

## Chapter 3

### NVRA Implementation at Public Assistance Agencies, Agencies Serving People with Disabilities, and Other Designated Agencies

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## I. Section 7 of the National Voter Registration Act (NVRA)

### A. Designated Voter Registration Agencies (VRAs)

The NVRA requires states to offer voter registration services at all public assistance and disability service offices. Specifically, Section 7<sup>1</sup> of the NVRA requires states to designate as voter registration agencies (VRAs) all offices that provide public assistance and state-funded programs primarily engaged in providing services to persons with disabilities. (52 U.S.C. § 20506(a)(2).) Additionally, it requires the designation of “other” state offices as VRAs. (52 U.S.C. § 20506(a)(3).) The NVRA also requires states to designate Armed Forces recruitment offices and other offices in the state as VRAs. (52 U.S.C. § 20506(c).)

In California, the following offices are designated as VRAs under the NVRA:

#### Department of Motor Vehicles (DMV)

#### Public Assistance Agencies

- California Student Aid Commission (CSAC)
- County offices that administer General Assistance/General Relief Programs
- Covered California:
  - California’s Health Benefit Exchange and certified enrollment entities, county social services offices, certified insurance agents
- Department of Health Care Services and county social services offices:
  - Medi-Cal Program
- Department of Public Health (DPH) and community-based agencies under contract with DPH:
  - Women, Infants, and Children Nutrition Program (WIC)
- Department of Social Services (DSS) and county social services offices:
  - California Work Opportunity and Responsibility to Kids (CalWORKS)
  - CalFresh Program
  - In-Home Supportive Services Program
- Private entities under contract with Public Assistance Agencies to provide NVRA-related services

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<sup>1</sup> Throughout this chapter, “Section 7” refers to 52 U.S.C. § 20506.

### State-Funded Agencies Primarily Serving Persons with Disabilities

- Department of Developmental Services (DDS) and community-based agencies under contract with DDS:
  - Regional Centers
- Department of Rehabilitation (DOR) and community-based agencies under contract with DOR:
  - Vocational Rehabilitation Services
  - Independent Living Centers
- Department of Social Services (DSS) and community-based agencies under contract with DSS:
  - Office of Deaf Access (to provide services to the deaf)
- Department of Social Services (DSS):
  - Office of Services to the Blind, Assistance Dog Special Allowance Program
- University of California (UC) Offices for Students with Disabilities
- California State University (CSU) Offices for Students with Disabilities
- California Community Colleges (CCC) Offices for Students with Disabilities
- Private entities under contract with Disability Service Agencies to provide NVRA-related services

### State and County Mental Health Providers

### Armed Forces Recruitment Offices

### Other Agencies Designated by the State Under NVRA

- Franchise Tax Board district offices
- California Department of Tax and Fee Administration offices
- Private entities under contract with these agencies to provide NVRA-related services

## **B. Responsibilities of Voter Registration Agency Offices**

At a minimum, the NVRA requires voter registration agencies (VRAs) to provide voter registration services each time a person:

- applies for services or assistance;
- requests renewal or recertification; or
- requests a change of address.

(52 U.S.C. § 20506(a)(6).)

The NVRA requires VRAs to provide the following voter registration services to each applicant:

- distribute a Voter Registration Card (VRC);
- distribute a Voter Preference Form (Preference Form);
- assist each applicant with completing the VRC, unless the applicant refuses such assistance;
- accept and send completed VRC to elections officials; and
- keep the completed Preference Form on file for two years.

(52 U.S.C. § 20506(a)(4), (6).)

These voter registration services must be provided whether the transaction is conducted in person or remotely, for example via phone, email, or Internet.

### **C. Equal Assistance**

The NVRA requires VRAs to assist applicants with filling out the VRC. Section 7 specifically requires that agencies provide each person the same degree of assistance in completing the VRC as is provided by the office in completing its own agency forms, unless the person declines assistance. (52 U.S.C. § 20506(a)(6)(C).)

