



SECTION 7 OF THE NATIONAL VOTER REGISTRATION ACT

A Toolkit for Public Agencies

September 2014

THE NVRA AND PUBLIC ASSISTANCE AGENCIES

Congress passed the National Voter Registration Act (NVRA)¹ in 1993 to increase the number of citizens registered to vote in federal elections. It is often referred to as the “motor voter” law because it requires states to offer voter registration with driver’s license application and renewal.²

An equally important but less well-known provision of the NVRA is the requirement that states affirmatively offer voter registration opportunities to clients of public assistance programs. The provision of voter registration services at public assistance offices is governed by Section 7 of the NVRA.³

Programs covered by the NVRA include, but are not limited to, Food Stamps (now known as the Supplemental Nutrition Assistance Program or SNAP), Temporary Assistance for Needy Families (TANF), Medicaid, and the Children’s Health Insurance Program (CHIP).⁴ Public assistance offices are in a unique position to increase voter registration rates among low-income citizens, furthering the intent of the NVRA to increase registration among populations under-represented in our electorate.

Specifically, Section 7 requires public assistance agencies to offer the following voter registration services each time a client applies for benefits, renews/recertifies benefits, or submits a change of address (collectively, “covered transactions”):⁵

1. Distribute a voter registration application;⁶
2. Distribute a voter information form with appropriate disclosures and the question, “If you are not registered to vote where you live now, would you like to apply to register to vote here today?” (this is often called the voter preference question);⁷
3. Provide the same degree of assistance in completing voter registration applications as is provided in completing the office’s own forms;⁸ and
4. Accept completed voter registration applications for timely transmittal to the appropriate state election officials.⁹

Voter registration services must be provided whether covered transactions occur in-person at the public assistance office or remotely (via mail, telephone, or the internet).¹⁰

Project Vote, along with its partners, is litigating or has completed successful litigation in nine states (Ohio, Missouri, New Mexico, Indiana, Georgia, Louisiana, Pennsylvania, Nevada, and Massachusetts), and has worked cooperatively with over eight states to develop Section 7-compliant voter registration programs for state public assistance agencies. Based on Project Vote’s exhaustive experience, the following toolkit is a compilation of best practices for providing voter registration services required by Section 7.

Section 7 requires that any office in the state that provides public assistance must be designated by the state as a voter registration agency.¹¹ These are referred to as “mandatory” voter registration agencies. As discussed below, mandatory voter registration agencies have specific voter registration responsibilities under Section 7.

An office provides public assistance if it administers either the application process or the payment process related to monetary assistance from the government.¹² Consequently, the United States Department of Justice (DOJ), the agency tasked with enforcing the NVRA, has opined that an office providing public assistance programs such as SNAP, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), TANF, Medicaid, CHIP, and similar state public assistance programs are mandatory voter registration agencies.¹³

Moreover according to the DOJ, “[w]hen a state contracts with a private entity to administer services in an agency that is required to offer voter registration, the ultimate responsibility for ensuring provision of voter registration services remains with the state, and the voter registration requirements under the NVRA remain the same.”¹⁴

Best Practices

- Designate all public assistance offices as voter registration agencies.
- Designate third-party contractors or organizations that offer public assistance programs, e.g., Medicaid, as voter registration agencies.

Distribute Voter Registration Applications

Distribution of voter registration applications means “deliver[ing]’ or ‘to disperse.’ The statute is very clear in that with each covered transaction the applicant must be given a form that is described in Section 9 of the NVRA.”¹⁵ Public assistance clients must be able to actually receive a voter registration application that they can sign and return to appropriate election officials.¹⁶ Moreover, voter registration applications must be provided unless an applicant declines in writing; an applicant does not decline in writing if he or she leaves the voter preference question blank or unanswered.¹⁷ Put differently, an agency must give a client a voter registration application if he or she answers ‘yes’ or doesn’t check either the ‘yes’ or ‘no’ box in response to the voter preference question.

Best Practices

Application, Recertification/Renewal, and Change of Address Forms

- Attach or include a voter registration application with all benefits applications, recertification/renewal paperwork, and change of address forms.

Reception/Waiting Areas:

- Make voter registration applications available in waiting rooms and other common areas.
- Post signs prominently stating that voter registration services are available at the office.

Computer Systems:

- If the client is not automatically provided both a voter information form (as discussed below) and a voter registration application with their paperwork computer systems designed to manage or process client files or benefit applications, etc. should be programmed to automatically provide both to the client each time a worker conducts a covered transaction. During in-person transactions, computer systems should automatically print or otherwise prompt caseworkers to provide a voter registration application and voter information form; and during remote transactions, computer systems should automatically mail the same. For example, if a client calls to report a change of address, the computer system should automatically mail a voter registration and voter information form to the client when the worker enters the change of address into the system.
- Program all automated mailings, i.e. for annual renewals/ redeterminations, to include voter registration applications.

