



January 29, 2008

***VIA US POSTAL SERVICE***

Honorable Jan Brewer  
Arizona Secretary of State  
1700 West Washington Street, 7th Floor  
Phoenix, AZ 85007-2888

Re: NVRA Section 7 Compliance

Dear Secretary Brewer:

On behalf of the Association of Community Organizations for Reform Now (ACORN), we write to notify you that the Arizona Department of Economic Security (DES) and the Arizona Department of Health Services (DHS) are not in compliance with the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg, *et seq.* (the “NVRA”), and to urge you to take steps to bring these Departments into compliance.

Federal law requires agencies designated by the state as “voter registration agencies” to provide certain specified voter registration services. *See* 42 U.S.C. § 1973gg-5. DES and DHS are designated “voter registration agencies” and, therefore must, at a minimum, distribute mail voter registration application forms, assist applicants in completing the voter registration forms, and accept completed voter registration forms and forward them to the appropriate election official. *See id.* § (a)(4)(A). More specifically, pursuant to Section 7 of the NVRA, DES and DHS offices must (i) distribute voter registration materials with each application for assistance and with each recertification, renewal or change of address form relating to such assistance; (ii) inquire of the applicant, in writing, whether he or she would like to register to vote or change his or her voter registration address; (iii) inform the applicant, in writing, that the decision to register or decline to register to vote will not affect the amount of assistance provided by the agency; and (iv) provide assistance completing the voter registration forms to the same degree the agency provides assistance in completing its own forms. *See id.* § (a)(6).

Substantial evidence demonstrates Arizona DES and DHS' failure to provide mandatory voter registration services at their offices as required by the NVRA.

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Registration at public assistance agencies in Arizona in the most recent reporting period, 2005-2006, has dropped to less than one-fifth of the numbers achieved in 1999-2000. In 2005-2006, public assistance agencies helped only 5,323 clients register to vote. The following table shows the consistently low numbers of public assistance voter registrations in each two-year cycle since 1995-1996, and the marked decline in public assistance registrations since 1999-2000:

**Arizona Voter Registration Applications, Selected Sources and Statistics**

|                                 | <b>1995-1996</b> | <b>1997-1998</b> | <b>1999-2000</b> | <b>2001-2002</b> | <b>2003-2004</b> | <b>2005-2006</b> |
|---------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| <b>Agency Registrations</b>     | 17,845           | 29,902           | 32,137           | 9,351            | 11,347           | 5,323            |
| <b>All Registrations</b>        | 524,042          | 469,826          | 919,676          | 619,734          | 1,610,435        | 1,060,201        |
| <b>Agency/All Registrations</b> | 3%               | 6%               | 3%               | 1%               | 0.7%             | 0.5%             |

*US Election Assistance Commission (EAC) & Federal Election Commission (FEC) data source for voter registration data. "Public Assistance Offices" in EAC tables include offices under Department of Health Services (WIC), Department of Economic Security (TANF, Food Stamps, and Medicaid). Here "Public Assistance Offices" registrations will be called "Agency Registrations."*

From the peak time period of 1997-1998, the percentage of Arizonans registered at public assistance agencies dropped from 6% of all registrations to only 0.5% in 2005-2006. Indeed, partly because of the lack of voter registration services at public assistance agencies, Arizona now has an economic registration gap of 30 percentage points: only 48 percent of citizens in households making less than \$15,000 reported being registered to vote compared to 78 percent of citizens in households making \$75,000 or more.<sup>1</sup>

Arizona's DES and DHS offices serve clients of the following programs, among others: WIC, Cash Assistance (TANF), Food Stamps, and the Medical Assistance Program (Medicaid). All clients of these programs should be offered the opportunity to register to vote, yet the data indicate that only a tiny percentage of program participants are being registered. The table below compares the approximate number of monthly participants in just one of these programs, Food Stamps, with the number of all agency registrations. Participation in the Food Stamp program has steadily increased since 1999, while agency registrations have shown a marked decrease since 1999. While the average monthly participation in the Food Stamp program was at 546,447 for the 2005-2006 period, only 5,323 voter registrations originated from all public assistance agencies. This strongly suggests that DES, which administers the Food Stamp program, is not complying with the law.

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<sup>1</sup>U.S. Census, Current Population Survey, November 2006 Voting Supplement, analysis by Project Vote.

**Food Stamp Participation and Agency Registrations**

|                                                                      | <b>1995-<br/>1996</b> | <b>1997-<br/>1998</b> | <b>1999-<br/>2000</b> | <b>2001-<br/>2002</b> | <b>2003-<br/>2004</b> | <b>2005-<br/>2006</b> |
|----------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>Approximate number<br/>of monthly food<br/>stamp participants</b> | 464,590               | 348,102               | 259,363               | 316,457               | 482,156               | 546,447               |
| <b>Agency Registrations</b>                                          | 17,845                | 29,902                | 32,137                | 9,351                 | 11,347                | 5,323                 |

*Food stamp participant source: Arizona Department of Economic Security, Annual Report, given average monthly participation per fiscal year, created two-year average here.*

*Voter registration data: same as previous table.*

*For fiscal year 2006, the USDA reports that 44 percent of all food stamp participants were adults. Of those 228,000 adult participants, only 28,000 (12%) were non-citizens.<sup>2</sup>*

A survey conducted by Project Vote shows both DES and DHS' lack of compliance with Section 7. In November and December 2007, Project Vote visited DES and DHS offices in Maricopa and Pima counties, the two most populous counties in Arizona. Several offices visited did not have voter registration applications available even when specifically requested. Three offices even informed the Project Vote staff member that applicants are not provided with voter registration services, despite the clear requirement in the NVRA that applicants must be offered the opportunity to complete a voter registration application when applying for benefits. In addition, eighty-nine clients who met with agency staff to apply for benefits, recertify their applications, or change their address or name were surveyed by Project Vote. Of the eighty-nine clients surveyed, only seven were offered voter registration by an agency staff member, and only four recalled any question regarding voter registration in their application materials and forms.

By requiring states to offer voter registration applications at public assistance agencies, Congress specifically intended to increase voter registration among low-income citizens. DES and DHS' failure to comply with these provisions of the NVRA has profound consequences. DES and DHS must recognize their obligations under the NVRA and implement changes promptly so that all adult citizens in Arizona, including those who receive public assistance, are able to participate in the electoral process.

We believe that full compliance with the requirements of the NVRA will increase the number of voter registrations in DES and DHS offices, to the benefit of the clients they serve. We hope that you agree. Project Vote, Demos and the Lawyers' Committee for Civil Rights Under Law are collaborating with a number of states to improve their implementation. Through these efforts, states such as North Carolina and Iowa have substantially increased voter registration at their public assistance agencies. We are happy to meet with you at your earliest convenience to assist in the development of a comprehensive plan to do the same.

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<sup>2</sup> "Characteristics of Food Stamp Households: Fiscal Year 2006", Report No.FSP-07-CHAR, U.S. Department of Agriculture, Food and Nutrition Service, September 2007; see tables B-11, B-12 and B-13.

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Please advise us promptly of the steps you intend to take to remedy your agencies' violations of Section 7 of the NVRA, including (i) the measures you will implement to assure future compliance and (ii) the steps you will take to provide registration opportunities to those who have been denied their rights under Section 7 of the NVRA in the past three years. Please consider this notice as required by 42 U.S.C. 1973gg-9(b).

Very truly yours,

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