



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
ELECTIONS DIVISION

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May 12, 2017

County Clerk/Registrar of Voters (CC/ROV) Memorandum #17047

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jon Ivy
Voter Access Coordinator

RE: Voting Accessibility Advisory Committee: May 24, 2017, Meeting

Attached is the notice and agenda for the next Voting Accessibility Advisory Committee (VAAC) meeting to be held on Wednesday, May 24, 2017, at 1:00 p.m. in the multipurpose room of the Secretary of State, 1500 11th Street, Sacramento, CA 95814.

This notice and agenda will also be available on the VAAC website at:
<http://www.sos.ca.gov/elections/vaac>.

Please feel free to contact me directly with any questions at (916) 695-1581 or
Jonathan.Ivy@sos.ca.gov.

Thank you.



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May 12, 2017

Public Meeting Notice and Agenda

Voting Accessibility
Advisory Committee
(VAAC)

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

Date and time: Wednesday, May 24, 2017, 1:00 p.m.

Conference call number: (877) 443-3042

Screenshare/webstream: <http://uberconference.com/voters>

Location: Secretary of State
Multipurpose Room
1500 11th Street
Sacramento, CA 95814

Teleconference sites: Los Angeles County Clerk/Recorder
12400 Imperial Highway, Suite 7001
Norwalk, CA 90605

Independent Living Resource Center
423 West Victoria Street
Santa Barbara, CA 93101

Riverside County Registrar of Voters
2724 Gateway Dr., 1st Fl. Conf. Rm.
Riverside, CA 92507

Fullerton College
321 E Chapman Ave
Fullerton, CA 92832

Agenda

1. Welcome, Call to Order, Roll Call, and Declaration of Quorum

2. Oath of Office

Public swearing-in of committee members.

3. Introductions

Public introduction of committee members and SOS staff.

4. Bagley-Keene Open Meeting Act

Brief explanation of restrictions under Bagley-Keene.

5. Roles and Responsibilities

Discussion of committee objectives, roles, and responsibilities.

6. Current Events

Discussion on current state of elections.

7. Public Comments and Future Agenda Items

8. Adjournment

Important Notices to the Public:

- This meeting is open to the public and is accessible to the physically disabled.
- In accordance with Title II of the Americans with Disabilities Act of 1990, reasonable accommodations are available. Providing accommodation requests at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.
- Any person who needs a disability-related accommodation or modification in order to participate in the meeting, or any person wanting to subscribe to future meeting notices and agendas, may make a request by contacting Jonathan Ivy at (916) 695-1581, by emailing VAAC@sos.ca.gov or jonathan.ivy@sos.ca.gov, or by sending a written request to the Voting Accessibility Advisory Committee, 1500 11th Street, 5th Floor, Sacramento, CA 95814.
- Discussion and action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the committee and may be taken out of order.
- Persons interested in addressing the committee on any agenda item will be given an opportunity to speak. The committee may limit the time for each individual speaker.
- The committee may not discuss or take action on any matter raised that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a).)

Attached documents for the committee meeting:

1. State of California Elections Code Section 2053
2. PUBLIC COMMENT: Letter from ACLU of California and Disability Rights California regarding National Voter Registration Act and SB 35 implementation at state funded agencies primarily serving people with disabilities.

State of California Elections Code Section 2053

2053.

The Secretary of State shall establish a Voting Accessibility Advisory Committee. The Secretary of State shall consult with the committee and consider the committee's recommendations related to improving the accessibility of elections for voters with disabilities. The Secretary of State may implement the committee's recommendations as he or she deems appropriate.

- (a) The committee shall consist of the Secretary of State, his or her designees, and additional members appointed by the Secretary of State. The appointees shall have demonstrated experience with accessibility requirements for voters with disabilities or be a county elections official.
- (b) The committee shall serve in an advisory capacity to the Secretary of State and shall do all of the following:
 - (1) Establish guidelines for reaching as many voters with disabilities as practical.
 - (2) Make recommendations for improving the availability and accessibility of election materials, including, but not limited to, state voter information guides, county voter information guides, and vote-by-mail ballots, and their delivery in print or alternative formats to voters with disabilities.
 - (3) Increase the distribution of public service announcements identifying the availability of election materials for voters with disabilities at least 45 days before any federal, state, and local election.
 - (4) Make recommendations for improving the accessibility of election materials made available on Internet Web sites that are in compliance with the most current, ratified standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content Accessibility Guidelines 2.0 adopted by the World Wide Web Consortium for accessibility.
 - (5) Promote the Secretary of State's toll-free voter registration telephone line for citizens needing voter registration information, including information for individuals with disabilities, and the California State Library and regional library services for individuals who are unable to read conventional print due to a visual, intellectual, learning, physical, or any other disability.

- (6) Make recommendations for providing voters with disabilities the same access and participation as is provided to other voters who are not disabled, including the ability to vote privately and independently.
 - (7) Establish subcommittees to further the scope and purposes of the committee as they relate to improving voter services and access for individuals with disabilities, including, but not limited to, visually impaired voters and deaf or hard of hearing voters.
 - (8) Promote the use of plain language and alternative formats for election materials.
 - (9) Make recommendations for materials to train poll workers on issues related to serving voters with disabilities and providing accessible voting locations.
- (c) A member shall not receive compensation, but each member shall be reimbursed for his or her reasonable and necessary expenses in connection with service on the committee.

