

**From:** [Linguard, Christie](#)  
**Subject:** Meeting Notice - The Commission of the SCDDSN - Policy Committee Meeting - December 15, 2021  
**Date:** Tuesday, December 14, 2021 12:00:44 PM  
**Attachments:** [Policy Committee Packet - December 15, 2021.pdf](#)

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**Good Afternoon,**

**The South Carolina Commission on Disabilities and Special Needs will hold an in person Policy Committee meeting on Wednesday, December 15, 2021, at 3:00 p.m. The Committee Meetings are held at the SC Department of Disabilities and Special Needs Central Administrative Office, 3440 Harden Street Extension, Columbia, SC. This meeting can also be viewed via a live audio stream at [www.ddsn.sc.gov](http://www.ddsn.sc.gov).**

**Please see the attached meeting packet for the Policy Committee Meeting.**

**For further information or assistance, contact (803) 898-9769 or (803) 898-9600.**

**Thank you.**

## **POLICY COMMITTEE AGENDA**

**Commission of the South Carolina Department of Disabilities and Special Needs  
3440 Harden Street Extension  
Columbia, South Carolina**

**December 15, 2021**

**3:00 p.m.**

- 1. Call to Order** **Committee Chair Barry Malphrus**
- 2. Statement of Announcement** **Lori Manos on behalf of Chairman Malphrus**
- 3. Invocation** **Committee Chair Barry Malphrus**
- 4. Adoption of Agenda**
- 5. Approval of Summary Notes from November 9, 2021 Meeting (pg. 1-2)**
- 6. OLD BUSINESS:**
  - A. 503-01-DD: Individuals Involved with Criminal System (pg. 3-8)
  - B. 535-10-DD: National Voter Registration Act (Motor Voter) (pg. 9-47)
- 7. NEW BUSINESS:**
  - A. 413-10-DD: Telecommuting Policy and Procedure (pg. 48-59)
  - B. 413-05-DD: Work Hours Policy and Procedure (pg. 60-63)
- 8. Status Update on Directives Referred to Staff**
- 9. Adjournment – Next Meeting January 11, 2022**

**MEETING SUMMARY OF THE POLICY COMMITTEE**  
**Commission of the South Carolina Department of Disabilities and Special Needs**  
**3440 Harden Street Extension**  
**Columbia, South Carolina**  
**November 9, 2021**

**IN ATTENDANCE:** Chairman, Barry Malphrus; Gary Lemel; David Thomas;  
Dr. Michelle Fry, Lori Manos; Pat Maley, Steve Von Hollen and  
Colleen Honey

**1. Adoption of Agenda**

Commissioner Malphrus requested committee members to adopt the agenda.

As there were no objections, agenda was adopted.

**2. Approval of Summary Notes from the September 14, 2021 Meeting**

Commissioner Malphrus requested committee members to adopt the summary notes.

As there were no objections, summary notes from the September 14, 2021 meeting were adopted.

**3. New Business**

- A. 800-03-CP: South Carolina Commission on Disabilities and Special Needs  
Executive Limitations Policy

After discussion, it was decided to table any recommendations at this time.

- B. Routing Selection of FY22 List of Directives/Standards/Polices for Review in the Third  
Quarter (January to March)

Directives were assigned quarterly instead of monthly on where they would be delegated for review.

**4. Old Business**

- A. 200-04-DD: Voluntary Contributions and Donations

The Chairman noted the directive had been posted for external review and only one comment was received. Clarification was added to one section. As there were no objections, the directive will be presented for full Commission approval at the November 18, 2021 meeting.

B. 503-01-DD: Individuals Involved with Criminal System

After further discussion, staff were directed to make additional adjustments. Will be reviewed again at the next meeting, December 15, 2021.

C. 535-10-DD: National Voter Registration Act (Motor Voter)

After further discussion, staff were directed to make additional adjustments. Will be reviewed again at the next meeting December 15, 2021.

**5. Adjournment**

Due to calendar conflicts, the next meeting will be held December 15, 2021.

