

I. In Focus This Week

Department of Justice releases guidelines for implementation of NVRA

Guidelines could add thousands to the voter rolls nationwide

By [M. Mindy Moretti](#)

Seventeen years after Congress approved the [National Voter Registration Act of 1993](#) (NVRA) — otherwise known as “Motor Voter” — the [U.S. Department of Justice](#) (DOJ) recently released a set of guidelines for implementation as part of its enforcement of the Act.

[“The Voter Registration Requirements of Sections 5, 6, 7 and 8 of the National Voter Registration Act \(NVRA\). Questions and Answers.”](#) detail what states must do in order to offer the voter registration services required by the law.

According to many in the election community DOJ’s issuance of these new guidelines is “a pretty big deal.”

“In general, I think there was an understanding in the community that they [DOJ] were going to be doing guidelines eventually,” said Estelle Rogers, director of advocacy for Project Vote. “When a statute is written, generally everyone thinks it’s really clear, but over time, it becomes clear that a lot of people don’t know what it means or how to implement it and I think that’s one of the things that happened with NVRA.”

Rogers noted that nearly 50 years later, guidelines are still being produced for the Voting Rights Act. She also noted that unlike other acts, there is very little litigation surrounding NVRA that can be used as guidance. Rogers actually believes that these new guidelines will further help reduce the amount of litigation.

“This should prevent a lot of litigation,” Rogers said. “If election officials are careful about their procedures and they read this [the guidelines] and get it memorized it’s going to prevent a lot of litigation because there should now be no confusion.”

Section Five

The news guidelines for Section 5 make it clear that visiting the department of motor vehicles for a new license, renewal or address change be a seamless process for voter registration and updating voter records. While this had been implied in the past, the new guidelines make it clear.

“Each State motor vehicle driver’s license application (including any renewal application) submitted to a State motor vehicle authority must serve as a simultaneous voter registration application unless the applicant fails to sign the voter registration application.”

New Mexico recently partially [settled a lawsuit](#) filed by advocacy groups which claimed that the less than 3,000 voter registration forms submitted by the state’s motor vehicle department in 2007 and 2008 was suspiciously low.

The settlement requires MVD staffers to be designated as National Voter Registration Act coordinators, who will help ensure compliance with the law through education and training and by making sure offices have equipment needed for voter registrations. The MVD must update computer systems and websites and monitor compliance. The agreement also requires offices to post signs telling members of the public they can register to vote at that office.

Section Six

Section 6 clarifies what states must offer and accept with regard to mail-in voter registration and concludes that while states may create their own mail-in registration form—in addition to using the federal mail voter registration form—those forms must include all the same information as the federal form.

Section Seven

Section 7 of NVRA is where most problems have occurred for those states that have run into trouble with NVRA. Section 7 clarifies which state agencies that provide federal and state assistance must offer voter registration forms. The section also clarifies that in addition to offices providing public assistance states are also required to designate other offices as voter registration agencies. “A State is free to determine which other agencies/offices should be designated, according to its needs and preferences, but it must make additional designations.”

Rogers notes that when the Act was first implemented in the mid-1990s, states were very good about complying, but as time went by there was a drop-off in compliance.

A recent [investigation](#) by a local newspaper in New York City found that city agencies were “uneven” in providing voter registration materials.

According to the paper, among the agencies that did not provide voter registration forms, some agencies said found it was an uncommon request. Lucille Hartman, District Manager of Queens Community Board told the paper she has worked there for 30 years and has rarely had to distribute forms. “I can easily count the number of times I’ve given out voter registration forms,” she said.

Section Eight

Another area that DOJ attempts to codify is who, and when a person may be removed from a voter roll.

“It prohibits removing registrants from the voter registration list solely because of the failure to vote. It also prohibits removing registrants from the registration list due to a change of address to another location within the same registrar’s jurisdiction, even if the voter has failed to notify the registrar of the move within the jurisdiction. It also places restrictions of notice and timing on removals from the voter registration list when second-hand information is received, such as returned mail, which suggests a registrant may have moved outside of the registrar’s jurisdiction.”

This may frustrate some states that have interstate compacts and want to share and compare lists to more quickly remove duplicates. The new guidelines make it abundantly clear that no one can be removed for simply not voting, or inactivity.

The guidelines for the National Voter Registration Act are a living document and one that many in the election industry expect to be clarified even more as the years go by.

“Overall they are a tremendous contribution to the understanding of what the law demands,” Rogers said. “I certainly hope it will help voters if election officials in the states pay attention and take it seriously.”

II. Election News This Week

- Thousands of Georgians were recently told they need to provide proof of citizenship before their votes can be counted in next Tuesday’s primaries. According to *The Atlanta Journal-Constitution*, [more than 4,200 were flagged by Georgia’s voter verification process](#), which is under legal attack and continues to await approval by the U.S. Justice Department or the federal courts. A recent court order allows the secretary of state’s office to continue the process, even though some of the people being flagged are citizens and eligible to vote. Last month, a panel of judges allowed Georgia to continue asking prospective voters who have been flagged to prove their citizenship. This prevents “both eligible voters from being denied the right to vote and ineligible voters from

casting votes that cannot be discounted later," the judges said in a June 15 order. Shortly after that ruling, the secretary of state's office mailed out letters to more than 4,200 flagged voters. Affected voters should have received notification by now.