The applicant has the right to complete the VRC without assistance, but equal assistance also entails reviewing the VRC and Preference Form for completeness, just as the agency would review its own forms for completeness.

When an agency provides services to a person with a disability at the person's home, the agency must also provide voter registration services at the person's home. (52 U.S.C. § 20506(a)(4)(B).)

Agencies may provide the Secretary of State's Voter Hotline: (800) 345-VOTE (8683) (or the other toll-free hotlines that are available in 9 languages) for applicants to use if they need help registering or have questions about their voting rights. They may also direct applicants to RegisterToVote.ca.gov, California's Online Voter Registration application that is available in 10 languages and is accessible for applicants who use screen readers.

### **D. Forwarding the Voter Registration Card and Retaining the Voter Preference Form**

The NVRA requires VRAs to forward completed VRCs to elections offices within 10 days of receipt (within 5 days, if received within 5 days of the voter registration deadline). (52 U.S.C. § 20506(d).) As a best practice, agencies should forward VRCs on a daily basis. VRCs are pre-addressed to the county elections office and contain a postage-paid stamp.

The NVRA requires VRAs to keep completed Preference Forms on file at the agency for two years. Preference Forms can be stored in a central, chronological file, so that the agency can easily determine how many Preference Forms are received in a given month, which can help demonstrate NVRA compliance. They can also be kept in each client's file and maintained in either hard copy or in an electronic format.

## **E. Restrictions on Influencing Applicants**

The NVRA places restrictions on how VRA staff may interact with applicants when providing the opportunity to register to vote. VRA staff must not:

- seek to influence an applicant's political party preference;
- display any political party preference or allegiance;
- make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or
- make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(52 U.S.C. § 20506(a)(5).)

## **II. Elections Code Division 2, Chapter 6 - Senate Bill (SB) 35**

Elections Code section 2400 et. seq is California's NVRA law, which became effective in January 2013 (See Senate Bill (SB) 35 (Padilla), Chapter 505, Statutes of 2012). It places requirements on VRAs, county elections officials, and the Secretary of State.

### **A. Elections Code Overview**

Elections Code sections 2406 and 2408 require VRAs to do the following:

- notify the county elections office of each office or site in the county (Elec. Code, § 2406(a)(1));
- designate a VRA coordinator (Elec. Code, § 2406(a)(2));
- order VRCs exclusively from the county elections office<sup>2</sup> (Elec. Code, § 2406(a)(3));
- offer minority language forms as required by the federal Voting Rights Act (Elec. Code, § 2406(a)(4));
- train employees annually (Elec. Code, § 2406(a)(5)); and

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<sup>2</sup> The offices for students with disabilities at the public education institutions and the office of Services to the Blind, Assistance Dog Special Allowance Program order state VRCs directly from the Secretary of State's office, as they serve students and clients from multiple counties across the State.

- offer an online Voter Preference Form and link to California Online Voter Registration ([RegisterToVote.ca.gov](http://RegisterToVote.ca.gov)) if the agency offers enrollment, renewal, or change of address transactions online (Elec. Code, § 2408(a)).

**County elections officials** must report the number of voter registrations generated by each VRA office or site in the county. (Elec. Code, §§ 2405, 2407.) The Secretary of State has developed a reporting template for the 58 county elections offices. The county elections office reporting template contains a list of the known VRA offices and sites in each county. County elections officials must maintain an up-to-date list of the VRA offices and sites in the county and add new offices and sites to the list as appropriate.

The **Secretary of State** must prepare training materials, post county NVRA reports on the Secretary of State's NVRA website, and coordinate NVRA compliance throughout the state. (Elec. Code, §§ 2404, 2407.)

Additionally, the Secretary of State will report the number of voter registrations generated from VRAs' unique URLs, as well as from the offices for students with disabilities at the University of California, California State University, and California Community Colleges (collectively referred to as "public education institutions"), and the office of Services to the Blind, Assistance Dog Special Allowance Program, as those VRAs order state VRCs directly from the Secretary of State's office.