# PROPOSED TO MARK OBSOLETE



**Beverly A. H. Buscemi, Ph.D.**  
*State Director*  
**David A. Goodell**  
*Associate State Director*  
*Operations*  
**Susan Kreh Beck**  
*Associate State Director*  
*Policy*  
**Thomas P. Waring**  
*Associate State Director*  
*Administration*

**COMMISSION**  
**William O. Danielson**  
*Chairperson*  
**Fred Lynn**  
*Vice Chairman*  
**Eva R. Ravenel**  
*Secretary*  
**Mary Ellen Barnwell**  
**Katherine W. Davis**  
**Gary C. Lemel**  
**Vicki A. Thompson**

3440 Harden Street Ext (29203)  
PO Box 4706, Columbia, South Carolina 29240  
803/898-9600  
Toll Free: 888/DSN-INFO  
Website: [www.ddsn.sc.gov](http://www.ddsn.sc.gov)

Reference Number: 503-01-DD

Title of Document: Individuals Involved with the Criminal Justice System

Date of Issue: March 1, 2007  
Effective Date: March 1, 2007  
Last Review Date: May 3, 2016  
Date of Last Revision: May 3, 2016 (REVISED)

Applicability: DSN Boards, Private Contracted Service Providers, DDSN Regional Centers, DDSN Central Office, DDSN District Offices

## PURPOSE

The South Carolina Department of Disabilities and Special Needs (DDSN) places a high priority on promoting individual rights, choice and self-direction. This emphasis should be balanced with the need to also promote individual responsibilities; see DDSN Directive 510-01-DD: Supervision of People Receiving Services, Attachment A. As such, individual adherence with local, state and federal law should be strongly encouraged. Nonetheless, some individuals will become involved with the criminal justice system.

This policy serves to clarify the role of the DDSN Central Office, DDSN District Offices, DDSN Regional Centers and boards/providers once individuals are arrested by law enforcement or charged with a criminal offense.

### **LIS TRI CT I**

P.O. Box 239  
Clinton, SC 29325-5328  
Phone: (864) 938-3497

Midlands Center- Phone: 803/935-7500  
Whitten Center- Phone: 864/833-2733

9995 Miles Jamison Road  
Summerville, SC 29485  
Phone: 843/832-5576

### **LIS TRIC T II**

Coastal Center- Phone: 843/873-5750  
Pee Dee Center- Phone: 843/664-2600  
Saleeby Center - Phone: 843/332-4104

## **PROCEDURE**

### **A. Reporting**

Boards/Providers/DDSN Regional Centers should submit a Critical Incident Report to DDSN Central Office in accordance with DDSN Directive 100-09-DD: Critical Incident Reporting, if an individual is arrested by local, state or federal law enforcement.

### **B. Incarceration**

1. If the criminal charge against the individual is serious, the individual may be incarcerated at a local detention facility upon arrest and not be able or allowed to post bond.
  - i. The board/provider/DDSN Regional Center should not post bond for the incarcerated individual.
  - ii. However, it would be appropriate for the board/provider/DDSN Regional Center to facilitate the individual to use personal resources to post bond when appropriate supervision/support can be provided to the individual after release.
2. The board/provider/DDSN Regional Center's primary responsibility, if an individual is incarcerated following arrest, is to advocate for the individual to be assigned a public defender.
3. If the individual is not receiving case management when arrested, State Funded Case Management (SFCM) should be requested from DDSN. DDSN will pre-certify SFCM for the individual for at least the period of time until he/she is convicted or the case is resolved.
4. If the individual does not have active family involvement, the board/provider/DDSN Regional Center must contact (telephone or personal) the incarcerated individual at least monthly (prior to trial) to assure that his/her needs are being met (especially needs relating to medications).
5. If the individual is incarcerated in a state operated correctional facility following a court trial, SFCM may continue for three (3) months. SFCM may not resume until the individual is within three (3) months of release.
6. The board/provider/DDSN Regional Center should not make any agreements with the Court, Solicitor or Public Defender to accept responsibility for serving the individual in exchange for the criminal charge not being prosecuted. If such an agreement is suggested, the DDSN Office of Clinical Services and the DDSN Office of the General Counsel must immediately be notified.

