



February 25, 2013

TO: Director Terri Delgadillo, California Department of Developmental Services

RE: SB 35 (Padilla), Chapter 505, Statutes of 2012, and the National Voter Registration Act of 1993 (NVRA)

FROM: Tho Vinh Banh, Staff Attorney, Disability Rights California, Raul Macias, Voting Rights Advocate, ACLU of California

The purpose of this letter is to notify the Department of Developmental Services (DDS) of a law change affecting regional centers. SB 35 (Padilla) was signed into law on September 24, 2012, and took effect January 1, 2013. The bill codifies federal National Voter Registration Act (NVRA) requirements and best practices into state law that will modernize and improve implementation in California.

The NVRA was signed into law in 1993 and took effect in California in 1995. The Act seeks to “establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office.” 42 U.S.C. § 1973gg (b)(1). To reduce barriers to and expand opportunities for voter registration, Section 7 of the NVRA requires state-funded programs primarily engaged in providing services to persons with disabilities to offer voter registration services to applicants and clients at every agency and office in each state.

In California, regional centers are NVRA-designated programs.¹ However, DDS is ultimately responsible for ensuring that regional centers comply with state and federal laws, including ensuring that regional centers comply with the NVRA.^{2,3} A statewide NVRA agency that oversees local

¹ California Secretary of State. *National Voter Registration Act (NVRA) California Manual*. Retrieved on February 25, 2013, from: <http://www.sos.ca.gov/elections/nvra/laws-standards/nvra-manual.htm>

² California Welfare and Institution Code § 4434 states that “it is the intent of the Legislature that the department ensure that the regional centers operate in compliance with federal and state law...”

³ According to the Department of Justice’s NVRA guidelines, “When 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.” Question 24.

NVRA agencies out of compliance with the NVRA and SB 35 can be subject to a civil action by the United States Department of Justice or a private party.⁴

In order to ensure compliance with SB 35, Disability Rights California and the ACLU of San Diego and Imperial Counties recommend that DDS promptly inform regional centers of the new requirements, including:

- Regional centers must notify the county elections official of each applicable county of the location of each of its offices or sites within the county.⁵
- Regional centers must have a sufficient number of voter registration cards (VRCs).⁶ If a regional center serves multiple counties, that regional center must obtain VRCs from each county that it serves, and distribute the appropriate VRC to each client or applicant.
- Regional centers must obtain supplies of VRCs from county elections offices.⁷
- An applicant must be issued a VRC even if he or she does not return a voter preference form.⁸ Only applicants that answer “no” on the voter preference form do not need to be provided a VRC.⁹
- Regional centers must take steps to ensure that each office and site has a sufficient supply of voter preference forms and VRCs in all languages required by Section 203 (42 U.S.C. § 1973aa-1a) or Section 4(f)(4) (42 U.S.C. § 1973b(f)(4)) of the federal Voting Rights Act (VRA).¹⁰ Regional centers should contact their county elections office to find out what languages are covered under the VRA in that county, and to obtain VRCs in those languages. Voter preference forms are translated and available online on the SOS website: <http://www.sos.ca.gov/elections/nvra/training/voter-preference-forms.htm>

Department of Justice, Civil Rights Division. *The National Voter Registration Act of 1993, Questions and Answers* Retrieved on February 12, 2013, from: http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php.

⁴ 42 U.S.C. § 1973gg-9

⁵ California Elections Code § 2406(a)(1)

⁶ California Elections Code § 2406(a)(4)

⁷ California Elections Code § 2406(a)(3)

⁸ California Elections Code § 2403(c)

⁹ California Elections Code § 2403(b)(2)

¹⁰ California Elections Code § 2406(a)(4)

- The Secretary of State (SOS) has the authority to conduct a review of a voter registration agency's NVRA compliance.¹¹ The SOS may post the results of the reviews on its website.¹²
- The DDS may conduct an NVRA compliance review of the regional centers.¹³
- Regional centers must appoint one staff person at each agency office to be in charge of NVRA and SB 35 compliance.¹⁴
- Regional centers must ensure that staff that provide voter registration services are trained annually on the NVRA requirements and on how to assist applicants with voter registration.¹⁵ County elections officials are also available to assist agencies with trainings upon request.¹⁶
- Regional centers that offer the opportunity to apply online for service, assistance, or to submit a recertification, renewal, or change of name or address form online, must provide the applicant or beneficiary the opportunity to electronically submit a voter preference form and connect the applicant to the SOS's online voter registration tool.¹⁷ Regional centers that allow these transactions online should contact the SOS NVRA Coordinator for details.

Please note that some federal requirements were not codified into state law. All federal requirements under the NVRA continue to apply. Please see the SOS NVRA webpage to learn more:

<http://www.sos.ca.gov/elections/nvra/>

For more information, training materials, and to request trainings, please contact:

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¹¹ California Elections Code § 2404(b)(1)

¹² California Elections Code § 2404(b)(3)

¹³ California Elections Code § 2406(b)

¹⁴ California Elections Code § 2406(a)(2)

¹⁵ California Elections Code § 2406(a)(5)

¹⁶ California Elections Code § 2405(b)(3)

¹⁷ California Elections Code § 2408(a)

DEPARTMENT OF DEVELOPMENTAL SERVICES

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(916) 654-1569



DATE: March 4, 2013

TO: REGIONAL CENTER DIRECTORS AND BOARD PRESIDENTS

SUBJECT: SB 35 (PADILLA) AND THE NATIONAL VOTER REGISTRATION ACT

The purpose of this correspondence is to notify regional centers of the law changes in effect as of January 1, 2013, following the passage of Senate Bill (SB) 35 (Padilla). SB 35 codifies portions of the federal National Voter Registration Act (NVRA) into state law, and places additional requirements on NVRA-designated programs (also known as "Voter Registration Agencies").

Regional centers are identified by the Secretary of State as Voter Registration Agencies (VRAs).¹ As such, regional centers must comply with all NVRA and SB 35 requirements.

Below are helpful links that provide greater information about the responsibilities of VRAs under the NVRA and the SB 35:

1. American Civil Liberties Union (ACLU)/Disability Rights California (DRC) letter to DDS. (Attached)
2. Secretary of State's SB 35 Implementation Workshop Materials:
<http://www.sos.ca.gov/elections/nvra/sb35/>
3. Chapter 4 of the Secretary of State's NVRA Manual:
<http://www.sos.ca.gov/elections/nvra/laws-standards/pdf/chapter-four.pdf>
4. Secretary of State's NVRA homepage: <http://www.sos.ca.gov/elections/nvra/>
5. Secretary of State's Training Materials: <http://www.sos.ca.gov/elections/nvra/training/>
6. National Voter Registration Act:
http://www.justice.gov/crt/about/vot/42usc/subch_42_1973gg

¹ California Secretary of State. *National Voter Registration Act (NVRA) California Manual*. Retrieved on February 12, 2013, from: www.sos.ca.gov/elections/nvra/pdf/complete.pdf

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7. Voter Preference Forms:

<http://www.sos.ca.gov/elections/nvra/training/voter-preference-forms.htm>

8. Secretary of State's NVRA Coordinator:

Phone: (916) 657-2166

Email: nvra@sos.ca.gov

Sincerely,

Original signed by

BRIAN WINFIELD
Acting Deputy Director
Community Operations Division

Attachment

cc: Regional Center Chief Counselors
Regional Center Administrators
ARCA
DRC
ACLU