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Taking Another Look: Virginia’s Public Assistance Agency Compliance with National Voter Registration Act (NVRA) Section 7 (Voter Registration Agencies)

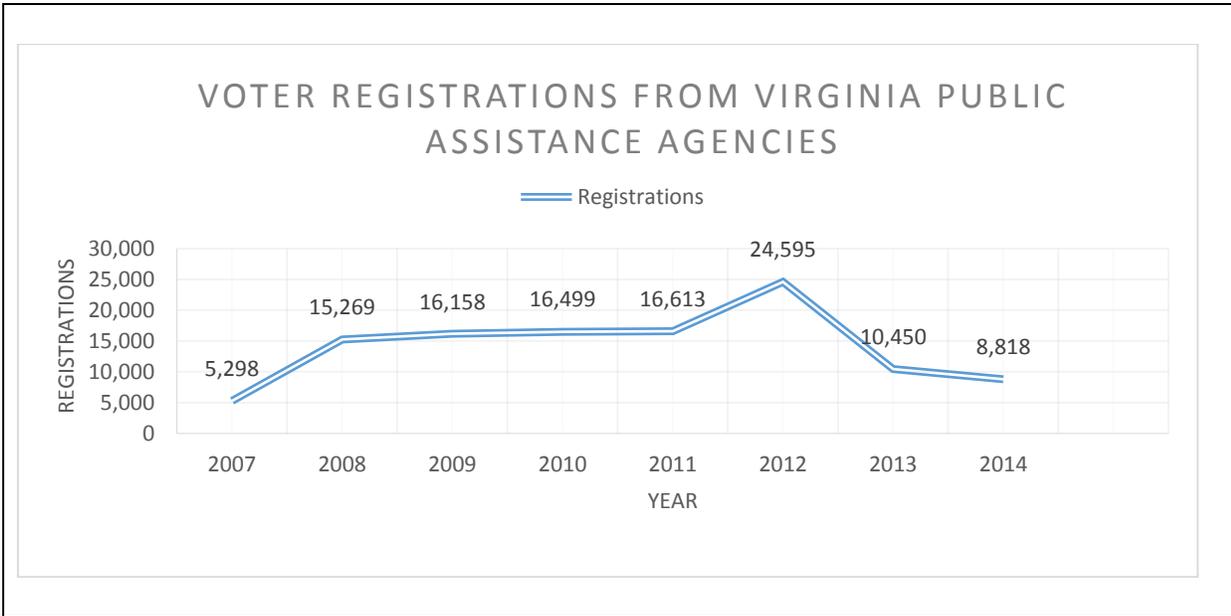
Three years ago, members of the Virginia League of Women Voters visited 21 local Virginia Department of Social Service (DSS) offices in 18 jurisdictions to gauge their compliance with NVRA voter registration requirements. The report of our findings concluded with the following:

“**In summary**, most of the DSS offices that League members visited had registration forms available, signs posted, forms containing the necessary elements about the opportunity for clients to register to vote, and trained staff who were conscientious and doing what they could to ensure compliance with the NVRA. We don’t know if this is true of all local agencies throughout Virginia, and there is concern about very low numbers of voter registrations being generated in some locations. But we believe that the SBE and most DSS agency NVRA coordinators were fulfilling their responsibilities to the extent that resources allowed. While retrogression is always possible, the LWV-VA hopes that it will be just one of several groups looking at the numbers of voter registrations from DSS agencies during 2012 and future years to see if the progress made since 2007 continues.”¹

We have looked at what has happened since that time; this is a summary of our findings and comments. The League’s earlier survey was supported by a grant from the League of Women Voters Education Fund as part of its Public Advocacy for Voter Participation (PAVP) project, as is this update paper. This brief report and its recommendations are based on the official reports of Virginia’s voter registrations by source, material and comments provided by staff of the Virginia DSS and Department of Elections (ELECT)², responses to inquiries, and independent research. League members checked on the availability of signs and application forms in offices in their jurisdictions.