**C. Forensic Examination/Court Orders**

1. When an individual is involved with the criminal justice system (General Sessions Court or Family Court), there should be a determination made if the individual is competent to stand trial (CST), (see DDSN Directive 508-01-DD: Competency to Stand Trial Evaluations) unless the charge is in Magistrate Court.
2. The Office of Clinical Services coordinates the forensic evaluations which must be conducted to assist the court to determine if an individual is competent to stand trial.
  - i. Typically the court order to conduct “CST evaluations” will be sent to the Office of Clinical Services.
  - ii. In the event that a court order to conduct the “CST evaluation” is inadvertently sent to a board/provider/Regional Center, the court order must immediately be sent to the Office of Clinical Services or the Office of the General Counsel.
3. Court orders for individuals to be evaluated regarding their competency to stand trial and the presence of an intellectual disability or related disability are the most common orders sent to DDSN.
  - i. These court orders may be received from the Family Court or General Sessions Court.
  - ii. Some individuals referred for CST evaluations are eligible for DDSN services. However, some individuals have not been determined eligible for DDSN services.
  - iii. In either case, two DDSN examiners conduct the evaluation to determine if an intellectual disability or related disability is present, and if so, render an opinion regarding the individual’s competency to stand trial. In cases where the individual is suspected of having both an Intellectual Disability/Related Disability (ID/RD) and mental illness, examiners from both DDSN and the Department of Mental Health (DMH) will conduct the evaluation jointly.
4. If an individual is deemed incompetent to stand trial and the examiners believe an intellectual disability or related disability is present, the board/provider in the individual’s home county will be notified by the Office of Clinical Services with a copy of the competency evaluation completed by DDSN and copies of other pertinent information. The DDSN District Office and the Director of the DDSN Consumer Assessment Team (CAT) (if eligibility needs to be determined) will also be notified.

5. If an individual is found not competent to stand trial, the Solicitor may petition the Family or Probate Court to issue a petition to “judicially admit” the individual to the jurisdiction of DDSN.
  - i. These petitions judicially admit an individual to DDSN, not a specific facility.
  - ii. These petitions are typically sent to the Office of the General Counsel; however, in the event that a petition for a “judicial admission to DDSN” is inadvertently sent to a board/provider/DDS Regional Center, the Petition (and any supporting documentation) must immediately be sent to the Office of the General Counsel.
6. The Office of Clinical Services tracks all incoming court orders/petitions for the Department. The Office of Clinical Services and the Office of the General Counsel are responsible for insuring that DDSN and the board/providers respond in a timely and appropriate manner with meaningful information provided.
7. There are three (3) situations in which the board/provider/DDS Regional Center must respond following a forensic evaluation/judicial admission order.
  - i. If an individual is deemed incompetent to stand trial by DDSN and is already eligible for DDSN services, it is expected that the board/provider will follow through upon notification by the Office of Clinical Services to develop, review, and/or revise a service plan of supports for the individual, in conjunction with the Office of Clinical Services.
  - ii. If an individual is deemed incompetent to stand trial by DDSN and is not known to the DDSN system, the Office of Clinical Services will initiate a referral to the DDSN Consumer Assessment Team for DDSN eligibility determination.
  - iii. If there is a Petition for Judicial Admission of an individual due to his/her incompetence to stand trial, it is expected that the board/provider will, upon notification from the Office of Clinical Services, develop a service plan for the individual, in conjunction with the Office of Clinical Services.
    - a. The service plan must include sufficient interventions and supports so that it can be reasonably expected that a recurrence of the activity which resulted in criminal charges will not occur.
    - b. The Office of Clinical Services or DDSN District Office will attend the court hearing and present the Plan of Services Report to the court. The case manager is expected to attend the hearing as well.



- c. Contact with the individual and family to initiate planning must be initiated immediately after notification from the Office of Clinical Services. Planning cannot be delayed until a Notice of Hearing is issued by the court.
- d. DDSN is federally mandated to serve individuals in the least restrictive setting feasible. This includes individuals involved in the criminal justice system. The development of a Service Plan for an individual who is being judicially admitted to DDSN involves the following steps:
  - Assessment of the home setting to determine if services can be offered to support the individual in his/her home, and if in-home supports will adequately protect the health, safety, and supervision needs of the individual and ensure the safety of the general public.
  - If services and supports to meet the needs of the individual in his/her home and community in a manner which would be reasonably expected to prevent the recurrence of any criminal activity can be provided, residential services will not be necessary.
  - If residential services are necessary, the case manager should notify the DDSN District Office of the need for residential services in accordance with DDSN Directive 502-05-DD: DDSN Waiting List.

**D. Service Implementation**

1. The board/provider/DDSN Regional Center, in conjunction with the Office of Clinical Services, must assure that the service plan presented to the court is immediately implemented as written.
2. Implementation of the Plan must be managed, overseen and monitored to ensure the individual's needs are met, thereby reducing the likelihood of re-offending.
3. Individuals who have been judicially admitted to DDSN cannot be discharged from DDSN without prior approval from the Office of Clinical Services, and the DDSN State Director or her designee.
4. Any problems or concerns with the implementation of the plan, must be reported to the Office of Clinical Services.
5. All judicially admitted individuals must receive case management unless otherwise directed by the Office of Clinical Services.


