



Voter Registration: A Decades-Long Nonpartisan Agency Practice

On March 7, 2021, President Biden issued Executive Order (“EO”) 14019 to promote access to voting and voter registration.¹ Among other directives, this EO tasked federal agencies with evaluating how they could expand and promote voter registration opportunities. State agencies throughout the country have successfully provided voter registration services to customers as part of agency transactions for more than twenty years, as required by the National Voter Registration Act (“NVRA”), and federal agencies should follow their example. Congress specifically contemplated this role for federal agencies, identifying “Federal and nongovernmental offices, with the agreement of such offices,”² as possible designated voter registration agencies and finding that “it is the duty of the *Federal*, State, and local governments to promote the exercise of that right” to vote.³

Of particular note, the voter registration opportunities offered by state agencies pursuant to the NVRA have always been unquestionably nonpartisan, and voter registration offered by federal agencies can (and should) be similarly nonpartisan.

The NVRA’s Nonpartisan Requirements

The NVRA itself explicitly requires that voter registration be offered in a completely nonpartisan and voluntary manner, free of undue influence—and therefore provides a model for federal agencies. Under the NVRA, agency staff must not:

(A) seek to influence an applicant’s political preference or party registration; (B) display any such political preference or party allegiance; (C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or (D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.⁴

The NVRA also requires agencies to inform their customers, in specific language, that they have a right to file a complaint if they believe “someone has interfered with [their] right to register or to decline to register to vote, [their] right to privacy in deciding whether to register or in applying to register to vote, or [their] right to choose [their] own political party or other political preference.”⁵ In implementing nonpartisan agency voter registration, federal agencies could also provide this accountability

¹ Executive Order 14019 on Promoting Access to Voting, 86 Fed. Reg. 13623 (Mar. 7, 2021), available at <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

² 52 U.S.C. § 20501(a)(2).

³ 52 U.S.C. § 20501(a)(2) (emphasis added).

⁴ 52 U.S.C. § 20506(a)(5).

⁵ 52 U.S.C. § 20506(a)(6)(B)(v). It is worth noting that over the past 15 years, Demos and ACLU have been involved in numerous efforts with states related to NVRA compliance and are not aware of a single instance of customers filing complaints about state agency employees engaging in partisanship.

mechanism to ensure (and reassure customers) that voter registration is offered in a wholly nonpartisan manner and on a voluntary basis.

Training for Nonpartisan Voter Registration Services

Training agency staff to offer voter registration in a nonpartisan manner is straightforward and simple, and there are many useful models from state agencies and nonpartisan voter registration groups. Existing training materials excerpts, explaining the requirements to ensure that voter registration services are nonpartisan, are attached as Exhibits A and B.

To safeguard the nonpartisan nature of any voter registration offerings, federal agencies should follow these training models, and could even provide staff with a laminated script or information sheet to share with customers during transactions. Federal agency trainings should provide clear instructions and useful examples for acceptable and unacceptable statements or actions by agency staff during the voter registration process and should occur annually (and for new staff during on-boarding).

Benefits of Nonpartisan Agency Voter Registration

By offering voter registration during agency transactions, federal agencies would not in any way pressure or influence customers to do something they would not otherwise want to do, but instead would simply provide a streamlined opportunity to register to vote or update voter registration for customers already in the process of providing the information needed for voter registration—much as state agencies have already done for decades without difficulty or partisan bias. By offering a greater number of efficient voter registration options, federal agencies can expand opportunities to participate in our electoral process, while also providing more avenues for customers to keep their voter registration information updated, and thus help election officials maintain more accurate voter lists.

After 25 years of nonpartisan state agency voter registration, the public generally views agency voter registration services as an ordinary and expected part of transactions with department of motor vehicle and other agency offices—not as a partisan endeavor. There is every reason to expect that, with comparable safeguards, the public would think the same of federal agency voter registration.

Exhibit A

Excerpt from Arkansas Department of Human Services, Division of County Operations
Semi-Annual Voter Registration Training (2016)

Voter Registration DCO Training Manual

Register to



Contents

- I. An Overview of the National Voter Registration Act (NVRA)**
- II. What Is Our Responsibility**
- III. Requirements to Vote in Arkansas**
- IV. Voter Qualification Question and Answer**
- V. Procedures and Forms**



Procedures and Forms

DCO Employees will NOT:

1. Seek to influence a client's political preference or party registration;
2. Display any such political preference or party allegiance.



Procedures and Forms

DCO Employees will NOT:

3. Make any statement to a client or take any action, the purpose or effect of which is to discourage the client from registering to vote; or
4. Make any statement to a client or take any action, the purpose or effect of which is, to lead the client to believe that a decision to register or not to register has any bearing on the availability of services or benefits.



