

DEPARTMENT OF SOCIAL SERVICES
 1515 P Street, Sacramento, CA 95814



June 9, 1995

ALL-COUNTY LETTER NO. 95-26
 Medi-Cal All County Welfare Directors' Letter
 95-36

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL	
<input type="checkbox"/>	State Law Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input checked="" type="checkbox"/>	Court Order or Settlement Agreement
<input type="checkbox"/>	Clarification Requested by One or More Counties
<input type="checkbox"/>	Initiated by CDSS

SUBJECT: IMPLEMENTATION OF NATIONAL VOTER REGISTRATION ACT OF 1993

REFERENCE: All County Information Notice No. I-46-94/Medi-Cal
 All County Welfare Directors' Letter

This letter provides implementation instructions to the County Welfare Departments (CWDs) on the National Voter Registration Act (NVRA) of 1993 which requires voter registration services at all public assistance (Aid to Families with Dependent Children [AFDC], Food Stamp, Medi-Cal, and Women, Infants and Children [WIC]) offices.

On May 4, 1995, the U.S. District Court ordered the State to implement its previously submitted implementation plan within 45 days. A copy of the relevant section of the plan is enclosed. As a result of the court's order, the NVRA must be implemented no later than June 19, 1995, except for the counties of Kings, Merced, Monterey and Yuba which shall implement when and to the extent that preclearance is obtained by the State of California in accordance with Section 5 of the Voting Rights Act of 1965.

All County Information Notice (ACIN) I-46-94/Medi-Cal All County Welfare Directors' Letter, dated December 7, 1994, provided counties with initial notification of the NVRA which was effective as federal law on January 1, 1995. This letter follows up on the information provided in the December ACIN. The California Department of Social Services and the Department of Health Services will not be issuing regulations.

The NVRA requires that a mail voter registration form be provided at the time of application, redetermination or recertification and when there is a change of address. The CWDs

must provide the instruction and declination form, must assist clients in completing the mail voter registration form when requested to do so and must forward the completed, pre-addressed mail voter registration forms within specified timeframes. Federally-mandated confidentiality standards require that mail voter registration forms and all other voter registration materials must be separate from AFDC, Food Stamp, Medi-Cal, and WIC program forms.

The state plan of implementation adopted by the Court includes the "flagging" of questionable registration forms where the county has specific knowledge that the applicant does not meet voter eligibility requirements, including citizenship. The procedures for flagging are being developed and will be provided in a separate letter. Please note that no applicant is to be refused the right to complete the registration form. Decisions regarding registration will be made by the county registrar or the Secretary Of State.

The Secretary of State, as the Chief Elections Official in California, and the county registrars of voters, will provide training materials, forms, and voter registration procedures.

Fiscal Claiming

So long as the federal courts continue to require California to implement the provisions of the National Voter Registration Act of 1993, the state will participate in the non-federal costs of implementation at normal sharing ratios for the AFDC, Food Stamp and Medi-Cal Programs. Counties should follow claiming procedures outlined in County Fiscal Letter (CFL) 94/95-43. Additional claiming instructions will be provided in the upcoming September 1995 quarter claim letter to be issued by the Fiscal Policy Bureau.

If you have any questions regarding the information in this letter, please contact Ellen O'Connor in the Food Programs Branch at (916) 653-5420 or Marlene King in the Medi-Cal Eligibility Program Branch at (916) 657-0134.

ORIGINAL SIGNED BY,

Bruce Wagstaff
Acting Deputy Director
Welfare Programs Division

ORIGINAL SIGNED BY,

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

CHAPTER FOUR

VOTER REGISTRATION

AT

SOCIAL SERVICE

AGENCIES

TABLE OF CONTENTS

Implementation of the Agency Provisions of the National Voter Registration Act of 1993

- A. Voter Registration Agencies
- B. Responsibilities of Voter Registration Agency Office
- C. Required Notices
- D. A Written Declination is Required
- II. Registering Voters During the Agency Application Process
 - A. Part One of the Application -- The "Declination Form"
 - B. Part Two of the Application -- the Voter Registration Form
 - C. Obtaining the Forms
 - D. Confidentiality
 - 1. Location of Registration
 - 2. Declination to Register
 - E. Providing Materials and Assistance in Minority Languages
 - F. Flagging Questionable Registration Forms
- III. Changes of Address and Recertifications
- IV. Transmittal Deadlines
- V. Late Registrations

IMPLEMENTATION OF THE AGENCY PROVISIONS OF THE NATIONAL
VOTER REGISTRATION ACT (NVRA) OF 1993.