**E. Quality Assurance/Prevention**

1. The Office of Clinical Services will track those individuals judicially admitted to DDSN by regularly soliciting updates from case managers on status of plan implementation.
2. As able, the Office of the General Counsel and the Office of Clinical Services staff will provide periodic training to county judges, solicitors, public defenders on pertinent laws and regulations relating to DDSN individuals involved with the criminal justice system.
3. Boards/providers/DDSN Regional Centers should offer training as needed to applicable staff in the established protocol for responding when an individual has involvement with the criminal justice system.



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Susan Kreh Beck, Ed.S., NCSP  
Associate State Director-Policy  
(Originator)



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Beverly A.H. Buscemi, Ph.D.  
State Director  
(Approved)

Reference Number: 535-10-DD

Title Document: ~~National Voter Registration Act (Motor Voter)~~  
Voter Registration and Voting Rights

Date of Issue: November 23, 1994

Date of Last Revision: ~~April 22, 2013~~XXXX, 2021 (REVISED)

Effective Date: ~~January 1, 1995~~XXXX, 2021

Applicability: ~~DDSN Central Office, DDSN Regional Centers, DSN Boards and Contracted Service Coordination Providers~~  
DDSN Regional Centers and Residential Habilitation Settings; Intake Providers; Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Providers and Residential Habilitation Providers

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## **PURPOSE**

The purpose of this Directive is to implement the National Voter Registration Act (NVRA), S.C. Code Ann. § 7-5-110 through §7-5-340 (2019), and to provide guidance for assisting people who are eligible for DDSN services to exercise their right to vote.

## **VOTER REGISTRATION**

### **Requirement:**

The National Voter Registration Act (NVRA) requires that any office in a State that provides either public assistance or state-funded programs primarily engaged in providing services to persons with disabilities must offer voter-registration services. In accordance with NVRA, a State must designate the offices in the State as voter-registration agency. In South Carolina, the Department of Disabilities and Special Needs (DDSN) is designated as a voter-registration

agency. As a voter-registration agency, DDSN must provide the opportunity to register to vote to persons when (1) applying for DDSN services, (2) re-applying for DDSN services, and (3) changing the address used for DDSN services. As a voter-registration agency, DDSN must:

- Distribute voter-registration forms;
- Provide an “information” form that contains information on the voter-registration process;
- Provide the same level of assistance to all applicants in completing the voter-registration forms as is provided to the person when he/she is applying for DDSN services (unless the applicant refuses the assistance);
- Accept completed registration forms; and
- Transmit each completed voter-registration form to the appropriate State election official with the prescribed time frame.

#### Implementation – Voter Registration:

The NVRA requires that voter-registration services be offered when applying for or re-applying for services; therefore, Intake providers will be primarily responsible for performing these functions on behalf of DDSN. It is recommended that, as appropriate, each Intake provider designate one staff member to act as the coordinator of voter registration services. If designated, the coordinator would train new employees, ensure an adequate supply of forms, monitor voter registration activities, and resolve questions and problems that may arise. If a coordinator is designated, his/her responsibilities would be ongoing, but not full time.

Intake providers will be responsible for offering the opportunity to register to vote to those seeking eligibility for DDSN services (applicants) when the applicant:

- Is a citizen of the United States and of the State of South Carolina;
- Is eighteen (18) years of age or older;
- Is a resident in the county and in the polling precinct in which he/she offers to vote;
- Is not mentally incompetent as adjudicated by a court of competent jurisdiction;
- Is not serving a term of imprisonment resulting from a conviction of a crime;
- Has not been convicted of a felony or offenses against the election laws, unless the disqualification has been removed by the service of the sentence, including probation and parole time unless sooner pardoned.

Intake provider staff members (Intake workers) who offer the opportunity to register to vote are **strictly prohibited** from:

- Seeking to influence an applicant’s political preference or party affiliation, or
- Displaying any political preference or party allegiance, or
- Taking any action or making any statement to an applicant to discourage the applicant from registering to vote, or
- Taking an action or making any statement that may lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

Intake workers must:

1. Determine if the applicant:

- (a) Is currently registered to vote at his/her current address, or
- (b) Would like to register to vote, or
- (c) Would like to decline to register to vote.

The Voter Registration Declination form (Attachment) should be presented and explained. The applicant should be asked to complete the form. If needed, assistance, to the same degree as given to complete forms for DDSN eligibility, should be provided . It should be noted that failure to check either box on the form constitutes declination to register. If the applicant declines to check a box he/she must be told, "If you do not check either box, you will be considered to have decided not to register to vote at this time."

