



Virginia State Board of Elections
Comment Regarding Draft Revisions to Voter Registration Application
and Related Regulations (1 VAC 20-40-70)
July 15, 2015

Project Vote appreciates this opportunity to comment on the revised draft Virginia voter registration application and related regulations.

Project Vote is a national nonpartisan, nonprofit organization whose mission is to ensure that America's electorate represents the diversity of its citizenry. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure constituencies can register, vote, and cast ballots that count. Project Vote has considerable experience with assisting applicants to complete voter registration applications. In addition, we have worked with AIGA's Design for Democracy on a change in the Florida voter registration application. As you may know, AIGA is the professional association for design.

For ease of understanding, we have grouped our commentary by rule and section of the draft form.

Revised Rule 1 VAC 20-40-70(B)(14) – Materiality of Previous Registration Information

- Project Vote commends the amendment of the regulation to designate as not material the address at which the voter is previously registered if the previous voter registration address is available in VERIS. As this revision recognizes, applicants should not be rejected for failure to provide information which the state or locality already has. In addition, applicants should not be rejected for failure to fill out the previous registration information, even if the information is *not* in VERIS. A potential applicant who does not remember his or her previous registration information should not be left out of the process because the person cannot complete this information and is discouraged from submitting a form. As noted below in the commentary regarding designation of required fields on the form, the regulation and form should indicate that, even if the information is not in VERIS, information regarding previous registration is only required *to the extent known by the applicant*.

Application Form – Designation of Required Fields

To help ensure that applicants submit complete forms, it should be very clear what fields are required. Project Vote commends the revision of the form for reinstating the former practice in the July 2012 version of the form of placing an asterisk next to those required

field labels for *all* required fields to prevent confusion. While the revised form indicates with asterisks which fields are required, a few revisions should be made as follows:

- *Previous Voter Registration Information.* The line “IF YES, the information below must be completed” should indicate that the information regarding previous registration is required, *to the extent known by the applicant*. Otherwise, a potential applicant who sees that this information is required but does not remember his or her previous registration address would otherwise be deterred from registering. Applicants should not be left out of the process because they cannot complete this information and are discouraged from submitting a form. This change would be more consistent with the new regulation, which provides that the address at which the voter was previously registered is not material if the previous voter registration address is available in VERIS. The form should not give voters the mistaken impression that their application will be rejected without the complete address.
- *Gender.* Gender should be designated as an optional field on the form. This is consistent with the regulation’s designation of gender as not material and the indication that an application may not be rejected for failure to include it. Gender is not necessary to determine the eligibility of an applicant or to administer voter registration or other parts of the election process. For example, it is also not required on the federal voter registration form.

Application Form – Social Security number

- Project Vote commends the amendment of the Social Security number box to account for applicants who do not have a Social Security number. This is more consistent with the right of all citizens to register and vote regardless of whether they were issued a Social Security number.

Application Form – Residency Information

- Project Vote commends the simplification of the form by removing the field for “county or city of residence,” because requiring an applicant to complete both City/Town and Zip Code along with their address provides sufficient identifying information to determine both the eligibility and the jurisdiction of the applicant.

Application Form – Placement of Signature Block

- Project Vote commends the revision of the form for moving the previous registration information to a position above the signature line, and thus moving the signature line to the bottom of the information the applicant must complete. In its previous work reviewing several hundred rejected voter registration applications in Virginia, Project Vote found that a large percentage of rejections reviewed—over one-third—resulted solely from the failure to check the previous registration information box, which appears below the signature line on the current version of the form. Applicants are

generally likely to believe that once they have completed the signature, the form is complete. Therefore, Project Vote expects that moving the signature line below the previous registration information field result in more complete applications, and therefore, that it will result in fewer rejections of eligible applicants for administrative rather than substantive reasons. In addition, counties that provide a copy of the voter registration form to other jurisdictions in order to share the previous registration information, by providing more information from the complete form, will be providing more data points that are useful for these other jurisdictions in making sure that the correct voter's information is properly processed.

Application Form – Application Receipt

- Under the statutory provision requiring the form to include a receipt for applicants, email address of the office, group or individual is not included. Va. Code Ann. § 24.2-418.1. Therefore, the email address line should be either removed or designated as optional.

Instructions: Privacy Act Notice

- The statement that “Whether you register to vote and the office where you submit an application are confidential and will be used only for voter registration purposes.” is confusing, because whether any voter is registered is public information, while the fact that an applicant declined to register at an agency or motor vehicles department is confidential.

To clarify this issue, Project Vote suggests the following language: “Your decision to decline to register to vote as well as the office where you submit an application, if you choose to do so, are confidential and will only be used for voter registration purposes.”

In sum, many of the changes made to the form are beneficial changes that should clarify requirements applicants must complete to successfully register to vote and cast a valid ballot. A few adjustments would further clarify and improve the process. Project Vote thanks the Board for the opportunity to provide this input. Please contact Michelle Kanter Cohen at mkantercohen@projectvote.org or 202-546-4173 x 309 if you have questions regarding this comment.