## **B. Tracking VRA Voter Registrations**

In order to properly track VRA voter registrations, VRAs must order all supplies of blank VRCs from county elections officials, and county elections officials must record the serial numbers of the VRCs supplied to each VRA office or site. (Elec. Code, §§ 2405, 2406.) VRAs with multiple offices or sites in a county must coordinate distribution of the VRCs with county elections officials to ensure proper tracking. (Elec. Code, §§ 2405, 2406.)

The exceptions to this requirement are those specified VRAs, offices for students with disabilities at the public education institutions and office of Services to the Blind, Assistance Dog Special Allowance Program, whose clients do not necessarily live in one county; those VRAs order state VRCs directly from the Secretary of State's office. The Secretary of State records the serial numbers from those state VRCs and tracks those registrations. Additionally, the Secretary of State will report the number of voter registrations generated from VRA's unique URLs.

## **C. VRA Training**

VRAs must to train employees annually on NVRA requirements and on how to assist applicants with voter registration. (Elec. Code, § 2403.) County elections officials must assist with training, if requested by a VRA. (Elec. Code, § 2405.) The Secretary of State has created specific NVRA/SB 35 training for county elections officials, VRA

coordinators, and VRA staff. The training materials are available on the Secretary of State's NVRA website: [sos.ca.gov/elections/nvra/training/](https://sos.ca.gov/elections/nvra/training/). (See Elec. Code, § 2404(a)(2).)

In order to ensure uniform compliance, VRAs should develop scripts for their staff to use when providing voter registration services under the NVRA.

#### **D. Designating a VRA Coordinator**

VRAs must appoint one staff person at each agency office to be in charge of NVRA compliance, including arranging staff training, ordering supplies of VRCs from the county elections office (or for those identified VRAs-from the Secretary of State's office), and ensuring VRCs are submitted in a timely manner to the county elections office (or the Secretary of State's office if it is a state VRC). (Elec. Code, § 2406(a)(2).)

#### **E. Instructions from State Agencies**

Since the passage of SB 35, many of California's VRAs have issued some form of guidance to their local agencies/offices with respect to NVRA and the California Elections Code requirements and the implementation of those requirements. These guidance letters are available on the Secretary of State's website: [www.sos.ca.gov/elections/voter-registration/nvra/voter-registration-agencies/nvra-agency-guidance-letters/](https://www.sos.ca.gov/elections/voter-registration/nvra/voter-registration-agencies/nvra-agency-guidance-letters/).

### **III. Voter Registration Services under the NVRA**

#### **A. How the NVRA Works in Practice**

Below are examples of how NVRA compliance can be accomplished when conducting NVRA-covered transactions in various settings: in person, by mail, over the phone, or via email or the Internet. Agencies have flexibility in determining the best methods to use to ensure NVRA compliance in each setting. Therefore, in the following descriptions, the term "must" indicates a specific practice is mandated under the NVRA, while the term "should" indicates a recommended practice that can help ensure compliance but which is not expressly mandated under the NVRA.

The United States Department of Justice (US DOJ) has published guidance on complying with the NVRA that contains a number of the practices described below. For more information, please visit the US DOJ Civil Rights Division Voting Section website directly at: [www.justice.gov/crt/national-voter-registration-act-1993-nvra](https://www.justice.gov/crt/national-voter-registration-act-1993-nvra)

In-Person/Mail Transactions: Voter registration agencies must include a VRC and Voter Preference Form in the agency's standard packet of application materials handed or mailed to applicants who request services or benefits, renewal, recertification, or a change of name or address. If the applicant returns the mailed



packet without the VRC or Voter Preference Form, the agency should follow up with the applicant once to attempt to gather the missing form(s).

Agencies must offer voter registration services to the person who is filling out the agency's forms. This includes a parent or guardian completing forms for a child. Agencies must provide assistance with completing the VRC and the Preference Form to the extent as it is provided with respect to every other service of application for benefits.

Phone Transactions: Voter registration agency staff must ask applicants who apply for services or benefits, renewal, recertification, or a change of address by phone: "If you are not registered to vote where you live now, would you like to register today?"

