell, whom a Fulton County special grand jury recommended indicting for her role in conspiring to subvert the results of the 2020 elections, **[celebrated the illegal party coordination](#)** and the illegal meeting.
5. President Donald Trump has **[celebrated the Respondents' illegal acts](#)**, calling the three SEB members out by name at a campaign rally.

The Respondents' actions violate SEB members' obligations under the Code of Ethics (as detailed below) to avoid "discriminat[ing] by the dispensing of special favors or privileges to anyone," to avoid "breach[ing] the public trust, and to avoid engaging in "conduct which is unbecoming to a member." Respondent Rick Jeffares has also violated his obligation to avoid soliciting personal gain in connection with his office.

ALLEGATION 3: THE RESPONDENTS HELD A SECRET MEETING IN VIOLATION OF THE OPEN MEETINGS ACT

As has been widely covered in the press, the Respondents illegally convened and participated in a **[secretly planned meeting](#)** on July 12, 2024 in violation of the Open Meetings Act and the Code of Ethics.

1. **No notice to the public.** The Respondents secretly coordinated to convene the meeting on short notice, and it was not publicized in advance to the public. Respondent King claimed it was an “[emergency](#)” meeting.
2. **Respondents were warned.** The [Attorney General’s office](#), the State Election Board’s legal counsel, the Secretary of State’s general counsel, and SEB chair John Fervier all warned the Respondents that the meeting would violate the Open Meetings Act. “[P]lease let me know if there’s an actual emergency I’m unaware of,” the Attorney General’s office wrote. There was no emergency.
3. **Warnings were ignored.** The Respondents held the meeting anyway. Respondents Jeffares and King participated in the Meeting in person and Respondent Johnston participated via videoconference.
4. **SEB has been sued.** As a direct result of the meeting, the State Election Board and its individual members were [sued in Fulton County Superior Court](#) on July 19, 2024, on grounds consistent with this Allegation.
5. **Respondents are named in the suit.** Named defendants in the lawsuit, in addition to the Board itself, include each of the Respondents and the other members of the SEB.
6. **Individual SEB members are legally liable.** Under the lawsuit, each of the defendants could individually be subject to civil fines and penalties for their violations of the Open Meetings Act. This includes SEB Chair John Fervier, who warned the Respondents that the meeting was illegal; and Sara Tindall Ghazal, who did not convene or attend the meeting.
7. **The State now must defend against a lawsuit for the Respondents’ illegal acts.** Taxpayers in the State of Georgia are now liable for attorney fees and litigation expenses to defend against the suit.

In addition to violating the Open Meetings Act, the actions of the Respondents violate their duties under the Code of Ethics (as detailed below) to uphold the law, avoid breaching the public trust, expose corruption, and not dispense special favors.

SEB member Sara Tindall Ghazal: “It seemed certainly to be a deliberate effort to schedule a meeting when they knew I was not available and when they knew the chair was not available.”

PROVISIONS OF THE CODE OF ETHICS

The Code of Ethics that applies to members of statutory board in the State of Georgia, as established in O.C.G.A. 45-10-3, requires members of the SEB to (among other duties of ethics):

1. **Uphold the law.** “Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion”
2. **Avoid breaching the public trust.** “Never engage in ... conduct which is unbecoming to a member or which constitutes a breach of public trust”
3. **Expose corruption.** “Expose corruption wherever discovered”
4. **Not dispense special favors.** “Never discriminate by the dispensing of special favors or privileges to anyone”

5. **Not accept benefits in exchange for official acts.** “Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties”

Through their conduct as established in the foregoing Allegations, the Respondents have breached all five of these duties.

REQUEST FOR ACTION UNDER O.C.G.A. 45-10-4

I respectfully request that you convene a hearing as you are now obligated under O.C.G.A. 45-10-4 to do, and remove the Respondents from their positions on the SEB — and, further, refer the matter to the Attorney General for prosecution, in the event that you discover evidence of an actionable violation.

Thank you for your commitment to upholding the law, and I look forward to the outcome of this process.

Sincerely,



Nabilah Islam Parkes
Senator, District 7

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