(Amended by Stats. 2016, Ch. 422, Sec. 3. Effective January 1, 2017.)



Date: September 23, 2016
To: Members of the Voter Accessibility Advisory Committee
Secretary of State Alex Padilla
From: Raúl Macías, ACLU of California
Paul Spencer, Disability Rights California
Re: National Voter Registration Act and SB 35 implementation at state funded agencies primarily serving people with disabilities

For the past five years, the ACLU and Disability Rights California (DRC) have been conducting outreach at the state and local level to improve implementation of the National Voter Registration Act (NVRA). The following memo includes a summary of what the NVRA and SB 35 require, how designated NVRA agencies that primarily serve people with disabilities are performing in 2016, and recommendations for improving and expanding access to voter registration at offices serving people with disabilities. We urge the Voter Accessibility Advisory Committee to review the recommendations in this memo and consider ways to support and make recommendations to the Secretary of State and our organizations to improve NVRA mandated voter registration opportunities for people with disabilities.

Section 7 of the NVRA

The NVRA was signed into law in 1993. Section 7 of the law aimed to reduce barriers to and expand opportunities for voter registration by requiring public assistance offices and 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.¹ Section 7 also requires voter registration services be provided at Armed Forces recruitment offices and requires states to designate other offices as voter registration agencies. These offices are collectively referred to as “voter registration agencies” or “NVRA agencies.”

Voter registration services are provided to consumers at the time of application for services, renewal of benefits, and upon notification of a change of address.² Voter registration services include providing:

- a document that asks if the consumer would like to register to vote, including required disclosures, known as a voter preference form;
- a voter registration card; and
- assistance with filling out the voter registration form.³

¹ 52 U.S.C.A. §§ 20501 and 20506 (a)(2).

² *Id.* § 20506 (a)(6)(A)

³ *Id.* §§ 20506 (A)-(C).

The impact of the law was at its highest nationally when the NVRA was first implemented in 1995-96, when registrations at public assistance agencies reached 2.6 million.⁴ Over the next decade, voter registrations steadily declined, reaching a low a decade later in 2005-06 of just over a half million, down 80% from 1995-96.⁵ To combat this decline in voter registrations, public interest organizations like the American Civil Liberties Union, Project Vote, Demos, and Lawyers Committee for Civil Rights Under the Law have brought or threatened litigation around the country, including California, in order to force states to comply.⁶

The NVRA was first implemented in California in mid-1995, after the state was ordered to do so by a federal district court.⁷ Voter registrations reached their peak in the 1995-96 election cycle,⁸ and fell to an all-time low in 2007-08, with registrations declining by 87%.⁹ In mid-2009, voting rights advocates at *Demos* and *Project Vote* sent the Secretary of State (SOS) a notice that the state was in violation of the NVRA.¹⁰ Their investigation in six counties revealed widespread non-compliance with the law.¹¹

In response to the decline in NVRA registrations, in July of 2012, then-Senator Padilla authored legislation (SB 35) to codify many of the best practices the ACLU was developing in a 2011 San Diego County pilot, clarify NVRA responsibilities at the local and state level, and modernize voter registration services at NVRA agencies in California.¹² The law, one of the most comprehensive NVRA enabling statutes in the country, took effect in January 2013.

Senate Bill 35

SB 35 aimed to improve voter registration at NVRA agencies by creating new accountability measures, implementing best practices, and incorporating online registration into online systems at agencies.

⁴ Federal Election Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1995-1996, Table 2, 12 (1997), available at www.eac.gov/assets/1/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%201995-1996.pdf.

⁵ U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2005–2006 34 (2007), available at www.eac.gov/assets/1/Page/NVRA%20Reports%20and%20Data%20Sets%202006-2005.pdf.

⁶ Project Vote, Voter Registration at Public Assistance Agencies 8 (2014), available at <http://www.projectvote.org/wp-content/uploads/2014/02/POLICY-PAPER-PUBLIC-AGENCY-REGISTRATION-FEB-2014.pdf>.

⁷ *Wilson v. United States*, 878 F.Supp. 1324, 1329 (N.D. Cal. 1995).

⁸ Federal Election Commission, *supra* note 5, at 2.

⁹ U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2007–2008 39 (2009), available at www.eac.gov/assets/1/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%202007-2008.pdf.

¹⁰ Letter from Yolanda Sheffield & Nicole Kovite, Project Vote, & Brenda Wright, Demos, to Debra Bowen, California Secretary of State 1 (May 14, 2009), available at <http://www.demos.org/sites/default/files/publications/Notice%20of%20Intent%20to%20Sue%20State%20of%20California.pdf>.

¹¹ Jody Herman & Doug Hess, Project Vote, California's Failure to Comply with the Public Agency Registration Requirements of the NVRA 3-4 (2009), available at www.projectvote.org/images/publications/State-Specific%20Documents/California/FINAL%20PV%20CA%20NVRA%205.7.09.pdf.