The Numbers³

As expected, the voter registrations submitted by DSS local offices increased significantly during presidential election year 2012, but fell off by some 55 percent the following year – and another 10 percent in 2014. While some drop-off was expected, its size was not. While both voter registrations and voter turnout normally fall off in non-presidential election years, we must look for other factors that could have caused such a large drop off. Some of these factors will be introduced below; they and others warrant investigation. Can we determine why adjoining jurisdictions with nearly identical populations and unemployment percentages would have very diverse numbers of voter registration forms submitted? Or why offices in one geographical area consistently submit a much higher number of forms than another geographical area? And probably more relevant, how can we gauge the role of technology in helping or hindering voter registration of public assistance clients?



One inescapable fact is that the number of voter registrations attributable to public assistance agencies as reported on the Virginia ELECT web site provides only part of the picture. They no longer provide an adequate basis for determining an agency’s compliance with NVRA requirements, but this is not a simple reporting problem.

At this time, we do not have the 2014 data to compare the Virginia experience with other states. It is likely that their reports will also reflect only part of the picture. National data will probably not be available until the 2014 Election Administration Commission (EAC) survey is completed and released.

The Virginia Experience

In 2013, a paper by Dēmos⁴ noted that “the Justice Department has engaged in some but not a significant amount of section 7 enforcement activity regarding public assistance offices in the past ten years.” The slack has been taken up by public interest organization activity in some 20 states, including Virginia, during the 2006-13 period.

Following field investigations in Virginia, Dēmos and its partner organizations met with representatives from Virginia’s DSS and ELECT in the spring of 2008. The focus of the meeting were reports showing that the number of voter registrations from Virginia’s public assistance agencies had dropped sharply in the decade between 1996 and 2006—by over 85percent. The report of the meeting and the results, which showed an uptick in the number of voter registrations submitted, included a list of steps that would be taken by DSS to ensure continued improvement.⁵ The list is included as Appendix 2. ***We recommend that DSS and ELECT officials review the list and either ensure that the items are still being implemented or are no longer valid and need to be dropped or amended.***

By 2012, the EAC reports for that year showed an upswing in the numbers of public assistance agency voter registrations in most of the states they were following.

“As the National Voter Registration Act (NVRA) celebrates its 20th Anniversary, the latest numbers from the Election Assistance Commission (EAC) on the impact of the NVRA show public assistance offices received 1.8 million voter registration forms nationwide. These numbers are an increase from the 1.14 million registration forms reported in the previous reporting period and 2.4 times as many registration applications as the 527,752 received in 2005-2006. These increases show the impact of improved implementation of Section 7 of the NVRA in many states over the past several years.”⁶

It is quite likely that the drop-off in reported voter registrations by Virginia’s public assistance agencies since 2012 will be mirrored to some extent in reports from other states. This could be expected due to the normal drop-off in voter interest in non-presidential election years, but is also likely due to the effect of decreasing in-person client contact—resulting in both actual decreasing numbers and under-reporting.

Where Are the Registrations? Effect of Increasing Online and Telephone Client Contacts

As one public assistance agency staff member commented, clients are urged to: “Skip the Line; Go Online.” The effect of this on the reports of NVRA registrations cannot be overlooked or minimized. The national requirements applicable to all NVRA Section 7 agencies are addressed in Appendix 1. They do not change when the methods of client contact change; instead their methods of implementation need to change. It is easy to collect the forms completed in the office and transmit them to the local General Registrar for handling and recording. However, the eventual result and recording of requested forms mailed or provided to clients to complete at home is not being captured and reported as attributable to public assistance agencies at this time. This is likely to be a major cause of the decreasing number of DSS-related voter registration forms that are counted and reported on the ELECT NVRA registration reports. It is important to realize that it is both the lack of an in-person discussion and verbal offer to help with the voter registration forms as well as the lack of a mechanism to report forms as attributable to public assistance agencies that have affected the numbers. This situation cannot be peculiar to Virginia, and the experiences of other states should be consulted.

