



CDSS

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February 12, 2013

ALL COUNTY INFORMATION NOTICE NO. I-04-13

TO: ALL COUNTY WELFARE DIRECTORS
ALL CONSORTIUM PROJECT MANAGERS
ALL CALFRESH PROGRAM COORDINATORS
ALL CALWORKS PROGRAM COORDINATORS

SUBJECT: SB 35 (PADILLA), CHAPTER 505, STATUTES OF 2012, AND THE NATIONAL VOTER REGISTRATION ACT OF 1993 (NVRA)

REFERENCES: All County Information Notice (ACIN) No. I-46-94, I-56-95, I-17-96, I-09-09, and I-01-12, All County Letter (ACL) No. 95-26, 96-21, 96-01, Medi-Cal All County Welfare Director's Letter (ACWDL) No. 94-85, 95-36, 95-78, 96-01, and Public Law 103-31 Section 7, May 20, 1993

The purpose of this letter is to notify County Welfare Departments (CWDs) of the law changes in effect as of January 1, 2013, following passage of SB 35 (Padilla), which codifies portions of the National Voter Registration Act of 1993 (NVRA), places additional requirements on voter registration agencies, county elections offices, and the Secretary of State (SOS). The Secretary of State is in the process of revising the California NVRA Manual, specifically Chapter 4, for public assistance and other voter registration agencies to reflect the new SB 35 requirements. The public assistance programs include the CalFresh and California Work Opportunity and Responsibility to Kids (CALWORKs) programs. In addition to the revisions to the California NVRA Manual, the SOS is in the process of updating training materials, including the Voter Registration Training for Agencies that Provide Public Assistance.

Under federal law, the NVRA requires states to provide voter registration opportunities at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to person(s) with disabilities. All applicants and continuing clients must be given a voter registration card (VRC) and an NVRA Voter Preference Form, regardless of whether they indicate they want to register or not, at the time of application for services, renewal or recertification, and when the CWD is notified of a client's change of address. This policy replaces the policy in ACIN I-09-09 to "offer" voter registration materials. If CWDs fail to comply with the NVRA, the county and state can be subject to a civil action by the United States Department of Justice or a private party. Under SB 35, the Secretary of State has the authority to conduct a review of voter registration agency's NVRA compliance.

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

Under federal law, CWDs must provide the following services to applicants and continuing clients at initial application, renewal or recertification, and changes of address:

- Provide and collect a VRC;
- Provide and collect a NVRA Voter Preference Form;
- Provide assistance in completing these forms; if requested;
- Accept and transmit completed VRCs to the appropriate county elections officials within 10 days; however, if voter registration agency receives a completed VRC within five days of the voter registration deadline (the 15th day prior to an election), the agency must transmit the VRC to the county elections office within five days;
- Obtain VRCs from the county elections office to ensure proper tracking of the NVRA VRCs;
- Provide the same degree of assistance to all participants, including persons with disabilities, when completing VRCs either in their home or in person as offered when completing the agency's own application forms;
- Inform clients that receipt of benefits is not linked in any way to the client's decision to register or not register to vote;
- Ensure that CWD employees do not seek to influence the client's decision to register or not register to vote, or the client's political party preference;
- If an applicant or continuing client does not complete the Voter Preference Form, the worker should note the applicants or continued clients name and date on the uncompleted form. The checkboxes may be left blank;
- CWDs must retain the Voter Preference Form for 24 months. Counties may determine the manner for filing and retaining the forms (e.g., with the client's case file or filed separately). An electronic record of the form or the individual's response (Yes/No/Already registered) may be kept in lieu of retaining paper forms; and
- Provide staff training annually on the NVRA requirements and how to assist applicants and continuing clients with voter registration.

SB 35 codifies the above requirements and, in addition, requires CWDs and all other voter registration agencies to do the following:

- Notify the county elections official of each applicable county location of each of the voter registration agency's offices or sites within the county;
- Designate an agency employee to be responsible for the agency's compliance with the SB 35 and the NVRA;
- Ensure voter preference forms and voter registration cards are available in all languages, required under the federal Voting Rights Act.
- If an agency offers online benefits enrollment, renewal or recertification, or change of

address forms, it must also offer an online voter preference form and inform online applicants and continuing clients of the option to register to vote, or fill out and print a voter registration form, on the Secretary of State's California Online Voter Registration website: <http://RegisterToVote.ca.gov/> .

Note: Please understand that the aforementioned responsibilities of CWDs must be provided whether the applicant or continuing client transaction occurs in-person, through internet, over the telephone, e-mail, or through mail.