¹² S.B. 35, 2011-2012 Leg., Reg. Sess. (Cal. 2012).

Accountability Measures. To address the lack of accountability and confusion over the roles of different agencies under the NVRA, SB 35 made several important reforms to increase accountability by more clearly delineating the responsibilities of the SOS, county elections officials, and state and county voter registration agencies, and by creating a voter registration tracking system.

The SB 35 tracking system requires NVRA agencies and county elections offices to coordinate so that each site where voter registration services are offered have their voter registrations tracked at the site level. The tracking system plays an important role in accountability by allowing the SOS, voter registration agencies, and the public to identify high and low-performing offices and sites. Before this system was in place, counties did not disaggregate the reporting, and instead only reported by total public assistance and disability services registrations thereby making it difficult to pinpoint problems at particular sites.

Modernization. In order to take advantage of online voter registration, SB 35 requires NVRA agencies with online applications to incorporate the voter registration question into their online application and to offer all applicants conducting covered transactions the opportunity to register to vote online.¹³ By mid-2013, all of California's NVRA offices with online applications had incorporated the voter registration question into their online application and were providing a link to online voter registration to applicants who opted to register to vote, including the Department of Rehabilitation's Vocational Services online application.

Best Practices. SB 35 took several of the best practices developed in San Diego County or recommended by national voting rights groups and codified them into state law, including requiring:

- the appointment of NVRA coordinators at voter registration agencies and county elections offices;
- annual trainings for frontline employees at each voter registration agency;
- voter registration materials be made available in Section 203 languages at every agency;
- that consumers who neglect to answer the voter registration question in writing be given a voter registration card; and
- that private entities under contract with a designated voter registration agency provide services or assistance.¹⁴

Because at the time there were some questions about the role of the Secretary of State's office in implementing the NVRA, SB 35 also designated the Secretary of State as the chief state elections official responsible for coordination of the state's responsibilities under the NVRA.¹⁵ The law also gave the office some specific responsibilities, including:

- promulgating regulations, as necessary, to implement the NVRA and SB 35;

¹³ Cal. Elec. Code § 2408 (a) (West 2016).

¹⁴ Best practices requirements at §§ 2401 (b)(2), 2403 (b)(2) and (c), 2404 (a)(1), 2405 (a), 2406 (a)(2) and (a)(4)-(5).

¹⁵ *Id.* § 2402 (a).

- coordinating with each county elections official and voter registration agency to implement the law;
- preparing written training materials for county elections officials and voter registration agencies;
- contacting a voter registration agency if the agency is not complying with the NVRA or SB 35;
- coordinating with each state agency that is responsible for the performance of local agencies and communicate the requirements and best practices for complying with the NVRA and SB 35 and assist the agency’s efforts to help local offices comply with the laws.¹⁶

SB 35 also authorized the Secretary of State to review a voter registration agency’s compliance with the NVRA or SB 35 and to conduct a review of a county elections official’s compliance with the NVRA.¹⁷

Current performance of state funded agencies primarily serving people with disabilities

In California, the following offices are designated as mandatory voter registration agencies primarily serving people with disabilities:

- Department of Rehabilitation vocational rehabilitation services;
- Independent Living Centers;
- Department of Developmental Services - Regional Centers;
- Department of Social Services - Deaf Access Program; and
- State and county mental health providers.

Additionally, the Department of Social Services’ In-Home Supportive Services program has been designated as a public assistance office.

While California’s public assistance offices are on track for the highest total registrations of any year since the NVRA has been implemented, the state’s disability offices have consistently reported a low number of voter registrations, or have returned no voter registrations at all. Looking at each month in 2016 to date, on average 40% of the state’s counties did not record a single registration from an office serving a person with a disability (see Table 1).

Table 1: NVRA Registrations in 2016									
	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Monthly Average
Number of Counties with 0 Registrations at Disability Offices	25	24	19	20	18	27	29	26	23.5
Counties With no Report	3	4	5	6	4	7	3	2	4.3
Total	28	29	24	26	22	34	32	28	27.8
Source: California Secretary of State.									

¹⁶ § 2402 (b), 2404 (a)(2)-(4)

¹⁷ § 2402 (b)(1) and (2).

A pattern of low levels of voter registration is consistent among all NVRA disability agencies. The following summaries show the lack of registrations by agency.

In-Home Supportive Services (IHSS)

IHSS does not appear, as required by law, in the monthly SB 35 reports in 31 of the state’s 58 counties (see Table 2). In the 27 counties where IHSS does appear in the SB 35 reports, 12 of those counties have reported only one or fewer registrations per month in 2016, including four counties that have failed to register a single voter all year. The 27 counties where IHSS registrations are tracked average just under five registrations per month.

The ACLU and DRC met earlier this month with the Department of Social Services (DSS), which oversees the IHSS program, about ways to partner on improving registrations at IHSS offices, including trainings, a survey of local offices, and distribution of materials to local IHSS offices.

