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June 12, 2015

ALL-COUNTY LETTER (ACL) NO. 15-51

TO: ALL COUNTY WELFARE DIRECTORS
IN-HOME SUPPORTIVE SERVICES PROGRAM MANAGERS

SUBJECT: SENATE BILL 35 (CHAPTER 505, STATUTES OF 2012) AND THE NATIONAL VOTER REGISTRATION ACT OF 1993

REFERENCE: All-County Information Notice Nos: I-01-12, I-04-13, I-04-13E; Public Law 103-31, Section 7, May 20, 1993

REASON FOR THIS TRANSMITTAL
<input checked="" type="checkbox"/> State Law Change
<input type="checkbox"/> Federal Law or Regulation Change
<input type="checkbox"/> Court Order
<input type="checkbox"/> Clarification Requested by One or More Counties
<input type="checkbox"/> Initiated by CDSS

In 2012, the California Department of Social Services (CDSS) issued All County Information Notice (ACIN) No. I-01-12 (January 5, 2012) to notify County Welfare Departments (CWDs) of new National Voter Registration Act (NVRA) requirements. The ACIN encompassed public assistance programs including: CalFresh; California Work Opportunity and Responsibility to Kids (CalWORKs); Medi-Cal; Women, Infants and Children (WIC) nutrition program; and In-Home Supportive Services (IHSS). In 2013, CDSS issued ACIN No. I-04-13 (February 12, 2013) and I-04-13E (May 7, 2013) to inform CWDs of new requirements related to the NVRA enacted by Senate Bill (SB) 35 (Chapter 505, Statutes of 2012). ACIN No. I-04-13 and I-04-13E did not expressly address the IHSS program; consequently, the purpose of this letter is to inform county IHSS program offices of the NVRA requirements as they apply to the IHSS program.

SB 35 codified portions of the NVRA in state law and placed additional requirements on public assistance agencies designated as voter registration agencies, county elections offices and the Secretary of State (SOS). In 2013, the SOS revised the California NVRA Manual to reflect the SB 35 requirements, updated the “Voter Registration Services for NVRA Public Assistance Agencies and Agencies Serving People with Disabilities” training presentation and created an online training video in 2014. The NVRA Manual and training materials are available on the SOS website:

<http://www.sos.ca.gov/elections/voter-registration/nvra/training/>

Federal law requires states to provide voter registration opportunities at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities. For the purpose of NVRA, these agencies are known as voter registration agencies and include county IHSS program offices. The NVRA requires that all IHSS applicants and recipients must be given a Voter Preference Form and a voter registration card (VRC), regardless of whether they indicate they want to register to vote or not, at the time of application for services, reassessment and when the county IHSS program is notified of an applicant's or recipient's change of address. Previously, county IHSS programs were instructed to "offer" voter registration material (ACIN I-09-09). County IHSS programs must comply with NVRA requirements or the county and the state may be subject to civil action by the United States Department of Justice or a private party. Under SB 35, the SOS has the authority to conduct a review of a voter registration agency's NVRA compliance.

Under federal law, county IHSS programs must provide the following services to IHSS applicants and recipients:

- Provide and collect a Voter Preference Form;
- Provide and collect a VRC;
- Provide the same degree of assistance to all IHSS applicants and recipients, when completing VRCs including in the individual's home or in person, as is provided when completing the IHSS application and program forms unless assistance is declined;
- Accept and transmit completed VRCs to the appropriate county elections officials within 10 calendar days; however, if a voter registration agency receives a completed VRC within five days of the voter registration deadline (the 15th day prior to an election), the county IHSS program must transmit the VRC to the county elections office within five days;
- Obtain VRCs from the county elections office (usually via the CWD) to ensure proper tracking of the VRCs;
- Inform applicants and recipients that receipt of IHSS benefits is not linked in any way to the individual's decision to register or not register to vote;
- Ensure that IHSS program staff do not discourage a recipient from registering to vote, or seek to influence the applicant's or recipient's political party preference;
- If an applicant or recipient does not complete the Voter Preference Form, the IHSS worker should note the applicant's or recipient's name and date on the uncompleted form. The checkboxes may be left blank;
- County IHSS programs must retain the Voter Preference Form for 24 months. County IHSS programs may determine the manner for filing and retaining the forms (e.g., with the recipient's case file or filed separately). An electronic record of the form or the individual's response (Yes/No/Already registered) may be kept in lieu of retaining paper forms; and

- Annually, county IHSS programs must provide staff training on the NVRA requirements, and how to assist applicants and recipients with voter registration.