The reporting procedure for DSS voter registrations that has been used to gauge compliance with NVRA Section 7 was based on in-person contact with the clients. Registrations completed in the office are collected, placed in a specially coded envelope and turned in to local or state registration officials on a regular basis. The numbers are then reported on a monthly basis and available on the ELECT web site. Currently, over half of Virginia SNAP and TANF applications are received through CommonHelp, the DSS online application. A majority of the required follow-up interviews with the TANF and SNAP clients is then done by phone. In both the online application and phone interview, the same general procedures as followed in office contacts are followed, and the same required “voter form” format for determining a client’s interest in voter registration is used. Any client checking the online box or indicating a wish to register to vote during the phone interview is sent a voter registration application to complete and mail in to the registrar’s office. There is no code on the form to indicate that the applicant is a DSS client; thus any forms provided through use of the online application and telephone interviews are not counted as DSS voter registrations.

According to a program manager in Fairfax County, “if we send a voter registration form to an applicant, we do not have any way of tracking what the outcome of that form is unless they complete it and return it to us. They also have the option of completing and sending it directly to the Board of Elections.”

The large drop in the numbers of public assistance registrations in Virginia has been occurring at the same time as the percentage of online applications through CommonHelp has increased. Beginning in April 2012, the percentage of online SNAP and TANF applications increased from 2 percent to over 50 percent in early 2015. An estimate of 75 percent online applications was made by Fairfax County DSS staff. Unless process changes occur, the numbers of reported registrations is not likely to increase. *We recommend that Virginia DSS and ELECT officials: (1) meet and attempt to determine some way to overcome this inability to capture the true impact of the efforts of DSS staff to comply with the NVRA; (2) look to see what is happening in other states and bring this situation to the attention of EAC and others with responsibility for determining state compliance with the NVRA; and (3) review the online application and telephone formats to determine the need for changes to encourage and enable clients to register to vote.*

An Informal Survey: Why Don't More VA Public Assistance Clients Register to Vote?

Since concern has been expressed about the low numbers of registrations being attributed to public assistance agency action or inaction, and not just in Virginia, the author of this paper wondered if knowing some of the probable or possible reasons for this would indicate ways to improve compliance and increase the number of clients registering to vote. Not being able to visit offices throughout the Commonwealth and unsure of getting a good return from a written or email survey, the author of this paper suggested that the Director of Benefit Programs at the Virginia DSS informally ask the local program directors for their guesses or opinions about this question without violating voter confidentiality. Individual responses were received from over a third of the state's agencies in mid-2014, with general agreement with these responses voiced by other offices. Respondents reported their adherence to NVRA requirements, including training and the availability and delivery of voter registration forms.

They're already registered: The second largest number of responses was that the clients claim to be already registered. Some agency staff pointed out that there is no way to determine if the clients are registered, and others guessed that maybe one-third of the clients they see are registered. Some public assistance offices are co-located with other governmental offices and the respondents speculated that the clients could easily visit those offices to register. (A League member checking on the availability in one of the offices was, in fact, told that they refer clients to the adjacent registrar's office.)

They're felons who have not had their rights restored: The third highest response was that some clients were felons who had not had their rights restored and were, therefore, unable to register to vote. (Richmond League of Women Voters members have reported instances where they handed out more information on rights restorations than voter registration at some registration outreach events.) Although material on rights restoration has been placed in public assistance office waiting rooms, it needs to be checked to determine if it covers up-to-date procedures. It could also get lost among all other materials that are placed in the waiting rooms and vying for attention. Further, since so many clients interactions now occur online and by telephone, *we recommend that an appropriate and procedurally possible method of providing up-to-date restoration of rights information to all clients who need it be designed. This should be done in cooperation with the Virginia Secretary of the Commonwealth.*