SB 35 and Online Enrollment in Public Assistance Agency Benefits and Services

Under SB 35, a voter registration agency that allows applicants and continuing clients to apply online for services or assistance, or submit a recertification, renewal or change of address must set up a way for the applicants or continuing clients to submit a voter preference form online and to register to vote on the Secretary of State's California Online Voter Registration (COVR) website. The SAWS consortia, CalWIN, C-IV, and LEADER, in coordination with the Secretary of State, are in the process of updating consortia online benefits enrollment websites to ensure compliance with this requirement of SB 35.

Once updated, consortia benefits enrollment websites will provide an electronic version of the voter preference form; allow applicants and continuing clients to respond electronically to the question of whether they would like to register to vote, and automatically direct interested applicants and continuing clients to the COVR website to register to vote online.

Applicant and Continuing Client Assistance

The NVRA requires voter registration agencies to assist applicants and continuing clients with filling out the VRC. Section 7 specifically requires that agencies must provide each person the same degree of assistance in completing the voter registration application as is provided by the office in completing its own agency forms, unless the person declines assistance. When an agency provides services to a person with a disability at the person's home, the agency must also provide voter registration services at the person's home.

For in-person transactions, CWDs should make review of the VRC and preference form part of the agency's regular process for helping applicants and continuing clients apply for benefits enrollment, renewal, recertification, and change of address. Agency staff should advise each applicant and continuing client that assistance with filling out the VRC will be provided if the applicant or continuing client wishes, but that the applicant or continuing client has the right to complete the VRC without assistance.

Restrictions on Influencing Applicants and Continuing Clients

The NVRA places restrictions on how staff may interact with applicants and continuing clients when providing the opportunity to register to vote. Voter registration agency staff must not:

- Seek to influence an applicants or continuing clients political party preference or party registration;
- Display any political preference or party allegiance;
- Make any statement to an applicant or continuing client or take any action the purpose or effect of which is to discourage the applicant or continuing client from registering to vote; or
- Make any statement to an applicant or continuing client to take any action the purpose or effect of which is to lead the applicant or continuing client to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

Voter Registration Card (VRC) Distribution

The NVRA requires CWDs to give applicants and continuing clients applying for benefits, renewal or recertification, or a change of address a Voter Preference Form and a VRC so that the applicant or continuing client may register to vote. The NVRA also requires all states to accept the National Voter Registration Form, but allow each state to develop its own voter registration form, as long as it is equivalent to the federal form. Public assistance agencies should make every effort to distribute the California VRC, rather than the National Mail Voter Registration Form, in order to ensure county election officials can properly track and report the number of registrations coming from each public assistance agency. Below are procedures for obtaining California VRCs.

Voter Registration Card (VRC) Supplies

In California, the SOS supplies VRCs to county election officials. The SOS prints county-specific VRCs including a postage-paid envelope and the county elections office address in the county where the agency is located. In turn, county election officials distribute supplies of VRCs to public assistance agencies within the county. County election officials record the serial number ranges of VRCs distributed to public assistance agencies in order to track the number of completed VRCs returned and attribute new registrations to the public assistance agencies providing voter registrations under the NVRA. SB 35 requires county elections offices to track the number of completed VRCs returned from each voter registration agency site that provides voter registration services. Therefore, in order to ensure proper tracking and reporting of the NVRA voter registrations, CWDs must obtain supplies of VRCs from their county elections office. CWDs must coordinate with county election officials so that the county elections officials is able to track the forms from each agency site, as required.

When ordering VRCs, it is important that CWD staff identify the specific agency site.

NVRA Voter Preference Form Procedures

Below are examples of ways to assist applicants and continuing clients with the Voter Preference Form, either in person or remotely. Please note that an applicant or continuing client may choose not to complete the voter preference form. Under SB 35, an applicant's or continuing clients failure to respond to the question of whether he or she would like to register to vote does not constitute a declination to register; the applicant or continuing client must still be issued a VRC.

In person transactions: CWDs must ask the applicant or continuing client to complete the Voter Preference Form. If the applicant or continuing client chooses not to register to vote at the agency site, but still takes a blank VRC home, the CWD should ask the client to complete the Voter Preference Form.

Mail Transactions: If the applicant or continuing client fails to complete or return the Voter Preference Form, CWD staff should attempt to follow up once with the applicant or continuing client to find out whether the applicant or continuing client would like to register to vote or if assistance is needed. CWDs are not required to complete Voter Preference Forms on behalf of the applicants or continuing clients who choose not to return the Voter Preference Form, in a transaction. In such instances, after following up with the applicant or continuing client, CWDs should include a blank Voter Preference Form with the applicant's or continuing client's name in their records.