SB 35 codifies many of the above requirements into state law and, in addition, requires voter registration agencies to do the following:

- Notify the county elections official of each applicable county of the location of each county program office or site that provides voter registration services within the county.
- Designate a county IHSS program employee to be responsible for the program's compliance with SB 35 and the NVRA.
- Ensure Voter Preference Forms and VRCs are available in all languages required under the federal Voting Rights Act.

The aforementioned responsibilities must be fulfilled regardless of whether interactions with the applicant or recipient, occur in-person, over the telephone, e-mail, or by mail.

APPLICANT AND RECIPIENT ASSISTANCE

As stated previously, federal law requires voter registration agencies to assist applicants or recipients with filling out the VRC, and provide each person with the same degree of assistance in completing the voter registration application as is provided by the agency in completing its own agency forms, unless the person declines assistance.

For IHSS purposes, in-person transaction means the county IHSS worker shall review the VRC and Voter Preference Form as part of the regular process when assisting applicants or recipients at the time of application for IHSS services, reassessment and when there is a change of address. IHSS workers must advise applicants or recipients that assistance with filling out the VRC will be provided if requested, but that the applicant or recipient has the right to complete the VRC without assistance. When the county IHSS worker assists the applicant or recipient with completing IHSS forms in the individual's home, the county IHSS program must also provide voter registration services at the applicant's or recipient's home.

RESTRICTIONS ON INFLUENCING APPLICANTS OR RECIPIENTS

The NVRA places restrictions on how county IHSS program staff may interact with applicants or recipients when providing the opportunity to register to vote. County IHSS program staff must not:

- Seek to influence applicants' or recipients' political party preference or party registration.
- Display any political preference or party allegiance.

- Make any statement to applicants or recipients or take any action for the purpose or effect of which is to discourage applicants or recipients from registering to vote.
- Make any statement to applicants or recipients or take any action for the purpose or effect of which is to lead the applicants or recipients to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

VRC DISTRIBUTION

The NVRA requires county IHSS programs give applicants and recipients at the time of application, reassessment, and change of address a Voter Preference Form and VRC so that the individual may register to vote. The NVRA also requires state elections officials to accept the National Mail Voter Registration Form. However, state law requires county IHSS programs to request California VRCs from county elections officials rather than use the National Mail Voter Registration Form, in order to ensure county elections officials can properly track and report the number of registrations coming from each county office.

VRC SUPPLIES

In California, the SOS supplies VRCs to each county elections official. The SOS prints county specific VRCs that include pre-paid postage and are pre-printed with the county elections office address in the county. County elections officials record the serial ranges of VRCs distributed to voter registration agencies in order to track the number of completed VRCs returned and attribute completed registrations to the appropriate voter registration agencies. SB 35 requires county elections officials to track the number of completed VRCs returned from each voter registration agency site that provides voter registration services. In order to ensure that completed VRCs attributed to county offices are properly tracked and reported, county IHSS programs must obtain supplies of VRCs directly from their county elections office. If the IHSS program has multiple offices or sites that distribute VRCs, the county IHSS program designee must inform the county elections office of the location of each site and ensure that the county elections office can track the VRCs provided to each individual site.

NVRA VOTER PREFERENCE FORM PROCEDURES

Below are examples of ways to assist applicants or recipients with the Voter Preference Form, either in person or remotely. Please note that an applicant or recipient may choose not to complete the Voter Preference Form. Under SB 35, an applicant's or recipient's failure to respond to the question of whether he or she would like to register to vote does not constitute a declination to register; the applicant or recipient must still be issued a VRC.

IN PERSON TRANSACTIONS

County IHSS programs must ask the applicant or recipient to complete the Voter Preference Form. If the applicant or recipient chooses not to register to vote but takes the blank VRC, the IHSS program must ask the individual to complete the Voter Preference Form.

