



August 16, 2010

TESTIMONY OF PROJECT VOTE
SUBMITTED TO THE ELECTION ASSISTANCE COMMISSION
AUGUST 18, 2010
ORLANDO, FLORIDA

Project Vote appreciates the opportunity to submit this testimony regarding the EAC's proposed changes to the National Voter Registration Act (NVRA) regulations. Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Through its research, advocacy, and direct legal services, Project Vote works to ensure that these constituencies are able to fully participate in American civic life by registering and voting.

At the outset, we would like to recognize the significant contribution the NVRA has made in increasing civic participation among Americans of all racial and ethnic groups. We are confident that this important civil rights law will continue to have an even more dramatic impact in the future.

We understand the EAC's desire to make certain technical changes to the NVRA regulations so as to conform them to the requirements of federal legislation, such as the Help America Vote Act, that has been enacted since they were promulgated. We also have no objection to updating the regulations by removing long-past deadlines and other dates that are now irrelevant. At the same time, Project Vote urges caution lest the EAC tinker too much with the federal mail registration form that has given so many previously disenfranchised Americans a simple way to register to vote since the enactment of the NVRA. In other words, the "usability and clarity" of the form are perfectly satisfactory as it is.

The following are our views on some of the EAC's particular proposals to amend the regulations governing the federal mail registration form and the EAC's biennial report to Congress, the two issues over which the agency has regulatory authority.

1. Voting Eligibility Prior to Age Eighteen:

Project Vote has been actively engaged in state law reform efforts to "pre-register" eligible voters at ages 16 or 17, policies that have been found to increase young peoples' enthusiasm about voting and inculcate the value of civic participation. Therefore, we applaud the EAC's recognition that recent state variations on the usual age requirement of 18 now necessitate a reference to state-specific rules on the federal form, advising the young applicant to look at state instructions in order to determine whether a special age-related eligibility requirement applies (the proposal to add such language to 111 CFR § 9428.4(b)(3)).

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2. Identification Requirements for First-Time Voters

The proposed change to § 9428.4(b)(4) is more problematic. It implies that states may *require* HAVA-mandated identification for first time voters who registered by mail to be provided along with the registration application. In fact, however, the law allows the voter the option of producing identification at the polling place. This proposed regulation should be revised to make clear that a successful applicant for voter registration by mail who has not enclosed acceptable ID with the application shall be instructed by the state that he will be required to provide it at the polling place. Similarly, the instruction entitled “How to Submit Your Application” should explain the two options for presenting identification documents.

3. Format and Paper Weight

Project Vote has no objection to the format change to 11 CFR 9428.5 eliminating the requirement of a sealable form and allowing lighter weight paper suitable for enclosure in an envelope. This change will give more flexibility to applicants, and also to voter registration drives that make multiple copies of the form for distribution in the community.

4. Providing Email Address on Form

Project Vote supports the idea of allowing the applicant to supply an email address on the form, preferably as an explicit alternative to the optional phone number in Box 5. The Box would then read, “Telephone number and/or email address (optional).”

5. Electronic Submission of Federal Form

On a related point, the creation of an electronic federal form, one that could be submitted directly from a computer, would be a great convenience for those who have access to computers. However, our specific views on such an innovation would depend on the details. Where does the form go when the applicant hits “send”—to the EAC, to the state identified by the applicant, or somewhere else? Is there an immediate acknowledgement that the applicant’s form has been received and is complete (though obviously not verified), so that one who is using a library computer, for example, would know that he has actually applied? What mode(s) of communication would election authorities use to contact the applicant so that someone without regular access to a computer would still be apprised of the status of her application? These and other issues must be explored so that the system created would be most user-friendly and least injurious to people on the wrong side of the “digital divide.”

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6. Deadline for Submission of Information to EAC

Finally, Project Vote supports the proposal to change the reporting deadline in 11 CFR 9428.7(a) to 90 days after federal general elections, to make it consistent with the reporting deadline for UOCAVA data. This would make it simpler for election administrators to comply with a uniform deadline, and give the EAC the information it needs a bit earlier.

Project Vote is grateful for the opportunity to present our views on these important matters of election administration, and we look forward to working with the EAC staff to further refine and improve the regulations going forward.