



October 12, 2022

The Honorable Susan Beals
Commissioner of Elections
Virginia Department of Elections
Washington Building
1100 Bank Street, First Floor
Richmond, VA 23219

Dear Commissioner Beals:

Re: Violations of the National Voter Registration Act of 1993 (NVRA)

We are writing on behalf of Fair Elections Center¹ and the League of Women Voters of Virginia,² its members, and all those similarly situated, to you in your capacity as chief state election officer responsible for the coordination of state responsibilities under the National Voter Registration Act,³ concerning the voter registration processing issue identified in recent press articles.⁴ This letter seeks to ensure that administrative errors do not interfere with Virginians' right to register and update their voter registration information at Virginia Departments of Motor Vehicles.

As you know, the National Voter Registration Act of 1993 (NVRA) requires that covered states, including Virginia, ensure that any eligible applicant who applies through a state motor vehicle department is registered to vote in the next election if they submit the application by the state's voter registration deadline. 52 U.S.C. §§ 20504, 20507; *see also* Va. Code. 24.2-411.3.

¹ Fair Elections Center is a national, nonpartisan voting rights and election reform 501(c)(3) organization based in Washington, D.C. Its mission is to use litigation and advocacy to remove barriers to registration and voting, particularly those disenfranchising underrepresented and marginalized communities, and to improve election administration.

² The League of Women Voters of Virginia (LWV-VA) formed November 10, 1920 out of the suffrage movement. Its mission is to empower voters and defend democracy. The LWV-VA encourages informed and active participation in government to increase understanding of major public policy issues and to influence public policy through education and advocacy.

³ Va. Code § 24.2-404.1.

⁴ E.g., Gavin Stone and Josh Janney, "Virginia Registrars Scrambling To Process More Than 100,000 Backlogged Voter Registration Applications," *The Virginian Pilot* (Oct. 7, 2022), <https://www.pilotonline.com/government/elections/vp-nw-voter-registration-delays-20221007-wpzc4e7v5jgorgoahetwjjy7fm-story.html>; Emily Harrison, Virginia's Registrar Offices Scramble To Put In DMV Voter Registration Forms After Technical Glitch (Oct. 6, 2022), <https://www.13newsnow.com/article/news/politics/elections/voter-registration-applications-returned-local-registrar-offices/291-e5bb1aac-75f0-4741-aadd-b5d0ff776490>

NVRA's clear intent is that applicants who submit valid registration applications through state motor vehicle agencies by the state's registration deadline must be added to the official voter list in time to vote in the next election. Whether or not registrars have completed processing the applications by October 17, 2022, it would be inconsistent with the NVRA to force such applicants to register through the same day registration process and then cast a provisional ballot, which contains other administrative requirements they would not otherwise have had to complete but for the delay in the DMV registration.

Similarly, voters who should have been registered already through DMV should not be required to vote in person or surmount added barriers to vote by mail solely because of administrative processing delays in DMV registrations.

Therefore, we request you take the following actions:

1. Take the following steps sequentially with respect to vote by mail applications where the applicant's registration is not in VERIS as an eligible voter: (1) Determine whether the mail ballot applicant is among those voters who submitted a valid registration application through DMV before the registration deadline; (2) process the registration application and add the voter to VERIS as a voter for the November 8 General Election as long as the voter is determined to be otherwise eligible; and (3) reprocess the voter's mail ballot application;
2. If any DMV voter registrations remain unprocessed by October 17, 2022, continue to process all applications until complete, and add any relevant individuals to the official list of eligible voters for the November 8, 2022 election as long as the voter's information is otherwise valid so they may vote a regular ballot; and
3. If a voter appears to vote either in-person absentee or on Election Day, and the person is not on the list of eligible voters because of the processing delay in their DMV voter registration, and registers and casts a provisional ballot as a last resort, the provisional ballot should be counted as long as the voter's original DMV registration form was otherwise valid for that precinct and the person is otherwise eligible, regardless of whether information is missing or incomplete on the provisional ballot envelope.

We know that you share our desire that administrative errors and delay not prevent any Virginia citizen from casting their ballot. We look forward to hearing from you regarding these proposed solutions.

Sincerely,

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