Online Transactions:

- Online initial benefits applications or renewal/recertification forms should offer a link to the state’s online voter registration portal (where available), a downloadable or .pdf voter registration application, and an option to request a voter registration application by mail because many public assistance clients do have access to a printer or postage. Having all three options helps reduce mailing costs; but, at a minimum, online covered transactions must have an option to request a voter registration application by mail because it is the only mechanism to ensure that a client has been distributed a voter registration application.

2 Distribute a Voter Information Form

The voter information form¹⁸ must include the voter preference question: “If you are not registered to vote where you live now, would you like to apply to register to vote here today?” along with boxes for the client to check “YES” or “NO.”¹⁹ In close proximity to the voter preference question, the statement “If you do not check either box, you will be considered to have decided not to register to vote at this time.”²⁰

The voter information form must also contain the following three disclosures:

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.”²¹
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 in private.”²²
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 chose your own political party or other political preference, you may file a complaint with [name, address, and telephone number of the appropriate official to whom such complaint should be addressed].”²³

The completed voter information forms must be maintained for at least 22 months.²⁴

Best Practices

- Incorporate the voter information form, including the voter preference question into benefits applications, renewal/recertification forms, and change of address forms so that the retention of a separate document is not necessary.
- Require workers to check whether the voter preference question has been answered. When a computer-guided system is being used to process a covered transaction, the computer-guided system should have a “hard stop”—so that a worker may not proceed until he or she has entered the required information for the voter preference question response. A worker must enter in the system the client’s response to the voter preference question, i.e. ‘yes,’ ‘no,’ or ‘blank’;
- If the voter preference question has not been answered, workers should be required to follow-up with the client about voter registration. As explained above, a failure to respond to the voter preference question does not constitute a declination in writing. Therefore, as required by Section 7(a)(6)(A), a voter registration application must be provided.

3 Voter Registration Assistance

A client who does not decline to register to vote must be provided assistance in the completion of the voter registration application equal to the degree of assistance he or she is provided in completing the public assistance office's own forms.²⁵

Best Practices

- Create a computer-guided interview or case-processing system that requires workers to:
 1. Inquire or follow-up with a client about voter registration, including asking the client the voter preference question if it has been left unanswered or blank, just as a worker is required to ask about other missing information on the initial benefits application form;
 2. Offer assistance in completing a voter registration application; and
 3. Ask for a completed voter registration application.
- Require workers to check voter registration applications for completeness and a signature when a client returns a voter registration application for submission to the appropriate election officials.
- Require workers to ask for completed voter registration applications from clients for submission to the appropriate election officials.

4 Collect and Transmit Completed Voter Registration Applications

Workers must accept completed voter registration applications from clients and ensure that they are sent to the appropriate election officials within ten days, or within five days if the application is collected within five days of the registration deadline.²⁶

Best Practices

- Information about the voter registration deadline should be provided to all public assistance agency employees involved with voter registration services.
- Create a collection area where public assistance workers may drop-off completed voter registration applications.
- Assign an individual who is responsible for ensuring that each office transmits completed voter registration applications to the appropriate election officials every five days, and more frequently as the registration deadline nears.

CHIEF ELECTION OFFICIALS: BEST PRACTICES

Each state must designate a chief state election official who will be responsible for coordination of a state's NVRA responsibilities, including those under Section 7.²⁷ A chief state election official's coordination responsibilities include implementation and enforcement of the NVRA.²⁸ In order to ensure compliance, the chief state election official must create a Section 7 plan that includes active monitoring of registration data, follow-up when registration numbers fall below expectations, and training of agency personnel on voter registration responsibilities.²⁹

Best Practices

- Ensure that public assistance offices have and distribute voter registration applications that are coded, marked, or otherwise recognizable to election officials as originating from a public assistance office, whether a completed voter registration application is submitted at a public assistance office or directly to election officials.
- Create a policy manual detailing the requirements of Section 7 and the responsibilities of public assistance offices.
- Assign a statewide NVRA coordinator to review voter registration data and empower such coordinator to take remedial action where necessary.
- Require public assistance offices to appoint an individual at each office who is responsible for compliance with Section 7 at that office and who reports to the statewide NVRA coordinator the following data each month: (1) number of covered transactions by transaction type; (2) responses to the voter preference question by response type ('yes', 'no', and blank); (3) number of covered transactions that occur remotely; (4) number of voter registration applications mailed or distributed; (5) number of completed voter registration applications submitted to election officials by the public assistance office.
- Statewide NVRA Coordinator must review regularly voter registration data from public assistance offices to ascertain that voter registration numbers are not unduly low in light of factors such as office caseload and election cycles.
 1. Compare monthly, the number of voter registration applications submitted to election officials against the number of covered transactions each month.
 2. Conduct telephone meetings with the office NVRA coordinator at the lowest performing offices to troubleshoot compliance issues.
 3. Conduct unannounced site visits to offices that have the lowest voter registration rates for two consecutive months.
- Conduct annual training of public assistance office workers and local election officials with NVRA responsibilities.
- Public assistance office training should cover, at a minimum, the requirement to distribute voter registration applications during all covered transactions (include those that occur remotely) unless an applicant has declined in writing; what constitutes a declination in writing to receive voter registration services; use of properly coded or marked voter registration materials; and the necessity to track monthly data about covered transactions and voter registrations.
- Local election officials training should cover, at a minimum, properly attributing voter registrations to the source of the voter registration, i.e. mail, public assistance, motor vehicle office, etc. and reporting recurring problems with completeness of voter registration applications that prevent voters from being properly registered.