A. Voter Registration Agencies

Pursuant to the provision of Section 7 of the NVRA, Governor Wilson, by Executive Order W-98-94, designated the following as voter registration agencies:

- a. County welfare department offices which accept applications and administer benefits for the Aid to Families with Dependent Children program (AFDC) and the Food Stamp program.
- b. County welfare department offices which accept applications and administer benefits for the Medi-Cal program and, with the agreement of the Social Security Administration, Social Security Offices which accept and process applications for the Supplemental Security Income/State Supplemental Payment program.
- c. County welfare department offices and community based non-profit organizations under contract with the Department of Health Services which accept applications and administer benefits for the Women, Infants and Children program (WIC).
- d. Offices of the State Department of Rehabilitation which provide vocational rehabilitation services.
- e. Franchise Tax Board district offices which provide public access for income tax and Homeowner and Renter Assistance forms, instructions and assistance.
- f. State Board of Equalization district offices which provide services to the public.

In addition, the NVRA provides that recruitment offices of the Armed Forces of the United States are considered to be voter registration agencies for purposes of the NVRA. The Secretary of State in cooperation with the Secretary of Defense is required to develop and implement procedures for persons to apply to register to vote at recruitment offices.

B. Responsibilities of Voter Registration Agency Office

- A. Distribute a form to register to vote with each application for service or assistance, as well as with each form for recertification, renewal, or change of address;
- B. Assist the voter in completing the form, with the same level of assistance the agency provides for completion of its own forms; and
- C. Accept completed forms from the voters for return to the elections official.
- D. No attempt to influence the voters' decision whether or not to register to vote, or with which political party, shall be made by any agency employee.
- E. Benefits may not be linked in any way to the applicant's decision to register or to not register to vote.

Voter registration agencies or state supervising agencies may develop instructions and procedures to further clarify and implement these requirements.

C. Required Notices

The NVRA requires that each applicant be advised of certain information, including: (1) that assistance in filling out the form will be provided if requested; (2) that he or she has the right to complete the form without assistance; (3) that failure to indicate whether or not the applicant wishes to register to vote will automatically be determined to be a declination to register; and (4) a contact name, address, and phone number if the applicant feels anyone has tried in any way to influence his or her decision to register to vote or not, or with which political party.

D. A Written Declination is Required

Unlike the procedures specified for the DMV, each applicant must either register to vote or indicate in writing that he or she declines to register (see below for a discussion of the "Declination Form").

REGISTERING VOTERS DURING THE AGENCY APPLICATION PROCESS

Please refer to Section 7 of the NVRA.

Each person who applies for benefits at an agency office must be given the opportunity to register to vote. There are many ways this opportunity could be presented.

Each person applying for services will be given an "Application Form" on which to indicate whether he or she wants to register to vote. Those persons indicating that they wish to register will be given a form to register to vote. Both forms should be stapled, clipped, or otherwise presented together with application forms routinely distributed to each applicant during the "intake" procedure or at some other appropriate point in the application process.

A. Part One of the Application --- The "Declination" Form

Each person applying for services will be given a form which asks if he or she wishes to register to vote. (A copy of this form is on the next page). This form will be supplied to county elections officials by the Secretary of State, who will in turn supply it to all applicable offices within each county. Each agency office will then distribute it to each of its clients in the course of the regular application process.

The elections official may supply each office with forms in bulk, or may supply a master form for the agency to reproduce.

The form will include the following information:

1. Eligibility criteria: This includes the requirement that a person must be a citizen to register to vote. The individual should be made specifically aware of the warning that it is a crime to submit a voter registration affidavit if the person knows he or she is not eligible to register to vote.
2. Who needs to use the registration form (i.e. new registration, move to a new address, change of name or political party)

TO REGISTER TO VOTE IN CALIFORNIA, YOU:

1. Must be a citizen of the United States;
2. Must live in the State of California;
3. Must be at least 18 years old by the date of the next election, and;
4. You may not be currently in prison or on parole for the conviction of a felony, or be judged by a court to be mentally incompetent.