Agency staff must note the applicant's response on the Preference Form and if the applicant says "yes" the agency must provide the applicant an opportunity to register to vote by sending a VRC to the applicant by mail.

Email and Internet Transactions: Under the California Elections Code VRAs that offer the opportunity to apply online for service, assistance, or to submit a recertification, renewal, or change of address form online must allow the applicant to electronically submit a Preference Form and connect the applicant to the Secretary of State's online voter registration form ([RegisterToVote.ca.gov](http://RegisterToVote.ca.gov)). Agencies must record the applicant's electronic Voter Preference Form decision. Agencies must send applicants a Preference Form and VRC if the applicant does not answer the electronic Preference Form.

Agencies that connect applicants to the online voter registration form must coordinate with the Secretary of State to establish electronic tracking of the number of applicants who use this form to register to vote. In addition, VRAs should include a link on the agency's main webpage to the Secretary of State's online voter registration form: [RegisterToVote.ca.gov/](http://RegisterToVote.ca.gov/)

Voter Registration at Public Counters: In addition to offering voter registration during NVRA-covered transactions, it is a best practice for VRAs to offer applicants or others an opportunity to register to vote in public areas and waiting rooms by keeping a supply of VRCs on public counters and displaying voter information. VRC supplies must be obtained from the county elections office where the agency is located. However, the offices for students with disabilities at the public education institutions and the office of Services to the Blind, Assistance Dog Special Allowance Program obtain their VRCs directly from the Secretary of State. To obtain voter educational materials, such as posters, DVDs, and brochures, please call the Secretary of State's NVRA Office at (916) 657-2166 or email [nvra@sos.ca.gov](mailto:nvra@sos.ca.gov).

Technology Upgrades: When upgrading technology related to the application, renewal or recertification, or change of address process, VRAs must ensure that voter registration services, as required by the NVRA, are integrated. (Elec. Code, § 2408.)

For example, if the agency offers online enrollment in services or benefits, the website enrollment interview should include an electronic Preference Form and a link to the Secretary of State's online voter registration form ([RegisterToVote.ca.gov/](http://RegisterToVote.ca.gov/)), where the applicant can register to vote online.

## **B. Voter Preference Form and Voter Registration Card**

The NVRA requires VRAs to give applicants for services or assistance **both** a Voter Preference Form (Preference Form) **and** a VRC.

### **Preference Form**

The Preference Form must contain certain statutory language, as specified by Section 7 of the NVRA. The Secretary of State has developed a uniform Preference Form for California VRAs to use. (A Preference Form is attached as Appendix A.)

If VRA chooses to create its own Preference Form, the form must include the following NVRA required language:

- the question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";
- if the agency provides public assistance, the statement: "Applying to register or declining to register to vote will not affect the amount of assistance you will be provided by this agency.";
- boxes for the applicant to check to indicate whether the applicant would like to register to vote or decline to register to vote, together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK A BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME. You may take the attached voter registration form to register at your convenience.";
- the statement: "If you would like help in filling out the voter registration form, we will help you. The decision whether to seek or accept help is yours. You may fill out the voter registration form in private."; and
- the statement, "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 choose your own political party preference or other political preference, you may file a complaint with \_\_\_\_\_." (*The blank should be filled with the name, address, telephone number, and website of Secretary of State.*)

As noted above, both the Preference Form and the VRC must be provided to each applicant along with the agency's own forms routinely distributed to applicants during intake, renewal, recertification, and change of address procedures. (Elec. Code, § 2401(a); 52 U.S.C. § 20506(a)(6)(B).)

## **Completing the Preference Form**

For in-person transactions, the voter registration agency should ask the applicant to complete the Preference Form and VRC.

For mail transactions, if an applicant does not complete and return a Preference Form, agency staff should attempt to follow up once with the applicant to find out whether the applicant would like to register to vote or needs assistance.

For phone transactions, agency staff should record the applicant's preference.

Agencies are not required to complete Preference Forms on behalf of applicants who choose not to return the Preference Form in a transaction. In such instances, after following up with the person, agencies may include a blank Preference Form with the applicant's name in their records and write "no response" on the form.