Number of counties	58
Number of counties with an IHSS office appearing in report	27
Number of counties with an IHSS office in report and 0 registrations in 2016	4
Number of counties averaging more than 1 registration per month in 2016	15
2016 monthly average of registrations for 27 counties with an IHSS office in report	4.9
Total average monthly registrations	133.4
Source: California Department of Social Services, California Secretary of State.	

Regional Centers

Regional centers have 67 offices or branches in the state, but only 57 appear in the SB 35 reports (see Table 3). Of the 57 sites that appear in the reports, 26 have not registered a single voter all year. Only 26 of the 57 sites that appear in the reports have averaged more than one registration per month in 2016. The 57 regional center sites average 1.3 registrations per month.

The ACLU and DRC met with the Department of Developmental Services (DDS) and with the Association of Regional Centers Agencies (ARCA) this month about ways to partner on improving registrations at regional centers. DDS and ARCA have agreed to partner with us on trainings, a survey of local offices, and distribution of training materials to regional centers. We also hope to partner on outreach concerning the right to vote for people under conservatorship.

Number of sites	67
Number of sites appearing in SB 35 reports	57
Number of sites with 0 registrations in 2016	26
Number of sites averaging more than 1 registration per month in 2016	26
2016 monthly average of registrations at 57 sites appearing in SB 35 reports	1.3
Total average monthly registrations	82.4
Source: California Department of Developmental Services, California Secretary of State.	

Vocational Rehabilitation Services

The Department of Rehabilitation's (DOR) vocational rehabilitation services offices almost all appear in the SB 35 reports (see Table 4). However, the sites that do appear have not registered many voters. The 86 sites have averaged only 0.7 registrations per month, and only 15 sites have averaged more than one registration per month in 2016. Twenty-seven DOR sites have not registered a single voter all year.

The ACLU and DRC have reached out to DOR's NVRA coordinator to request a meeting, but DOR has declined to meet.

Number of sites	87
Number of sites appearing in SB 35 reports	86
Number of sites with 0 registrations in 2016	27
Number of sites averaging more than 1 registration per month in 2016	15
2016 monthly average of registrations at 86 sites appearing in SB 35 reports	0.7
Total average monthly registrations	72.0
Source: California Department of Rehabilitation, California Secretary of State.	

Independent Living Centers (ILCs)

There are 56 ILC offices or branches in the state, but only 43 appear in the SB 35 reports. Of the 43 sites that appear in the reports, 34 have not registered a single voter all year. Only four of the 43 sites that appear in the reports have averaged more than one registration per month in 2016. The 43 ILCs appearing in reports have averaged 0.3 registrations per month this year.

The ACLU and DRC met with the Department of Rehabilitation, which oversees ILCs, and with the California Foundation for Independent Living Centers (CFILC) this month about ways to partner on improving registrations at regional centers. DOR and CFILC have agreed to partner with us on trainings, a survey of local offices, and distribution of training materials to ILCs.

Number of sites	56
Number of sites appearing in SB 35 reports	43
Number of sites in report with 0 registrations in 2016	34
Number of sites averaging more than 1 registration per month in 2016	4
2016 monthly average of registrations at 43 sites appearing in SB 35 reports	0.3
Total average monthly registrations	22.8
Source: California Department of Rehabilitation, California Secretary of State.	

Deaf Access Program (DAP)

DAP has 27 offices or branches in the state, but only 22 appear in the SB 35 reports. Of the 22 sites that appear in the reports, 20 have not registered a single voter all year. Only two of the

22 sites that appear in the reports have averaged more than one registration per month in 2016. The 22 ILCs that appear in reports have averaged 0.2 registrations per month this year.

The ACLU and DRC met with DSS, which oversees the DAP offices, this month about ways to partner on improving registrations at IHSS offices, including trainings, a survey of local offices, and creating materials for DAP offices. DAP has already reached out to local offices to begin assessing the current state of NVRA compliance.

Number of sites	27
Number of sites appearing in SB 35 reports	22
Number of sites in report with 0 registrations in 2016	20
Number of sites averaging more than 1 registration per month in 2016	2
2016 monthly average of registrations at 43 sites appearing in SB 35 reports	0.2
Total average monthly registrations	4.4
Source: California Department of Social Services, California Secretary of State.	

State and County Mental Health Providers

We did not analyze the performance of county mental health offices, but there are many counties where the offices do not appear in the SB 35 reports at all, including some large counties. There is no statewide office that oversees county mental health offices. However, there is a state association, the California Behavioral Health Directors Association, which represents county mental health programs. The ACLU and DRC met with that organization this month, and have agreed to partner on trainings and distribution of materials to county behavioral health offices.

Recommendations

The ACLU and DRC have the following recommendations for ways the Secretary of State’s office could improve and expand implementation of the NVRA and SB 35:

1. The Secretary of State should dedicate a staff member to NVRA implementation.

While California has made strides towards improved NVRA compliance, there is still a great deal to be done, and the SOS’s office needs an NVRA Coordinator dedicated to Section 7 implementation and compliance. All of the following recommendations will depend on the ongoing work of a dedicated, high level SOS staff member.