They do not want to be contacted for jury duty: This response was somewhat surprising and was reported from a large number of more rural parts of the Commonwealth. However, the author has heard similar comments during several decades of voter registration outreach, as

well as comments from jury administrators in explaining their preference for using voter registration rather than DMV lists for jury selection. *We recommend that the Executive Secretary of the Virginia Court System be contacted to ask for any recommendations that would be appropriate in response to this concern.*

Other reasons were given, including the lack of citizenship status, primarily in Northern Virginia, and the effect of not seeing clients face-to-face (see above). However, by far, the largest number of comments about the reason for low numbers of voter registrations was a variation or combination of factors that indicated a lack of interest, not access, on the part of the clients.

They're just not interested: As could be expected, office managers reported that many clients say that they are there to obtain benefits, not register to vote, mentioning some of the reasons already given. But, reflecting the comments of far too many citizens, they:

- don't want to be bothered;
- believe that their vote will not make a difference;
- only pay attention to presidential elections, if any;
- believe that there is nobody worth voting for—"all politicians are the same";
- don't want to be "responsible for that mess;"
- don't have enough information to vote; or
- lack information about the democratic process.

While thousands of DSS clients do register and vote, it is obvious that the League, public interest organizations, candidates and elected officials have a lot of work to do to overcome the perceptions of those who might be most affected by the effects of elections in which they do not participate.

Effect of Citizenship Status on the Numbers: e.g., Northern Virginia vs. Hampton Roads

One of the puzzling factors that we found in our earlier study continued to be found three years later: the significant and consistently higher numbers of registrations from offices especially in the Hampton Roads area compared with Northern Virginia. Any difference caused by the percentage of clients using online applications should be checked. However, another strong possibility is that the difference is at least partly due to the more prevalent lack of eligibility to register and vote because of a lack of clients' citizenship status in one part of the commonwealth compared with another. Some (2014) Census statistics⁷ seem to indicate the likelihood of this possibility. For example, comparing Northern Virginia's large counties of Fairfax, Loudoun and Prince William (NOVA) with the Hampton Roads cities of Newport News, Norfolk and Virginia Beach (HR), 25 percent of the total NOVA population is foreign born, compared to 7 percent of the HR population. Also as could then be expected, 32 percent of NOVA residents speak a language other than English in the home, compared to 10 percent of HR residents. Census data also show that the major minority population(s) in NOVA is Latino and Asian; in HR it is African American – who are more likely to be citizens.

Although we can't fully expect the social services client population to replicate the citizenship status of the population at large, the importance of the fact that an average of 61 percent of the total NOVA population are citizens 18 years and older, compared to an average of 74 percent of the HR population can't be overlooked. While there may be other factors that account for the difference in "the numbers" between different areas of Virginia, these bare bones Census figures indicate one

avenue for further investigation. Although it is a small example, the author of this report participated in voter registration outreach at a NOVA local human services office for several years; we eventually moved our activities elsewhere since most of clients we encountered said that they were not citizens – not eligible to register.

Availability of Voter Registration Applications and Signs

Both the NVRA and Virginia Code (24.2-411.2) require that public assistance agencies provide and make available voter registration applications to all clients. When League members visited public assistance offices three years ago, voter registration applications were available, most often clearly displayed, at 20 of 21 offices. League members were asked to check back on the availability and visibility of voter registration forms this month.

While still a small number due to the limited geographical distribution of local Leagues in Virginia, 31 local offices were visited during a recent two-week period. At 25 of the offices, voter registration forms were available in the lobby or waiting room, although attention is obviously not always given to make them clearly visible or to replenish the form holders when empty. In four offices, staff pointed out that the forms were available when the client completed the benefit application form. Another office said that it sent clients wishing to register to vote to the adjacent voter registrar's office. It is important to note that the required availability of forms is not limited to offices, but needs to be met by online and telephone contacts as well.