## **Voter Registration Card (VRC)**

The NVRA requires all states to accept the National Mail Voter Registration Form, but allows each state to develop its own voter registration form, as long as it is equivalent to the federal form. (Image of the Voter Registration Card is attached as Appendix B.)

In California, the Secretary of State prints and supplies VRCs to county elections officials. (Elec. Code, § 2161.) In turn, county elections officials distribute supplies of VRCs to VRAs within the county. (Elec. Code, § 2405(b)(1).)

County elections officials record the serial number ranges of VRCs distributed to voter registration agencies in order to be able to track the number of completed VRCs returned and attribute new registration data to the voter registration agency office or site that distributed the form. (Elec. Code, § 2405(b)(2).) The Secretary of State records the serial number ranges of VRCs distributed to the offices for students with disabilities at the public education institutions and the office of Services to the Blind, Assistance Dog Special Allowance Program.

VRAs must distribute the VRC rather than the National Mail Voter Registration Form in order to ensure county elections officials can properly track and report the number of registrations each VRA generates.

### **C. Obtaining Supplies of Voter Registration Cards**

The Secretary of State prints county-specific postage-paid VRCs, which include the address of the county elections office, for each of California's 58 counties. (Elec. Code, § 2161.)

Public assistance service agencies, disability service agencies, and other VRAs must obtain supplies of VRCs from the county elections office in the county where the agency office is located. The only exception is for the offices for students with disabilities at the public education institutions and the office of Services to the Blind, Assistance Dog Special Allowance Program, which have been directed to order state VRCs from the Secretary of State's office. This will ensure proper tracking and reporting of completed registrations and help attribute new registrations to the correct VRA.

As noted above, while the National Voter Registration Form is valid and accepted in California, VRAs should obtain and distribute supplies of the state VRC from their county elections office (or from the Secretary of State for those previously identified VRAs). The national form contains no serial number and gives county elections officials no method of tracking whether a new registration came from a VRA.

Using the California VRC helps ensure: 1) completed VRCs will be returned to the county elections office where the voter lives, because the VRC is self-addressed and postage paid; and 2) the county elections office can properly track and report the number of voter registrations coming from local VRA offices.

The Secretary of State, the United States Election Assistance Commission, and the United States Department of Justice review reports of the number of voter registrations coming from VRAs in order to determine whether agencies are providing the opportunity to register to vote in compliance with the NVRA. To ensure VRAs are recognized for their compliance with the NVRA, all supplies of VRCs must be obtained from the county elections office in which the agency is located (or from the Secretary of State for those previously identified VRAs).

Another way of tracking voter registration generated from NVRA agencies is by way of unique URLs. All California VRAs are provided a unique URL that can be posted on their agencies' websites directing visitors of their sites to the California online voter registration application at [RegisterToVote.ca.gov](http://RegisterToVote.ca.gov). The Secretary of State's office tracks registrations identified with the unique URLs and credits the appropriate VRA.

#### **D. Confidentiality**

The NVRA requires a voter's decision to register or decline to register to vote to be kept confidential, except for voter registration purposes. The NVRA also requires the location (e.g., public assistance agency) where an applicant registers to be kept confidential. One of the primary goals of the NVRA's confidentiality provisions is to protect the privacy of applicants who receive public assistance or disability services.

In California, VRAs and county elections offices must keep information regarding an applicant's choice to register or decline to register, including Preference Forms, as well as the identity of the agency through which a particular voter registered confidential.

In order to protect privacy and accurately report on voter registration at VRAs, county elections officials should distribute VRCs by assigning specific blocks of VRC affidavit numbers to the VRAs and tracking those affidavit numbers as completed VRCs are returned to elections offices.

## **E. Providing NVRA Materials in Other Languages**

Section 203 of the Voting Rights Act of 1965 (VRA) requires that, in covered jurisdictions, all election information available in English be made available in certain minority languages. Covered jurisdictions are determined by the Census Bureau based upon a formula in the VRA. Under the most recent United States Census Bureau determination, the state of California is covered for Spanish language assistance. Additionally, nine counties are covered for one or more Asian languages. The NVRA requires that voter registration agencies in counties covered by Section 203 of the VRA provide election materials in covered languages.