2. The Secretary of State’s NVRA Coordinator should meet regularly with the state-level coordinators of NVRA agencies.

Because state NVRA agencies are ultimately responsible for the compliance of their local NVRA offices, the SOS is required to communicate with and assist state level NVRA agencies with

evaluating and improving local NVRA compliance.¹⁸ Beginning under Secretary Bowen, the ACLU and DRC partnered with Secretary Bowen’s staff on outreach to state agencies concerning SB 35 implementation.

The current SOS NVRA Coordinator should likewise meet regularly with state-level NVRA Coordinators. At these meetings the SOS NVRA Coordinator can share data from SB 35 reports, such as which local agencies are not appearing in the reports and which local agencies are appearing in the reports but not registering voters. The SOS NVRA Coordinator can also use these meetings to share new training materials, tools, and law changes. Representatives from the state NVRA agencies can use these meetings to raise concerns about implementation and questions from their agencies.

3. The Secretary of State’s NVRA Coordinator should hold accountable any local NVRA agency and county elections office that is not complying with the NVRA or SB 35.

The SOS is required to contact a voter registration agency if the agency is not complying with SB 35 or the NVRA,¹⁹ and is permitted to conduct a review of an NVRA agency’s compliance with the NVRA and SB 35.²⁰ Additionally, the SOS is permitted to conduct a review of county elections offices who are not complying with the NVRA, such as failure to submit timely SB 35 reports or are submission of incomplete reports.²¹ The SOS should exercise this authority. For example, if an agency has not registered a voter in three straight months, or the county elections office has submitted late or incomplete reports for several months, the SOS NVRA Coordinator could contact the agency or county elections office and request a conversation with the NVRA coordinator to discuss NVRA policies.

If a voter registration agency continues to fail to register voters, the SOS can use his authority to request data, such as the number of voter preference forms collected in the past 12 months, written policies and procedures, records documenting the training of staff, the number of voter registration cards requested by the agency from the county elections office in the previous 12 months, and the number of applications, renewals and change of address transactions in the previous 12 months.²² The SOS can then use this information to evaluate NVRA compliance, share the results with the agency’s state office, issue recommendations, and post the results on its website. The SOS should consider adding a formalized compliance protocol to the state’s NVRA Manual or formalizing the compliance protocol through regulations.

4. The Secretary of State should maintain lists of NVRA coordinators.

Every voter registration agency and county elections office is required to identify an NVRA coordinator, a requirement that is central to ensuring continuity, accountability and compliance

¹⁸ Cal. Elec. Code § 2404 (a)(4) (West 2016).

¹⁹ *Id.* § 2404 (a)(3).

²⁰ *Id.* § 2404 (b)(1).

²¹ *Id.* § 2404 (b)(2).

²² *Id.* § 2404 (b)(1).

with the NVRA.²³ Despite outreach and trainings offered by the SOS, it is apparent from our local outreach that many offices still do not have NVRA coordinators. To improve compliance, the SOS's office should begin requesting that state NVRA agencies keep updated lists of their NVRA coordinators in each county and share these lists with the SOS NVRA Coordinator on a quarterly or semi-annual basis. This would allow the SOS NVRA Coordinator to stay in touch with NVRA agencies and send them important updates, allow county elections offices to do outreach to local NVRA agencies if they want to offer trainings or resources, and ensure that local NVRA agencies are complying with coordinator requirements.

5. The Secretary of State should continue using a collaborative approach to NVRA implementation.

The former SOS successfully partnered with a variety of stakeholders on NVRA compliance, both governmental and non-governmental, to get information to NVRA agencies. As examples, the SOS NVRA Coordinator worked with voting rights groups including Project Vote and the ACLU, disability rights organizations like DRC, advocates for public assistance recipients like the Western Center on Law and Poverty, and policy organizations like the League of Women Voters and the Greenlining Institute. The SOS's office also established relationships with professional organizations like the California Association of Clerks and Elections Officials, the California Welfare Directors Association, the California WIC Association, the California Foundation for Independent Living Centers, the Association of Regional Center Agencies, the Future of California Elections, and the California Behavioral Health Directors Association, all of which represent the interests of voter registration agencies, elections officials, advocates, and consumers. These relationships led to trainings directly for these organizations and their members, were a resource to get information to NVRA agencies, and led to helpful feedback about practical problems and solutions for on-the-ground NVRA implementation.

The SOS should consider re-establishing these highly effective working relationships by creating a regular NVRA working group that includes representatives from these different interests. This group can meet semi-annually to discuss NVRA implementation, including concerns, best practices, new resources, and new laws.

6. Update the voter registration agency list and designate additional agencies.

The NVRA requires that each state designate as voter registration agencies all offices that provide public assistance and all offices that provide services to persons with disabilities. Because the state does not have a choice regarding designation of agencies matching these descriptions, these agencies are known as "mandatory agencies."²⁴

As California's chief election official, the SOS is required to identify and designate California's mandatory voter registration agencies. Designation of mandatory agencies is critical because formal designation is what puts these agencies on notice as to their voter registration responsibilities. Without formal designation they likely are completely unaware that they are an

²³ *Id.* §§ 2405 (a) and 2406 (a)(2).

