



**Office of the Executive Director  
U.S. Election Assistance Commission  
1201 New York Ave. NW – Suite 300  
Washington, DC 20005**

November 9, 2011

**MEMORANDUM**

**TO:** Commissioner Donetta Davidson  
Commissioner Gineen Bresso

A handwritten signature in black ink, appearing to read "TW", is positioned above the "FROM:" line.

**FROM:** Thomas Wilkey, Executive Director

**SUBJECT:** State Requests to Change their State-Specific Instructions on the National Mail Voter Registration Form

The National Voter Registration Act (NVRA), as amended by the Help America Vote Act (HAVA), transfers authority from the Federal Election Commission (FEC) to EAC to develop a Federal Mail Voter Registration Application Form (Federal Form) in consultation with the states and to prescribe regulations applicable to the Federal Form. The NVRA requires states to use and accept the Federal Form for federal elections. Section 9428.6(c) of the NVRA regulations (11CFR 9428.6(c)) specifically provides that “Each state election official shall notify the Commission, in writing, within thirty days of any change to the state’s voter eligibility requirements or other information reported under this section.”

Accordingly, EAC periodically receives requests from States to update their respective portion of the State-specific instructions contained on the Federal Form. Currently, EAC has no formally adopted written procedures or official policies in place regarding the processing of such requests. Since 2008, the Commission has voted on each submitted request. However, with the current lack of a quorum, no votes on these requests are possible. It is essential, however, that EAC continue to process these requests. I am, therefore, immediately implementing an interim procedure delegating to staff in the Division of Research, Policy and Programs (RPP) the ability to process State requests pending the establishment of a quorum. The interim procedure is as follows:

- All State requests must be from the Chief Election Officer of the State or his/her duly authorized agent on appropriate State letter-head.
- RPP staff is authorized to take action on two types of requests: 1) a State request to modify their mailing address and 2) a request for a change in the State-specific instructions if the proposed modification is required by a change in State law. This would include a request that clarifies existing state law.

- Upon review of the State request and after consultation with the Office of General Counsel, RPP staff shall make recommendations to the Executive Director.
- The Executive Director will make the final determination with regard to each State request.
- Requests that raise issues of broad policy concern to more than one State will be deferred until the re-establishment of a quorum.

This procedure is consistent with past precedent at the EAC. Prior to 2008, EAC staff approved requests from States to modify their State-specific instructions on the Federal Form.

Should you have any questions, please do not hesitate to contact me.

cc: Ms. Alice Miller,  
Chief Operating Officer

Karen Lynn-Dyson, Director  
Division of Research, Policy and Programs