Phone Transactions: Staff must ask applicants or continuing clients who apply for services or benefits, renewal, recertification, or change of name or address by phone: "If you are not registered to vote where you live now, would you like to register to vote?" Agency staff must note the applicant's or continuing client's response on the preference form and if the applicant or continuing client says "yes" the agency must provide an opportunity to register to vote by sending a VRC to the applicant or continuing client by mail. Pursuant to SB 35, for telephone transactions, the voter registration agency must send the applicant or continuing client a VRC if the applicant or continuing client either: 1) requests a form to be mailed ; or 2) fails to respond to the question of whether he or she would like to register to vote.

Internet Transactions: For online benefits enrollment, including new, renewal, recertification or change of address transactions, CWDs must provide a voter preference form online and give applicants and continuing clients the ability to register to vote on the Secretary of State's California Online Voter Registration (COVR) website. Under SB 35, if an applicant or continuing client does not respond to the electronic voter preference form question "Would you like to register to vote?" then the applicant or continuing client must be mailed a VRC.

Retention of the Voter Preference Form

CWDs must retain the completed Voter Preference Form for two years. However, federal and state laws do not state the manner in which the forms are to be filed within the agency. The SOS office recommends CWDs store the Voter Preference Form in a central, chronological file (e.g. case file), so that the CWD staff can easily determine how many Voter Preference Forms are received in a given month, which can help demonstrate NVRA compliance. Voter Preference Forms and responses may be stored electronically.

Language Requirements

Under SB 35, CWDs must take steps to ensure that each office and site has sufficient supply of voter preference forms and voter registration cards in all languages required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4) of the federal Voting Rights Act, (please refer to the Secretary of State's October 13, 2011, advisory to county elections officials.) The advisory contains a copy of the current list by county of covered languages, which was published in the Federal Register on October 13, 2011:

www.sos.ca.gov/elections/ccrov/pdf/2011/october/11088jlb.pdf .

The voter preference form may be downloaded and printed from the Secretary of State's NVRA website. All languages required in California counties under the Voting Rights Act are available: www.sos.ca.gov/elections/nvra/training/voter-preference-forms.htm . Each county elections official has supplies of VRCs in each of the covered languages under the Voting Rights Act for that county.

California Department of Social Services (CDSS): NVRA Monitoring

CDSS will continue to monitor counties to ensure NVRA compliance with the above instructions during county Management Evaluations (ME). An example of such monitoring will include a check of the informational packets provided to applicants and continuing clients to ensure they include the VRCs and NVRA Voter Preference Forms. CWDs are encouraged to develop during county Management Evaluations (ME). An example of such monitoring will include a check of the informational packets provided to applicants and continuing clients to ensure they include the VRCs and NVRA Voter Preference Forms, CWDs are encouraged to develop internal evaluation processes for compliance, such as checking for voter preference forms while auditing case files.

SOS and CDSS Quarterly NVRA Meetings

Quarterly NVRA meetings will be arranged for CWDs who are identified as potentially out of compliance under the NVRA. The identified county/counties director(s), SOS, CDSS, and County Welfare Director's Association (CWDA) representatives will be

invited to these quarterly meetings to identify and resolve any issues regarding NVRA compliance.

CWDs that are identified as fully complying with the NVRA requirements will also be invited to attend to share best practices in regard to NVRA compliance.

NVRA Reporting

Under SB 35, CWDs must notify the elections official of each applicable county of the location of each of the voter registration agency's offices or sites within the county. CWDs must continue to coordinate with their county elections officials to obtain supplies of VRCs to ensure that the county elections official is able to properly track and report on a monthly basis the number of voter registrations generated by each voter registration agency office or site in the county, as required by SB 35. County elections officials track NVRA voter registration data and report data to the Secretary of State on a monthly basis. NVRA reports can be viewed on the Secretary of State's website: www.sos.ca.gov/elections/nvra/reports/ .

NVRA Coordinator

Under SB 35, CWDs must appoint one staff person at each agency office to be in charge of NVRA compliance, which includes arranging staff training, ordering supplies of VRCs from the county elections office, and ensuring VRCs are submitted in a timely manner to the county elections office.

Annual Training

CWDs must ensure that staff are trained annually on the NVRA requirements and on how to assist applicants and continuing clients with voter registration. CWDs must provide training annually. CWDs should ensure that new employees receive training. Refer to the SOS' NVRA training webpage for the public assistance agencies presentation, which can be accessed at the following SOS' NVRA Training webpage link at: <http://www.sos.ca.gov/elections/nvra/training/> .

If you have any questions regarding this letter, please contact your CalFresh County Consultant at (916) 654-1896 or your CalWORKs Eligibility County Consultant at (916) 654-1322.

Sincerely,

Original Document Signed By:

LINDA PATTERSON, Chief
CalFresh Branch