²⁴ See e.g. *Disabled in Action of Metropolitan New York v. Hammons*, 202 F. 3d. 110, 115 (2nd Circuit, 2000).

NVRA agency. Such an agency could face a lawsuit under Section 7, even if it was not formally designated.²⁵ There are a number of offices that potentially meet the definition of a mandatory agency because they are state funded and primarily serve people with disabilities. Many of these offices have been designated in other states. Table 7 below outlines agencies that should be designated as mandatory NVRA agencies, and a fuller description of each agency is attached as Appendix A:

Program	Oversight Agency	Type of Office	Number of People Served	Designation in California or Other States
County Substance Abuse Programs	DHCS	Disability	169,875 in 2011-12 SFY	N.Y. and S.C.
College disability services offices	<ul style="list-style-type: none"> • Cal. State Univ. • Cal. Community Coll. Chancellor's Office • Univ. of Cal. 	Disability	<ul style="list-style-type: none"> • Cmty. Coll. disability services: 99,852 students (2010-11) • CSU disability services: 13,779 students (2013) 	Colo., Fla., La., Md., Mass., and Pa.
Division of Workers Comp.	Dept. of Indus. Relations	Disability	578,111 reported injuries in 2013	Fla. and N.Y.
Office of Services to the Blind	DSS	Disability	Unknown	Fla., Mass., N.J., N.M., N.Y., N.C., Or., Pa., S.C., and W. Va.
Area Agencies on Aging	Cal. Dept. of Aging	Pub. Assist./ Disability	Hundreds of thousands of clients served in various programs	Ind., La., Md., N.Y., Or., Pa., Tex., and W. Va.
Local high school special educ. offices	Cal. Dept. of Education	Disability	89,530 students at least 17 years old	Pa.

Conclusion

The ACLU and DRC remain committed to a collaborative approach towards improving compliance with the NVRA and SB 35. We are available to answer questions from the VAAC and partner with the SOS office. We will also continue to reach out to NVRA agencies serving people with disabilities at the state and local level. Please do not hesitate to contact us with questions, concerns, or suggestions.

²⁵ *U.S. v. Louisiana*, CIV.A. 11-470-JJB, 2011 WL 6012992, 4 (M.D. La. Dec. 1, 2011).

Appendix A

County Substance Abuse Programs: Under the current designation, state and county mental health providers are designated as voter registration agencies, but substance abuse programs, which are often within the same county departments, are not.¹ We have received frequent inquiries from county mental health providers about whether county funded substance abuse programs must also provide voter registration services. In some counties, the county substance abuse offices are already providing voter registration services, but based on the SB 35 reports it appears that in many counties they are not.² County substance abuse programs saw almost 170,000 admissions in the 2011-12 state fiscal year (SFY).³

Under the Americans with Disabilities Act (ADA), drug addiction can be a disability. A person with a disability is defined as someone who has or had a physical or mental impairment that substantially limits one or more of his or her major life activities.⁴ This has been interpreted to include drug addiction.⁵ Further, the ADA protects individuals in a rehabilitation program from discrimination if they are not currently using drugs.⁶ At least two states (South Carolina and New York) have designated their substance abuse programs as mandatory voter registration agencies.⁷

The California Community College Disabled Student Programs and Services (DSPS), California State University (CSU) Disability Offices and University of California (UC) Disability Services Offices: Several federal courts have held that disability services offices at state universities and community colleges (in Virginia, Ohio, and New York) must be designated as voter registration agencies.⁸ In California, these offices provide support services and educational accommodations to students with disabilities. DSPS served 99,852 students in 2010-11, and CSU Disability offices served 13,779 students in 2013.⁹ In addition to the three states where federal courts ruled they are required to be designated as mandatory voter registration agencies, at least six more states

¹ Declaration, California Secretary of State 2 (June 26, 2013), *supra* note 1.

² *E.g.* SB 35/NVRA Monthly Reports by County and Agency Office/Site, California Secretary of State Debra Bowen, <http://www.sos.ca.gov/elections/voter-registration/nvra/reports/sb35-nvra-monthly-reports/> (last visited Sep. 19, 2016), at Orange and San Diego Counties.

³ California Department of Alcohol & Drug Programs, Californians in Treatment Report: State Fiscal Year 2011-12 2 (2013), available at <http://www.dhcs.ca.gov/provgovpart/Documents/OARA/OARA%20Reports%20and%20Fact%20Sheets/Californians-in-Treatment-Report.pdf>.

⁴ 42 U.S.C.A. § 12102 (1).

⁵ Equal Employment Opportunity Commission, Technical Assistance Manual Title I of the ADA, § 8.5 (1992).

⁶ 28 C.F.R. 35.131 (a)(2).

⁷ Alcohol and Other Drug Abuse Services, South Carolina (S.C. Code Ann. § 7-5-310 (B)(8) (2014)); Office of Alcoholism and Substance Abuse Services, New York, designated as a disability services office (N.Y. Elec. Law § 5-211 (McKinney 2014)).