A visit to one of the Fairfax County DSS offices raised a question that was not on the radar screen several years ago: responsibility for providing Spanish language voter registration and election materials. Since the fall of 2011, Fairfax County has been subject to the minority language provisions of section 203 of the Voting Rights Act (VRA) and must provide voter registration and other elections-related material in Spanish.

Section 203 provides: "Whenever any State or political subdivision [covered by the section] provides registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language." ⁸

The office displayed copies of the registration form in English, although several of the clients and staff were speaking in Spanish. An inquiry to county's central DSS staff elicited the information that forms were usually provided in both languages and that the supply was being replenished. However, we did not find Spanish voter registration forms clearly visible in the lobby or waiting room in two of the four offices visited in the county. (Other than Fairfax County, no other local office visited in Virginia displayed registration forms in Spanish.) We believe that Fairfax Office of Elections staff has not been providing Spanish language registration forms to the DSS offices as a matter of course, since those offices receive their normal supply of registration forms from Virginia ELECT, who has been sending Spanish-language forms upon request. The Fairfax County elections staff plan to address the need and responsibility for providing the forms to DSS offices on a consistent schedule at an upcoming meeting with ELECT. The online CommonHelp application is available in Spanish; the availability to obtain a Spanish language voter registration application subsequent to completing the application needs to be determined.

This incident raises the question of the application of VRA section 203 requirements to the NVRA section 7 requirements in Fairfax County offices, not only of the DSS but of other designated state agencies. *We recommend that Virginia DSS and ELECT staff meet and determine joint VRA Section 203/NVRA Section 7 requirements and responsibilities and that ELECT review this question in regard to other designated state agencies as well.*

League members also checked the presence of posters or signs at many of the offices that they visited, though we discovered on earlier visits that the design of some offices limited the space available for this purpose or the existence of so many signs that no one was sufficiently visible. Although ELECT provides voter registration signs/posters upon request, apparently none of the offices displayed one of those signs. However, six offices displayed signs noting that a photo ID was required to vote, and five offices in the Hampton Roads area displayed privately produced signs.

Staff Training

The agreement with Virginia DSS and ELECT in 2008 covered the need to provide both re-training and continued training of public assistance agency staff on the NVRA voter registration requirements. Since that time, such training has been provided by both agencies. ELECT provides annual training at locations throughout Virginia, which is essentially designed to “train the trainer,” requiring agency representatives at the training to be responsible for dissemination and training of its staff regarding responsibilities for that agency’s voter registration. In the summer of 2014, it was conducted at nine locations throughout Virginia. A total of 71 DSS staff attended the training.

In addition, however, the DSS developed its own online training module which every employee is required to take. Staff must take a refresher training each year (July) and new staff must complete the training within two weeks of being hired. Records are kept of participation in the program. Between July 2014 and February 2015, over 3,400 local staff completed the training. In early 2013, ELECT followed up on the DSS actions taken to supervise the agency’s NVRA responsibilities, including training. They reviewed the online training, calling it was excellent, and the DSS agreed to inform its staff of the availability of the annual in-person training provided by ELECT.⁹

Comparisons This Paper Does Not Address

Most studies and reports on compliance with NVRA section 7 include a comparison and analysis of registration numbers with reported numbers of public assistance clients, which generally indicate that small numbers of clients complete registration forms while they are in the office. This paper does not attempt such an analysis for a variety of reasons, including:

- Performing a statistical analysis falls outside the scope of our time and talents; we will leave this to others, who will certainly want to address the results from the 2014 EAC survey.
- As addressed above, the increasing percentage of Virginia client contacts made online and by telephone has accompanied a reduction in the number of forms submitted by public assistance offices. We believe that this is due, at least partly, to the fact that there is no way to track and report the numbers of Virginia applications submitted by clients using forms or information not provided by in-person interviews.
- We are not able to readily determine that the numbers of benefit clients that are reported for a given period actually reflect only an unduplicated number of new recipients, thus making it impossible to make a valid comparison of clients and potential voter registration recipients.