Agencies with offices in counties covered by Section 203 of the VRA should contact their county elections offices for materials, including VRCs in covered languages.

County elections offices have supplies of VRCs in every language required by the federal Voting Rights Act in that county.

The Preference Form is available in 10 languages: English, Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese. All versions of the Preference Form may be downloaded and printed from the Secretary of State's NVRA website: [sos.ca.gov/elections/voter-registration/nvra/training/voter-preference-forms/](https://sos.ca.gov/elections/voter-registration/nvra/training/voter-preference-forms/)

## **IV. Transmittal Deadlines and Late Registrations**

### **A. Transmittal of Voter Registration Cards to County Elections Officials**

The NVRA requires that VRA offices and sites transmit completed VRCs to the county elections office within 10 days. If a VRA receives a completed VRC within five days of the voter registration deadline (the 15<sup>th</sup> day prior to an election), the agency must transmit the VRC to the county elections office within five days. However, it is recommended as a best practice that VRAs transmit VRCs to elections officials daily.

In order to meet these transmittal deadlines, each VRA office must establish procedures for ensuring timely transmittal of accepted forms to the appropriate local elections official. These procedures should be developed in consultation with the local elections official to whom the forms will be transmitted.

#### **Best Practice - Daily transmittal of completed VRCs**

Since the California VRC is a self-addressed and postage-paid form, VRAs should make it part of their daily routine to place completed VRCs in the mail. If the agency

is located in the same facility as the county elections office, the agency may hand deliver or use inter-office mail on a daily basis to transmit completed VRCs to the county elections office.

## **B. Timely Voter Registrations**

The voter registration deadline in California is the 15<sup>th</sup> day prior to each election. Under the NVRA, if a person completes and submits a VRC to a VRA on or before the voter registration deadline, the registration is timely. (See Chapter 4, Voter List Maintenance, Section II, Receipt of Voter Registration Cards.)

VRAs should make every effort to transmit completed registration forms from their offices and sites daily in order to minimize the number of registrations that arrive at the elections office after the deadline to register.

County elections officials should notify VRA offices of upcoming election dates and voter registration deadlines and should remind VRAs of the need to transmit VRCs on a daily basis. This will help minimize the number of provisional ballots used in a given election.

## **V. Resources**

### **Secretary of State NVRA Coordinator**

Phone: (916) 657-2166

Fax: (916) 653-3214

Email: [nvra@sos.ca.gov](mailto:nvra@sos.ca.gov)

### **Secretary of State NVRA Website**

[sos.ca.gov/elections/voter-registration/nvra/](https://sos.ca.gov/elections/voter-registration/nvra/)

### **Training Information and Resources for NVRA Agencies**

[sos.ca.gov/elections/voter-registration/nvra/training/](https://sos.ca.gov/elections/voter-registration/nvra/training/)

### **Voter Hotlines**

(800) 345-VOTE (8683) - English

(800) 232-VOTA (8682) - Español / Spanish

(800) 339-2857 - 中文 / Chinese

(888) 345-2692 - हिंदी / Hindi

(800) 339-2865 - 日本語 / Japanese

(888) 345-4917 - ខ្មែរ / Khmer

(866) 575-1558 - 한국어 / Korean

(800) 339-2957 - Tagalog

(855) 345-3933 - ภาษาไทย/Thai

(800) 339-8163 - Việt ngữ / Vietnamese

(800) 833-8683 - TTY/TDD

**County Elections Offices**

[www.sos.ca.gov/elections/voting-resources/county-elections-offices/](http://www.sos.ca.gov/elections/voting-resources/county-elections-offices/)

**U.S. Department of Justice - Civil Rights Division Voting Section**

[justice.gov/crt/about/vot/nvra/activ\\_nvra.php](http://justice.gov/crt/about/vot/nvra/activ_nvra.php)