WARNING: Under state and federal law, it is a crime to submit a voter registration affidavit if you know you are not eligible to register to vote.

IMPORTANT NOTICES

1. Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.
2. If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.
3. If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Secretary of State by calling toll-free 800-345-VOTE or write to: Secretary of State, 1500 11th Street, Sacramento, CA, 95814.
4. If you move to a new address, or if you change your name or political party, you must fill out a new voter registration form.

Would you like to apply to register to vote here today?

(Check One)

- I am already registered to vote at my current address, or I am not eligible to register to vote, and do not need an application to register to vote.
- YES. I would like to register to vote.
(Please fill out the attached form)
- NO. I do not want to register to vote.

(NOTE: IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.)

Please sign your name here: _____
SIGNATURE DATE

This form will be retained with this agency.

(For Agency Use Only)

Voter registration form completed: YES _____ NO _____

Employee Initials: _____

3. Important Notices. The federal law requires the inclusion on the application of several notices to the voter, including:
- a. A notice that the voter's decision whether or not to register to vote will not affect his or her eligibility for benefits, or the amount of those benefits.
 - b. A notice advising the voter how to obtain help in filling out the voter registration form, as well as informing him or her that he or she has the right to fill it out in private and without any help.
 - c. Information on who the voter may complain to if he or she feels that anyone has interfered with his or her right to vote, or tried to influence his or her choice of a political party. The Secretary of State is the office to which the voter may complain, and an 800 number is listed for this purpose.

4. "Yes/No". The applicant is asked whether he or she would like to register, with boxes marked "yes" and "no" to indicate his or her answer. This question is also required by federal law. Also required is a statement informing the voter that if he or she does not check either box it will be assumed that he or she has decided not to register to vote.

The voter will be asked to affirm his or her choice by signing and dating the form.

If the voter checks "YES", the employee will give the voter a form to register to vote. This will be a "regular" voter registration form, and will be supplied to the agency office by the elections official.

5. "For official use only." This section of the form will permit the agency employee to indicate that the applicant did or did not complete a voter registration form, and to initial this information.

If the employee gives the applicant a form to register to vote but the applicant decides to take it home, fill it out, and return it him- or herself, the employee should check the box indicating that no registration form has been completed, since it will not be possible to determine whether or not the voter follows through with completing the form.

B. Part Two of the Application --- the Voter Registration Form

This will be the "regular" voter registration form, and will be attached to part one of the form so that the two forms are presented simultaneously to the applicant. The voter registration form will include the attached portions containing the instructions and the receipt stub.

C. Obtaining the Forms

1. The Secretary of State will supply county elections offices with a master copy of Part One of the application. The elections official may supply it in bulk to the agency office, or may provide a master copy for the agency to reproduce.

2. The Secretary of State will supply county elections officials with voter registration forms to be used in agency offices.

Each county will need to estimate the number of forms required in all agency offices and order that number of forms from the Secretary of State.

Over time, as we implement this program after January 1, 1995, elections officials will have precise data indicating the number of forms needed by each agency office.

D. Confidentiality

1. Confidentiality of the identity of the agency at which the voter registered. The agency portion of the federal law contains a requirement which is not included in the DMV portion of the law. Section 8(a)(6) states that each office shall "ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public."

In other words, the process used to offer an opportunity to register voters at social service agencies may not in any way disclose the source of that registration to the general public.

The process described in this manual was designed in large part in order to ensure the confidentiality of the source of agency locations.

Specifically, the actual form to register to vote is indistinguishable from a "regular" form to register to vote.

It is important to note that there is a possible "conflict" in this goal of confidentiality with the requirement in the federal law that county elections offices track and report the number of registration applications received from agency offices. In order to track and report this information, you probably have to assign specific blocks of affidavit numbers to these agency locations and keep track of those numbers from within each block which are returned to your office. In this case, each elections official must enact adequate office procedures to ensure that the public does not have access to the list indicating which block of numbers is assigned to which agency office.

2. Confidentiality of the "declination" to register to vote.

The federal law also requires [section 7(a)(7)] that: "No information relating to a declination to register to vote in connection with an application made at an (agency) office may be used for any purpose other than voter registration.