- We are concerned that current reporting requirements do not enable agencies to quantify the numbers of clients who are either already registered to vote at their current address or are ineligible to register.

Conclusion

In the past eight years, some 114,000 low-income Virginia citizens have registered to vote who otherwise would have been among the least likely to do so. This is directly related to the attention paid to the need and importance of compliance with NVRA Section 7 by Dēmos and its partners calling attention to Virginia’s earlier lack of attention to compliance issues and working in cooperation with Virginia’s elections and public assistance officials to solve the problem. As we found in our survey done three years ago, our limited contacts indicate that most agencies are following the letter of the law insofar as basic requirements are concerned. The written, online and telephone interviews and formats include the necessary voter registration form whereby clients are given the opportunity to register to vote. Voter registration application forms are available in offices and sent to clients who do not certify that they do not wish to register. Training is being provided and staff are participating in the training. Registration statistics are being reported on the ELECT web site on a monthly basis.

What is not being done is keeping up with the need to devise new systems or methods of implementing and following up on the spirit of the law as technology has changed the environment in which public assistance agencies now operate -- more than 20 years after enactment of the NVRA. The procedures designed for in-person interviews and paper forms do not have the same effect when moved to the Internet and telephone. And the method of monitoring compliance by counting voter registration forms turned in at agency offices doesn’t work when clients are not visiting and completing forms at the offices.

We believe that this is where new steps need to be taken. One of the obvious steps would be to work online voter registration into the mix of procedures. However, this will require a change in Virginia’s online voter registration legislation which currently limits its use to those with DMV identifications. Since public assistance agency clients are among those least likely to have such identifications, provisions would have to be enacted allowing the use of client identifications. But that is just one of the steps that comes to mind. Others need to be discussed and designed by a meeting of officials from ELECT and **all designated state agencies**, not just public assistance agencies. It is quite likely that twenty years of technological change will have affected all agencies covered by the NVRA, not just public assistance agencies.

As the League of Women Voters, we could not end without commenting on and noting our dismay at the reported lack of interest in voting by public assistance clients. Voter turnout has been plummeting nationwide and certainly in Virginia in non-presidential election years. We need to stop acting like that should be “normal” behavior and accept the challenge to find ways to overcome the perception that local and state elections don’t count. Our democracy depends on the actions of voters to keep it running – at all governmental levels.

Resources and Endnotes

1. “Report of the League of Women Voters of Virginia Survey of Virginia’s Department of Social Services Compliance with Section 7 of the NVRA,” at: www.LWV-VA.org.

2. The Virginia Department of Elections was established on July 1, 2014 and assumed the administrative responsibilities previously exercised by the State Board of Elections. The Board continues to exist and function as a policy-making body. For the sake of convenience, references will be to the Department or its organizational acronym, ELECT.
3. The numbers of registrations were compiled from the NVRA registration reports on the ELECT web site available at the time of compilation. Some slight corrections may have been made over time. <http://elections.virginia.gov/index.php/resultsreports/registration-statistics/>
4. Dēmos (www.demos.org) is a public policy organization “working for an America where we all have an equal say in our democracy and an equal chance in our economy.” Its focus includes election reform and economic security.
5. See: http://www.demos.org/sites/default/files/publications/NVRA_VA.pdf. See also: <http://www.demos.org/publication/preliminary-analysis-public-assistance-agency-data-within-election-assistance-commission>
6. See: <http://www.demos.org/publication/testimony-increasing-compliance-section-7-nvra>.
7. See: <http://quickfacts.census.gov/qfd/states/51000.html>
8. See: http://www.justice.gov/crt/about/vot/sec_203/203_brochure.php
9. Exchange of correspondence between DSS and ELECT officials, March and April 2013.
10. See: http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php
11. See no. 5 above.