- Following a judge's orders, [Riverside County counted 12,563 mail-in ballots](#) until the early hours of Saturday morning. A mix-up with the U.S. Postal Service kept the ballots out of the hands of elections officials until after the polls closed on Election Day -- the legal deadline to count the ballots. Even after the ballots were finally tallied, the controversy around the counting continued. On Tuesday, the county's Board of Supervisors authorized the [purchase of roughly \\$650,000 in equipment](#) to speed up election ballot counts and stressed the need for better communication and protocols in the Registrar of Voters' Office to prevent a repeat of the problems that cropped up during the June 8 primary.
- West Virginia Gov. Joe Manchin proposed a [special election process to fill the late Sen. Robert C. Byrd's seat](#) that would forgo a primary if not enough candidates file. If just one candidate files for a party's primary, that person would be declared the nominee under the proposal released by Manchin's office. The legislation would also require that this and all such special general elections in the future be held between 60 days and one year of a U.S. Senate vacancy. Manchin aims to put the seat on the Nov. 2 general election ballot. The measure would replace existing state law on the subject, which yielded dueling legal opinions from Attorney General Darrell McGraw and Secretary of State Natalie Tennant. The West Virginia legislature will meet in special session at press time to consider the legislation. Already localities are raising concerns about the [cost](#) and [timing](#) of the elections.
- For years, Duval County was the only jurisdiction in Florida where absentee ballots went out with prepaid return postage. But no longer. In a cost-cutting measure, the Jacksonville City Council [removed the funding for that return postage](#) from the Supervisor Of Elections Office budget. Voters will now have to pay the postage to return their completed absentee ballots. "Our greatest concern now is that voters will forget to include postage and their ballot will not be returned in time to be counted," Duval County Supervisor Of Elections Jerry Holland said.
- According to a report released this week, [more than 2,000 Iowans signed up to vote when they arrived at the polls for the primary election](#) last month. Numbers from 98 of Iowa's 99 counties show 2,179 voters took advantage of the same-day registration option, according to the Iowa Secretary of State's Office. A total of 302,950 people voted in the June 8 primary – about 73,000 Democrats and 230,000 Republicans. That means less than 1 percent of the voters that day registered upon arrival. To register to vote on election day, Iowans must show photo identification and proof of current residence. In a statement, Secretary of State Michael Mauro said: "Election Day Registration has again proved to be successful in Iowa. We know EDR works and works well in our state since it was first implemented the year of the biggest presidential election our state has ever seen." In 2008, more than 46,000 Iowans signed up on election day to vote in the general election, which included choosing a U.S. president. More than half were previously registered voters who relocated from another county within Iowa, Mauro said.

III. Research and Report Summaries

electionline provides brief summaries of recent research and reports in the field of election administration. Please e-mail links to research to sgreene@pewtrusts.org.

[Voter Registration Modernization and the NVRA](#) – Steven Rosenfeld, Project Vote, July 2010: This report discusses how voter registration modernization - replacing paper-based election administration with electronic systems and procedures - can help states better implement the National Voter Registration Act. It suggests that paperless options could help in areas such as developing registration materials, offering opportunities to clients to register to vote, and assisting with applications.

[Lost Voters, Lost Votes: When Citizens Don't Know Where to Vote, Democracy Loses](#) – New Organizing Institute, June 2010: This [report](#) describes how in the November 2008 election an estimated 1.9 million voters did not cast a ballot because they did not know where to go, with the young and racial and ethnic minorities disproportionately likely to have difficulty locating their polling place. A comprehensive solution is suggested, including not only widespread internet access points and tools, but also mail, phone, and in-person outreach.

[Report on Fraudulent Votes Cast by Ineligible Felons in Minnesota's 2008 General Election](#) - Prepared by Dan McGrath for Minnesota Majority, June 28, 2010: Comparing records from the Minnesota Bureau of Criminal Apprehension listing all persons under the supervision of the Minnesota Department of Corrections with voter history records, the Minnesota Majority found 2,803 felons who potentially voted in the 2008 general election.

IV. Opinions

National: [Runoff elections](#)

California: [Riverside County, II](#); [Non-citizen voting, II](#); [Vote-by-mail](#)

Connecticut: [Clean elections](#)

Hawaii: [Alternative balloting](#)

Illinois: [Polling place privacy](#)

Indiana: [Voter ID](#)

New York: [Voting machines, II](#)

Ohio: [Accessibility](#); [Polling places](#); [Election boards](#)

Pennsylvania: [Voting system](#)

South Carolina: [Voting machines](#); [Ballot reforms](#); [Voter ID](#)

Tennessee: [Davidson County](#)

V. Job Opportunities

Administrative Assistant, Pew Center on the States, Washington, D.C.-- reports to the senior associate, Election Initiatives, and will be part of a project staff including: a director, a senior officer, a project director, two managers, two senior associates, three associates and two interns. The administrative assistant supports the whole team, working closely with the senior associate and director for overall direction. Primary responsibilities for the administrative assistant include oversight of the teams budgeting and contract work; developing, processing and maintaining information and documents that advance project goals; supporting staff in scheduling and travel; and contributing to the smooth functioning of the Trusts' Washington D.C. office. This individual will work in conjunction with other PCS colleagues, including in the Operations, Research and Development, Campaigns, Communications, and other units within the Government Performance Group, and may undertake special projects aimed at improving the overall operation of the project and other projects in PCS. The project and position are approved through June 2012 with the possibility of renewal depending on the initiative's progress, board approval and continued funding. For more information about the position and to apply, visit the [Pew Careers website](#).