In other words, if a voter, for whatever reason, declines to register to vote, that decision is entirely a private matter and may not be made known to the public. Specifically, the "Declination Form" described in section II.A above ("Part One of the Form -- The "Declination" Form) which is retained by the agency, either in the client's application file or in some other location from which it can be retrieved, is not a public record.

E. Providing materials and assistance in minority languages

The federal law requires that agencies provide the same level of service to persons wishing to register to vote as they provide to clients completing applications for the services provided by that agency.

The Secretary of State, in conformance with the Federal Voting Rights Act, currently prints voter registration forms in the following languages, in combination with English: Spanish, Chinese, Vietnamese, Japanese, and Tagalog. The Secretary of State will make these forms available to local elections officials who shall, upon request of an agency, supply those forms to that agency.

Each county election official will have to determine if social service agency offices in his or her county provide applications in any of these languages and, if so, request a supply of these forms from the Secretary of

State for distribution to those agency offices.

Voter registration forms in languages not specifically required by the Voting Rights Act will not be provided. For example, if a local office provides language services to clients in Urdu, the agency office will not be provided with voter registration forms in Urdu, although it may be possible to translate and provide the declination form upon request.

F. FLAGGING QUESTIONABLE REGISTRATION FORMS

The NVRA provides that it is a crime for any person to knowingly and willfully submit a voter registration application that is known by the person to be materially false, fictitious or fraudulent.

A person must meet specific requirements to be eligible to register. The person must be at least 18 years of age by the date of the next election, a United States citizen, a resident of California, and not be in prison or on parole for conviction of a felony or be judged a court to be mentally incompetent. These requirements should be carefully explained to applicants. However, voter registration agency employees may not prohibit or inhibit a person in any way from registering to vote regardless of eligibility status. It may occur, however, that an employee will be aware that a person to whom voter registration assistance is provided is not a citizen or does not otherwise meet the requirements to register.

Because of the penalty provision of the NVRA, voter registration employees should "flag" registrations for which they have specific knowledge that the applicant does not meet these eligibility requirements, including citizenship, at the time assistance is provided, either by statements of the applicant or information already provided in an application for benefits. The employee should not search the file to make a citizenship determination.

The registration form along with the "flag" will be forwarded to the county election official, who will determine what action or investigation, if any, to undertake. No identifying information should be provided in order to maintain compliance with any applicable state or federal confidentiality requirements. Since the NVRA requires the voter registration agency to forward completed registration forms to the election official, the addition of a "flag" should not conflict with other federal confidentiality requirements.

The Secretary of State will work with the State Health and Welfare

Agency, local election officials, and voter registration agencies to develop a uniform method and procedure for flagging questionable registrations.

III. CHANGES OF ADDRESS AND RECERTIFICATIONS

The federal law also requires that each agency distribute a form to register to vote with each form used for recertification, renewal, or change of address [section 7(a)(6)(A)].

IV. TRANSMITTAL DEADLINES

The federal law requires that agency offices transmit completed registration forms to the elections official. If the registration form is received within five days of a deadline to register to vote, the forms must be transmitted within five days of receipt by the agency. Since there are many local elections including special elections and other non-regularly scheduled elections, each agency office should transmit all voter registration cards within five days of receipt.

Each election official should establish procedures and timetables for receiving completed forms from agency offices.

In many cases, agency offices are forwarding completed registration forms on a daily basis, rather than waiting 5-10 days. Some agency offices may be able to transmit the completed forms to your office via inter-office mail.

V. LATE REGISTRATIONS

Any registration form which is completed by a voter at an agency office 29 days or more before the date of an election is, if otherwise valid, effective for that election, no matter when it is received by the election official (unless, of course, it is received after the election).

For example, if a voter completes a form to register to vote but that form is delayed in transmittal and is not received by the elections official until the day before the election, that voter is eligible under the federal law to cast a ballot in that election, and the ballot must be counted.

Elections officials should make every effort to facilitate the transmittal of completed registration forms from agency offices in order to minimize the number of "late" registrations. Such facilitation will be important to minimize the number of provisional ballots you might have to process for a given election.

Even with a smooth transmittal process, if Murphy is right someone at an

agency office will misplace registration forms for the 27 most vocal persons in your county, and these forms will magically be discovered a week before the election. It might be wise to review your procedures for notifying polling places of late registrations, or otherwise incorporating these late registrations into your normal processes.

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