This report was prepared by Therese Martin, Voter Advocacy Coordinator for the League of Women Voters of Virginia with support from the League of Women Voters Education Fund. We thank Garry Ellis, NVRA Voter Registration Coordinator of the Virginia Department of Elections and Thomas Steinhauser, Director of the Division of Benefit Programs of the Virginia Department of Social Services for the help and information that they have provided to the author, who is solely responsible for its interpretation.

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APPENDIX 1¹⁰

The NVRA requires that voter registration opportunities be provided with respect to all application, renewal, recertification and change of address transactions regarding service and assistance with Section 7 offices. Many Section 7 designated agencies/offices routinely provide services/assistance such as application for, or renewal of, services or change-of-address notification through the internet, by telephone, or by mail. States should ensure the availability of voter-registration opportunities to individuals using such remote service/assistance opportunities from designated agencies. Thus, for all such internet transactions, States should advise of the opportunity to register to vote, and should provide some online capability to download or request a voter-registration form. For phone transactions, designated-agency personnel should advise applicants of the opportunity to register to vote and to request a voter registration form. Materials sent by mail to individuals completing phone or internet transactions (such as statements confirming a phone transaction, or renewal or change-of-address forms) should contain a voter-registration form.

In all such internet, phone, and mail transactions, individuals should be given a toll-free phone number, where possible, to call for information and instruction on how to complete the voter-registration process. Where feasible, as is done at many motor-vehicle agencies, States may consider providing for a simultaneous voter-registration opportunity through the electronic portal when individuals apply for services or assistance at a designated agency by that means. In addition, where possible, agencies may consider assisting the applicant in registering to vote by automatically filling in appropriate fields on voter-registration applications with information previously provided by the applicant in order to make the registration process easier and more efficient.

When upgrading technology related to the application/recertification/change of address process at Section 7 agencies, States should ensure that such upgrade includes the voter registration process.

When a state contracts with a private entity to administer services in an agency that is required to offer voter registration, the ultimate responsibility for ensuring provision of voter registration services remains with the state, and the voter registration requirements under the NVRA remain the same.

APPENDIX 2¹¹

In early May 2008, staff from Dēmos and its partner organizations met with key representatives from the Virginia State Board of Elections and Department of Social Services in Richmond to create a plan to help bring the state's 120 local public assistance offices into full compliance with the NVRA. During the meeting, Tom Steinhauser, the agency's Director of Benefit Programs, expressed a commitment to take quick, affirmative steps to remedy the problem and to make voter registration services a priority at VDSS. Indeed, within days, all had agreed that VDSS would institute the following practices:

Circulate an immediate bulletin to all VDSS employees reminding them of their obligations to provide voter registration services to all clients who apply for, recertify, or change an address related to benefits.

Identify an NVRA Site Coordinator for each local office, with responsibility for maintaining an adequate supply of voter registration applications, reporting to state VDSS officials the number of voter registration applications transmitted to election officials, and training staff on their NVRA duties.

Commit to providing voter registration applications online and through the mail for statute-covered transactions conducted on the Internet and over the telephone.

Re-train all relevant VDSS employees on their responsibilities under the NVRA by June 2008, within a month of the meeting's date. All new employees, moreover, will be trained on NVRA duties at orientations.

Institute monthly reporting by local office VDSS staff to a state-level supervisor on the number of voter registration applications submitted by each office to local election officials.

Institute monthly comparisons by a state-level employee of the number of completed voter registrations to the total number of applications for TANF, Food Stamps, and Medicaid received by each local office.

Revise language in its "declination"—the NVRA-required form asking a client whether he or she would like to register to vote at the agency—so that it complies with the statute's requirements.

Incorporate the provision of voter registration services into its federal Food Stamp Management Evaluation reviews.

Revise the agency's voter registration training manual and power point presentation to accurately convey to employees the requirements of the law.

Make voter registration applications available in office lobbies and ensure that receptionists offer assistance to clients in completing the forms.

Provide information in each office's waiting room on how to restore voting rights for those with past felony convictions.