1. 52 U.S.C. § 20501 et seq.
2. 52 U.S.C. § 20504 et seq.
3. 52 U.S.C. § 20506 et seq.
4. *The National Voter Registration Act of 1993 (NVRA): Questions and Answers*, Department of Justice, http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php (last visited September 3, 2014)..
5. 52 U.S.C. § 20506(a)(6)(A).
6. *Id.*
7. 52 U.S.C. § 20506(a)(6)(B).
8. 52 U.S.C. § 20506(a)(6)(C).
9. 52 U.S.C. § 20506(a)(4)(A)(iii).
10. See, *Ferrand v. Schedler*, No. 11-926, 2012 WL 1570094, at 9 (E.D.La. May 3, 2012) (holding that “[i]ndeed, the statute’s plain language makes clear that voter registration must be offered to clients and applicants with “each” covered transaction, including remote transactions”); *Georgia State Conference of NAACP v. Kemp*, 841 F.Supp.2d 1320, 1329 (N.D. Ga. Jan. 30, 2012) (holding that voter registrations must be provided during remote transactions); *The National Voter Registration Act of 1993 (NVRA): Questions and Answers*, Department of Justice, http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php (last visited September 3, 2014) (Question 24, “Many Section 7 designated agencies/offices routinely provide services/assistance such as application for, or renewal of, services or change-of-address notification through the internet, by telephone, or by mail. States should ensure the availability of voter-registration opportunities to individuals using such remote service/assistance opportunities from designated agencies.”).
11. 52 U.S.C. § 20506(a)(2). Section 7 of the NVRA also requires mandatory voter registration agencies to include all offices in the state “primarily engaged in providing services to persons with disabilities.” See *id.* We discuss herein only the requirements for public assistance agencies.
12. See, *Disabled In Action of Metro. N.Y. v. Hammons*, 202 F.3d 110, 123-124 (2d Cir. 2000).
13. See, *The National Voter Registration Act of 1993 (NVRA): Questions and Answers*, DEPARTMENT OF JUSTICE, http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php (last visited September 3, 2014) (Question 13).
14. *Id.*
15. *Ferrand v. Schedler*, No. 11-926, 2012 WL 1570094, at *9 (E.D.La. May 3, 2012).
16. See, *Scott v. Schedler*, No. 11-926, 2013 WL 264603, at 13 (E.D.La. Jan. 23, 2013) (finding public assistance agency in violation of Section 7 where agency gave caseworkers the discretion to direct clients to the Secretary of State’s website rather than provide an actual voter registration application).
17. See, *Valdez v. Squier*, 676 F.3d 935 (10th Cir. 2012).
18. Although Section 7(a)(6)(B) references a “form” the voter information form is a term of art and the information required by Section 7(a)(6)(B), including the voter preference question need not be provided in a separate form or document but may be included within a form or document used for a covered transaction such as the initial benefits application form. See 52 U.S.C. § 20506(a)(6)(B).
19. 52 U.S.C. § 20506(a)(6)(B).
20. *Id.*
21. *Id.*
22. *Id.*
23. 52 U.S.C. § 20701.
24. 52 U.S.C. § 20506(a)(6)(C). See also *Scott v. Schedler*, No. 11-926, 2013 WL 264603, at *10 (E.D.La. Jan. 23, 2013) (finding that public assistance office was in violation of the NVRA because although it “checked benefits application forms and followed up for missing information, it did not do so with voter registration forms.”)
25. 52 U.S.C. § 20506(a)(4)(A)(iii) and 52 U.S.C. § 20506(d).
26. 52 U.S.C. § 20509.
27. *Harkless v. Brunner*, 545 F.3d 445, 450 (6th Cir. 2008).
28. See *Valdez v. Herrera*, No. 1:09-cv-00668-JCH-DJS (D.N.M. Dec. 21, 2010) (finding that “merely assigning unique code numbers to each agency appears to be of limited utility without active monitoring of registration data or follow-up in instances where the number of registrations fell far below what would have been expected given the number of HSD clients.”).

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