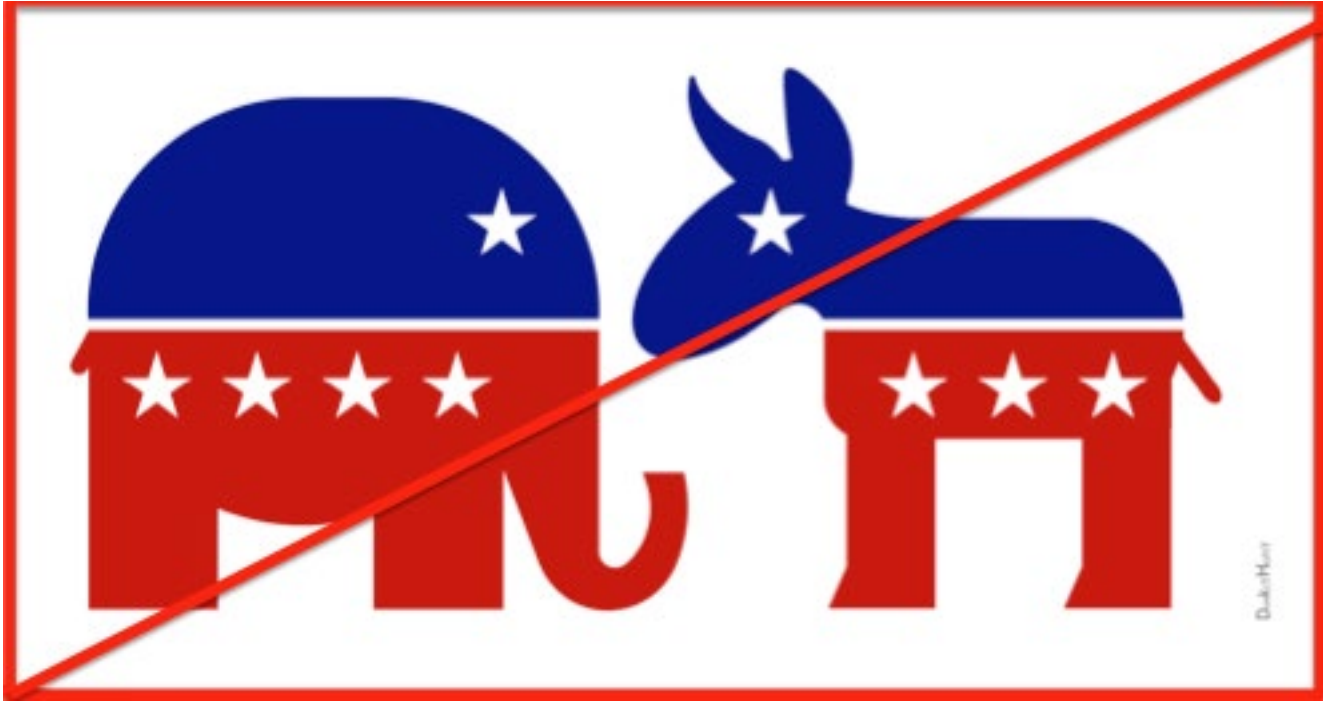
Procedures and Forms

4. The client may contact the Secretary of State's office at 1-800-247-3312, if he/she feels that his/her rights have been infringed upon.
5. The County Clerk is responsible for determining the eligibility of voter registration applicants.
6. You must retain the Agency Based Declination Statement for 24 months.



Exhibit B

Excerpt from Project Vote ACA Volunteer Navigator Voter Registration Training (2015)



This is **not** legal advice

NON-PARTISAN MEANS...

Not advocating, encouraging suggesting,
or implying the preference of one
political candidate or party over
another.

NON-PARTISAN MEANS...

YOU **CANNOT** :

Advise clients about which party to join or which candidate to support

Make comments, or sounds

Dissuade clients with a different political party from your own from registering

Only ask people who seem like they are part of your party to register

Wear or display partisan clothing, buttons, or stickers



NON-PARTISAN MEANS...

YOU CAN :

- ✓ Talk about how important **voting** is
- ✓ Highlight **important issues**
in a non-partisan way

Non-Partisan Voter Registration

Activity: Non-Partisan or Not Allowed

1. A Navigator is wearing a Joe Biden t-shirt in the office while performing her work duties.

Non-Partisan

or

Not Allowed

2. During enrollment, it becomes apparent the client cares about education. The assister explains that registering to vote can help the client contribute to this issue.

Non-Partisan

or

Not Allowed

Non-Partisan Voter Registration

Activity: Non-Partisan or Not Allowed

3. There is a poster in the organization's office lobby endorsing Jon Bon Jovi, who is running for governor.

Non-Partisan or Not Allowed

4. During enrollment the client indicates that they belong to the Republican Party, the assister does NOT offer her the opportunity to register to vote.

Non-Partisan or Not Allowed

Non-Partisan Voter Registration

Activity: Non-Partisan or Not Allowed

5. A Navigator says, “I know you really care about raising the minimum wage. Make sure to register and vote Democrat—they’re going to make it happen this year!”

Non-Partisan

or

Not Allowed

Additional considerations regarding Voter Registration

1. Voter Registration will not affect your client's enrollment and it is voluntary
2. Your client's information will not be retained by your organization

Additional considerations regarding Voter Registration

REMEMBER!!!

- No incentives
- Ask everybody
- Privacy
- U.S. Citizens
- ONLY Assisting