⁸ *Nat'l Coal. for Students with Disabilities Educ. and Legal Def. Fund v. Allen*, 152 F.3d 283, 293 (4th Cir. 1998); *Nat'l Coal. for Students with Disabilities v. Taft*, 2:00-CV-1300, 2002 WL 31409443, 3 (S.D. Ohio Aug. 2, 2002); *U.S. v. New York*, 700 F.Supp. 2d 186, 203-04 (N.D.N.Y. 2010).

⁹ California Community Colleges Chancellor's Office, Disabled Student Programs and Services Report 3 (2013), available at <http://extranet.cccco.edu/Portals/1/SSSP/DSPS/Reports/DSPSReport.pdf>; Services to Student with Disabilities, California State University, at Statistical Data- 2013 xls, www.calstate.edu/sas/disabilities.shtml (last visited Sep. 19, 2016).

have designated their university disability services offices as voter registration agencies (Colorado, Florida, Louisiana, Maryland, Massachusetts, and Pennsylvania).¹⁰

In addition to designating DSPS and CSSU Disability Offices, UC disability services offices must be designated as voter registration agencies. While the UC's have a great deal of autonomy under the California Constitution,¹¹ their campus offices serving people with disabilities are not exempt from the federal mandate to provide voter registration.

California's colleges and universities recently agreed to partner with the Secretary of State on providing voter registration through class registration and email notices to all students, and an NVRA designation of campus disability services offices would complement that partnership by providing additional in-person assistance and voter registration opportunities for students with disabilities.

Department of Industrial Relations - Division of Worker's Compensation (DWC): Employees who are hurt on the job and are unable to work are entitled to temporary or permanent disability benefits.¹² In at least two states, workers compensation offices have been designated as voter registration agencies (Florida and New York).¹³ In 2013, there were nearly 600,000 work related injuries reported,¹⁴ and while the applications for workers compensation go to the employer and not DWC, DWC does interact with disabled consumers through its Information and Assistance Unit.¹⁵ Because DWC is primarily serving people with disabilities, it is a mandatory voter registration agency.

Department of Social Services, Office of Services to the Blind (OSB): OSB provides information and referral on services, programs, entitlements, and products of benefit to individuals who are blind or visually impaired and their families or service providers.¹⁶ OSB also administers the

¹⁰ Colorado Secretary of State, NVRA Voter Registration in Colorado 2013 Annual Report 2 (2014), available at www.sos.state.co.us/pubs/elections/NVRA/files/reports/2013NVRAReport.pdf; Fla. Admin. Code r. 1S-2.048 § (1)(b) (2015); Louisiana Secretary of State, Implementing the National Voter Registration Act of 1993 for Voter Registration Agencies that Provide Public Assistance or Provide State Funded Programs Primarily Engaged in Providing Services to Persons With Disabilities ("LA NVRA Manual") 3 (2014), available at <http://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/NVRAImplementationManual.pdf>; Md. Code Regs. 33.05.03.02 § (A)(6) (2014); 950 Mass. Code Regs. § 57.02 (2014); Pennsylvania Department of State, Pennsylvania's Guide to Agency-Based Voter Registration Programs ("PA NVRA Manual") 4 (2012), available at <http://www.education.pa.gov/Documents/K-12/Special%20Education/2010%20PA%20Guide%20To%20Agency%20Based%20Voter%20Registration.pdf>.

¹¹ Cal. Const. art IX § 9(a).

¹² See Answers to frequently asked questions about workers' compensation for employees, California Department of Industrial Relations, www.dir.ca.gov/dwc/WCFAQIW.html#Basics (last visited Sep. 19, 2016).

¹³ Florida's Department of Financial Services- Division of Workers' Compensation listed in SOS NVRA training as an office serving people with disabilities, but we could not identify designation in statute or regulations (Katrinia Ferguson, Florida Division of Elections, Overview for Voter Registration Agencies 5 (Apr. 16, 2014), available at <http://dos.myflorida.com/media/695020/nvra-webinar-for-non-library-vras-4162014.pdf>); New York's Division of Workers Compensation is listed as a discretionary office (N.Y. Elec. Law § 5-211 (McKinney 2014)).

¹⁴ Division of Workers' Compensation, California Department of Industrial Relations, Table 3: Claims by Nature of Injury and Year of Injury (2014), www.dir.ca.gov/dwc/wcis/WCIS_tables/Tables1-3/2013/Table-3.pdf (last visited Sep. 19, 2016).

¹⁵ Information and Assistance Unit, California Department of Industrial Relations, www.dir.ca.gov/dwc/landA.html (last visited Sep. 22, 2016).

¹⁶ Blind Services, California Department of Social Services, www.cdss.ca.gov/cdssweb/PG83.htm (last visited Sep. 22, 2016).

Assistance Dog Special Allowance Program, which provides a monthly payment to eligible persons who use a guide, signal, or service dog to help them with their disability-related needs.¹⁷ At least ten other states have designated their blind services offices as voter registration agencies (Florida, Massachusetts, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, and West Virginia).¹⁸

California Department of Aging (CDA) - Area Agencies on Aging (AAA): The CDA, through contracts with 33 Area Agencies on Aging, administers programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the state.¹⁹ The programs administered by CDA serves hundreds of thousands of Californians,²⁰ and include important services that help seniors stay in their homes, such as Community-Based- Adult Services, Multipurpose Senior Services Program, and many others.²¹ At least nine states have designated their aging services offices as voter registration agencies (Indiana, Louisiana, Maryland, New York, Oregon, Pennsylvania, Texas, Virginia, and West Virginia), usually because they determined those offices were offices primarily serving people with disabilities.²² Most of California's AAA programs are income tested assistance programs and serve many people with disabilities,²³ and CDA is therefore a mandatory voter registration agency.