MAIL TRANSACTIONS

If IHSS applicants or recipients fail to complete or return the Voter Preference Form, county IHSS staff should attempt to follow up once to find out whether the applicant or recipient would like to register to vote or if assistance is needed. County IHSS staff are not required to complete Voter Preference Forms on behalf of applicants or recipients who choose not to return the form. In such instances, after following up with the applicant or recipient, county IHSS staff should include a blank Voter Preference Form with the applicant's or recipient's name, the date or attempted follow-up date and when the information is added in the case file.

PHONE TRANSACTIONS

County IHSS staff must ask applicants or recipients who apply for IHSS services, request a reassessment or request a change of address by phone, "If you are not registered to vote where you live now, would you like to register to vote?" County IHSS staff must note the response on the Voter Preference Form. If the response is "yes" the county IHSS program must provide the individual an opportunity to register to vote by sending a VRC to the applicant or recipient by mail. Pursuant to SB 35, for telephone transactions, the county IHSS program must send applicants or recipients a VRC if either of the following occurs:

1. The applicant or recipient requests a form to be mailed.
2. The applicant or recipient fails to respond to the question of whether he or she would like to register to vote.

RETENTION OF THE VOTER PREFERENCE FORM

County IHSS programs must retain the completed Voter Preference Form for 24 months. However, federal and state laws do not mandate the manner in which the forms are to be retained within the agency. The SOS recommends that county IHSS programs store the Voter Preference Form in a central, chronological file (e.g. case file), so that staff can easily determine how many Voter Preference Forms are received in a given month, which can help demonstrate NVRA compliance. Voter Preference Forms and responses may be stored electronically.

LANGUAGE REQUIREMENTS

Under SB 35, county IHSS programs 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 (52 U.S.C. Section 10503) or Section 4(f)(4) (52 U.S.C. 10305) of the Voting Rights Act. The current list of covered languages is available on the SOS website. The Voter Preference Form may be downloaded and printed from the SOS NVRA website: <http://www.sos.ca.gov/elections/voter-registration/nvra/training/voter-preference-forms/>. County elections officials maintain supplies of VRCs in each of the covered languages under the Voting Rights Act for that county.

CDSS NVRA MONITORING

The CDSS will monitor county IHSS programs to ensure NVRA compliance during the on-site Quality Assurance reviews. An example of such monitoring includes checking the informational packets provided to applicants and recipients to ensure they include VRCs and NVRA Voter Preference Forms, and checking for Voter Preference Forms while reviewing case files. County IHSS programs are encouraged to develop internal processes for ensuring compliance.

NVRA REPORTING

Under SB 35, County IHSS programs must notify the elections official of each applicable county of the location of each of the county IHSS program offices or sites within the county. County IHSS programs must coordinate with that county elections official to obtain supplies of VRCs to ensure that the county elections official is able to properly track and report on a monthly basis the number of completed voter registrations generated in the county. County elections officials track NVRA voter registration data and report data to the SOS on a monthly basis. NVRA reports can be viewed on the SOS website: <http://www.sos.ca.gov/elections/voter-registration/nvra/reports/>.

NVRA COORDINATOR

Under SB 35, county IHSS programs must appoint one staff person at each IHSS office to be in charge of NVRA compliance, which includes arranging staff training, ordering supplies of VRCs from the county elections office, and ensuring VRCs are submitted in a timely manner to the county elections office.

ANNUAL TRAINING

County IHSS programs must ensure that staff are trained annually on NVRA requirements and on how to assist applicants and recipients with voter registration. IHSS programs should also ensure that new employees receive training. Please refer to the SOS NVRA training webpage for the public assistance agencies presentation, which can be accessed at: [http://www.sos.ca.gov/elections/voter-
registration/nvra/training/](http://www.sos.ca.gov/elections/voter-registration/nvra/training/).

For your information, ACINs [I-04-13](#) and [I-04-13E](#) are linked. If you have any questions regarding this information, please submit your questions to the Adult Programs Division, Policy and Quality Assurance Branch, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed by:

EILEEN CARROLL
Deputy Director
Adult Programs Division