



September 19, 2017

Eric R. Gookin  
Election Administrator  
Office of the Secretary of State  
First Floor, Lucas State Office Building  
Des Moines, Iowa 50319

*Delivered by U.S. Mail and email to: [eric.gookin@sos.iowa.gov](mailto:eric.gookin@sos.iowa.gov)*

**Re: Comments on ARC 3283C**

Dear Mr. Gookin:

These comments are made jointly on behalf of the Iowa-Nebraska NAACP State Area Conference of Branches, League of Women Voters of Iowa, League of United Latin American Citizens of Iowa, Disability Rights Iowa, One Iowa Action, Interfaith Alliance of Iowa, Iowa Developmental Disabilities Council, and American Civil Liberties Union of Iowa.

They pertain to ARC 3283C: the published Notice of Intended Action to amend Chapter 2, "Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates," Chapter 3,

“Lists of Registered Voters,” Chapter 5, “Election Registers,” and Chapter 7, “Voter Registration Mailing Address Maintenance,” of the Iowa Administrative Code.

**Proposed Item 2, Amending Rule 821—2.10, Risks Voter Registration Organizations’ Access to Free Voter Registration Forms**

Item 2 of the Proposed Rules provides for amending rule 821—2.10 as follows:

**821—2.10(48A) Alternate (nonmailable) registration forms.** An alternate registration form is authorized for the use of voter registration agencies ~~and nongovernmental organizations engaging in registration programs and registration drives~~. The form shall contain spaces for all of the required and optional information solicited by the standard form, a list of the qualifications to register to vote, a statement to be signed by the applicant that the applicant is eligible to register to vote, and a statement of the penalty for submission of a false voter registration form. The face of the form shall contain spaces for all the personal information asked of the applicant, along with the attestation and warning. The reverse of the form may contain the list of qualifications, and may contain space for the county commissioner’s notations. The form may be printed as a detachable part of a larger piece or may be printed by itself. Because registration forms are ~~frequently~~ generally kept for many years, registration forms shall be printed on paper at least as thick as 20-pound xerographic paper.

~~The intent of this rule is to make available a mechanism for individuals, groups and organizations to conduct registration drives without requiring individuals, groups and organizations to purchase registration forms. To that end, the state registrar shall make available, without charge, a limited quantity of forms as determined by the voter registration commission, and PDF versions of a form meeting the requirements of this rule.~~

We are concerned about the potential impact of excluding nongovernmental organizations who engage in registration programs and registration drives from using the alternate (nonmailable) registration forms. By eliminating the language providing for free and online access to voter registration forms, the result of the proposed rule appears to require that these nongovernmental organizations purchase voter registration forms instead of being able to receive the form, without charge from the Secretary’s Office, as is current practice.

The current rule applies to both voter registration agencies and "nongovernmental organizations engaging in registration programs and registration drives" and authorizes both to use the alternate nonmailable form, without charge. This is made clear by the clearly stated intent language of the current rule: “The intent of this rule is to make available a mechanism for individuals, groups and organizations to conduct registration drives without requiring individuals, groups and organizations to purchase registration forms.”

The proposed rule no longer expressly authorizes nongovernmental organizations to use the alternate form. This leaves open for interpretation whether or not groups like League of

Women Voters of Iowa, LULAC or other nongovernmental organizations would have to obtain the forms under a different rule and whether or not these groups would have to purchase the forms. This concern is heightened by the existence of other rules which would remain in its place. For example, current rule 2.7 provides that “Voter registration applications shall be available for purchase, at the cost of production, from the state registrar of voters.”

Iowa Code section 48A.22 provides that “The secretary of state shall encourage volunteer organizations to undertake voter registration drives by providing registration forms.” This rule, too, fails to provide for free, online access to voter registration forms.

Our organizations share the goal of ensuring that every eligible Iowa voter is able to easily and quickly register to vote. This proposed rule is a direct attack on that shared goal. In addition, House File 516 does not restrict in any way a voter registration organization’s ability to register eligible Iowans to vote. This proposed rule change does not in any way flow from 2017 Acts, House File 516.

Therefore, we urge the Commission to ensure that nongovernmental organizations, like the League of Women Voters of Iowa and LULAC, can get voter registration forms without charge.

This change is important to reduce disenfranchisement, especially of racial and ethnic minorities, people living with disabilities and older Iowans. About 11 percent of adult Iowans do not have a driver’s license or non-operator ID, and therefore, cannot register to vote online through the DOT. For these voters without that access, voter registration organizations like the League and LULAC provide essential outreach and registration services. That is over 260,000 Iowans. Even higher numbers of African-American Iowans do not have a driver’s license. Nationally, up to 25 percent of African Americans don’t have government issued photo IDs. This disproportionality is true in Iowa, too. In Black Hawk County, for example, where a high percentage of African-Americans live, African-Americans make up 27 percent of voting-age residents who lack an Iowa driver’s license, but only 10 percent of all voting-age residents. People living with disabilities are also disproportionately more likely to not have a government issued ID. Nationally and in Iowa, 10 percent of people with disabilities don’t have an ID. Among those Iowans who are age 65 or older, 15 percent lack an Iowa driver’s license or non-operator ID.

In addition to the potential discriminatory effect of failing to provide nongovernmental voter registration organizations access to voter registration forms without charge, the proposed rule limiting distribution of voter registration forms, particularly removing the option of a free, online PDF version of the form, could impede voters’ ability to register by mail, which implicates First Amendment and National Voter Registration Act (NVRA) protections for individuals and organizations undertaking voter registration drives.

The NVRA requires states to accept voter registration forms by mail. Courts have rejected the contention that there is no federal right to conduct a voter-registration drive or to mail in applications collected at such a drive. *LWV v. Browning*, 863 F. Supp 2d 1155, 1162-63 (N.D.FI

2012) That decision goes on to say that “the use of a private registration drive is not a mode of registration at all. Rather, it is a method by which private parties may facilitate the use of the mode of registration by mail, for which the Act does provide.” *Id.*

Protecting voter registration through the volunteer contributions of voter registration nongovernmental organizations by maintaining access to forms online and free is thus essential to those already marginalized Iowa voters without access to online voter registration.

There are at least two ways the Commission can achieve this result. The Commission could reject proposed rule 2.10, thereby leaving the clear language in place that nongovernmental organizations are authorized to use the alternate form and may obtain the form without charge. Alternatively, the Commission could add language to current rule 2.7, “Availability of forms,” that make clear that the Secretary must provide voter registration forms to “nongovernmental organizations engaging in registration programs and registration drives” online in pdf form, and without charge.

If you have any questions about these needed amendments, please don’t hesitate to contact Daniel Zeno, ACLU of Iowa policy counsel at (515) 2017-3417 or [daniel.zeno@aclu-ia.org](mailto:daniel.zeno@aclu-ia.org).

Sincerely,

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