¹⁷ *Id.*

¹⁸ Fla. Admin. Code r. 1S-2.048 § (1)(b) (2015); 950 Mass. Code Regs. § 57.02 (2014); N.J. Stat. Ann. § 19:31-6.11 (a); N.M. Code R. § 1.10.8.2 (2015); N.Y. Elec. Law § 5-211 (McKinney 2014); North Carolina's Division of Services for the Blind is a voter registration agency, according to the North Carolina State Board of Elections, but we could not identify a designation in a statute or regulation (The National Voter Registration Act of 1993 (NVRA), North Carolina State Board of Elections, <https://www.ncsbe.gov/Elections/NVRA> (last visited Sep. 19, 2016)); Or. Admin. R. 165-005-0055 § (1)(b) (2014); PA NVRA Manual, *supra* note 24; S.C. Code Ann. § 7-5-310 (B)(4) (2014); Virginia's Department for the Visually Handicapped is a voter registration agency, according to the Virginia Department of Elections, but we could not identify the designation in a statute or regulation (Designated State Agencies, Virginia Department of Elections, <http://elections.virginia.gov/index.php/registration/designated-state-agencies/> (last visited Sep. 19, 2016)); W. Va. Code R. §§ 153-28-4.5 and 4.6.

¹⁹ About CDA, California Department of Aging, www.aging.ca.gov/AboutCDA/ (last visited Sep. 19, 2016).

²⁰ California Department of Aging, Program Statistical Fact Sheets at the State Level 2 (2016), available at http://www.aging.ca.gov/docs/DataAndStatistics/Statistics/StatisticalFactSheets/2016/PSA_Level_Program_Statistical_Fact%20Sheets_2016.pdf.

²¹ Programs & Services, California Department of Aging, www.aging.ca.gov/Programs/ (last visited Sep. 19, 2016).

²² Indiana's Area Agencies on Aging are listed as a disability services office (National Voter Registration Act Implementation in Indiana: The First Year 1995, Indiana Election Division, www.in.gov/sos/elections/3001.htm (last visited Sep. 19, 2016); Louisiana's Aging and Adult Services is listed as a disability services office (NVRA Manual, *supra* note 24); Maryland's Offices on Aging is listed without distinguishing between mandatory and discretionary (Md. Code Regs. 33.05.03.02 § (A)(5) (2014)); New York's Office for the Aging is listed as a disability services office (N.Y. Elec. Law § 5-211 (McKinney 2014)); Oregon's Seniors and People with Disabilities Division is listed without distinguishing between mandatory and discretionary (Or. Admin. R. 165-005-0055 § (1)(f) (2014)); Pennsylvania's Office of Aging is listed as a disability services office (PA NVRA Manual, *supra* note 24); Texas's Department of Aging and Disability Services is listed without distinguishing between mandatory and discretionary (Tex. Elec. Code Ann. § 20.001 (a)(2) (Vernon 2013)); Virginia's Department of Aging and Rehabilitative Services is listed without distinguishing between mandatory and discretionary (Virginia Department of Elections, *supra* note 33); West Virginia's Bureau of Senior Services under the Governor's Office is listed as a disability services office (W. Va. Code R. § 153-28-4.1).

²³ Programs and Services, California Department of Aging, www.aging.ca.gov/Programs/ (last visited Sep. 19, 2016).

California's K-12 Special Education Offices: The Department of Justice (DOJ) and the Association of Community Organizations for Reform Now (ACORN) contended in a 1995 lawsuit that Pennsylvania's special education offices within public school districts must be designated as voter registration agencies.²⁴ While that issue was not ultimately decided, DOJ and ACORN did reach a settlement with Pennsylvania which required school districts to offer voter registration as part of the individualized education program (IEP) planning when students turn 17. In the 2013-14 school year, California had nearly 90,000 students enrolled in special education who were at least 17 years old.²⁵ California's special education offices could be designated as mandatory voter registration agencies to the extent they serve students at least 17 years old.

²⁴ Basic Education Circular, Pennsylvania Department of Education, Voter Registration As Part Of Transition To Adult Life (Dec. 1, 1999), available at <http://www.education.pa.gov/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/Purdons%20Statutes/Voter%20Registration%20As%20Part%20Of%20Transition%20To%20Adult%20Life.pdf>.

²⁵ Special Education Enrollment by Age and Disability, California Department of Education (2013), <http://dq.cde.ca.gov/dataquest/SpecEd/SpecEd1.asp?cChoice=SpecEd1&cYear=2013-14&cLevel=State&cTopic=SpecEd&myTimeFrame=S&submit1=Submit&ReptCycle=December> (last visited Sep. 19, 2016).