The Voter Registration Declination form (Attachment) has two (2) sections. The top section of the completed form should be retained by Intake worker as part of the person's record. The top section of the declination form shall be kept in a confidential manner for one (1) year. The bottom section of the form should be separated from the top (along the dotted line) and given to the applicant. The provision of the form and the offering of the opportunity to register to vote must be documented as an Intake activity.

2. If the applicant is registered to vote at his/her current address, declines to register to vote, or fails to check a box on the Voter Registration Declination form, no additional actions by the Intake worker are required.

3. If the applicant chooses to register to vote at his/her current address or change his/her voter registration address, and the applicant possesses a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles, he/she may submit an application for voter registration electronically on the Internet website of the State Election Commission (SC Votes). Assistance, to the same degree provided for completing DDSN eligibility, can be provided to complete the registration electronically.

4. If the applicant chooses to register to vote at his/her current address or change his/her voter registration address but does not possess a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles, the completion of a paper voter-registration form is required. The paper/printed form should be given to the applicant and, if needed, -assistance, to the degree provided in the completion of forms for DDSN eligibility, provided to complete it. Voter registration forms can be printed from the South Carolina Election Commission website (Voter Registration Forms).

When a paper voter registration form is completed, the completed form must be transmitted to the county board of voter registration and elections of the county in which the applicant resides. This transmission may be by mail, e-mail, or fax. Information about each county board of voter registration and elections in the State can be found on the website of the State Election Commission (SC Votes). Completed forms must be

transmitted to the appropriate county board of voter registration and elections within ten (10) days of completion unless the form is completed within five (5) days before the last day to register to vote in an election, in which case the completed form must be transmitted within five (5) days.

All voter registration activities performed by the Intake worker must be documented. The documentation must specify mode used for registration (paper form or electronic). When a paper form is completed, the date and mode (e.g., mail, email, fax) of transmission of the completed form must be documented along with address or fax number to which the document was transmitted.

#### Implementation – Updating Voter Registration:

When someone who is eligible for DDSN services has moved / changed addresses, the person's case manager or Qualified Intellectual Disabilities Professional (QIDP) must be prepared to assist him/her with updating his/her voter registration. Assistance to update his/her voter registration should be provided by the case manager or QIDP as needed and to the degree provided in the completion of other forms required for service provision. Anyone assisting someone to update his/her voter registration is **strictly prohibited** from:

- Seeking to influence a person's political preference or party affiliation, or
- Displaying any political preference or party allegiance, or
- Taking any action or making any statement to the person to discourage the him/her from registering to vote, or
- Taking an action or making any statement that may lead the person to believe that updating his/her registration has any bearing on the availability of services or benefits.

People can be assisted to update their voter registration in the following ways:

1. If the person possesses a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles (DMV), and has updated his/her address with the DMV, he/she may be assisted to complete the voter registration form electronically on the Internet website of the State Election Commission (SC Votes).
2. If the person moved from one address to another within the same county of the State, a change of address form and assistance to complete and transmit the form can be provided. Change of address forms can be found on the website of the State Election Commission (SC Votes). Completed forms may be transmitted by mail, e-mail, or fax and must be transmitted to the county board of voter registration and elections in which the person currently resides. Information about each county board of voter registration and elections in the State can be found on the website of the State Election Commission (SC Votes).
3. A paper voter registration form and assistance to complete and transmit the form can be provided. A paper voter registration form is required when the person moves from the

county in which he/she is registered to vote to another. A completed form must be transmitted to the county board of voter registration and elections of the county in which the person now resides. This transmission may be by mail, e-mail, or fax. Information about each county board of voter registration and elections in the State can be found on the website of the State Election Commission (SC Votes).

4. If the person moved from one address within a county to another within the same county, assistance can be provided to fill out the back of the person's voter registration card and transmit it by mail to the county board of voter registration and elections in the county in which the person resides. Information about each county board of voter registration and elections in the State can be found on the website of the State Election Commission (SC Votes).

When the assistance provided to update voter registration includes the transmission of completed forms, those forms must be transmitted to the appropriate county board of voter registration and elections within ten (10) days of completion unless the form is completed within five (5) days before the last day to register to vote in an election, in which case the completed form must be transmitted within five (5) days.

All activities provided to assist with updating voter registration information must be documented. The documentation must specify mode used for updating the registration. When a paper form or voter's registration card is used, the date and mode of transmission of the completed forms must be documented along with name of the entity and the mailing address, e-mail address or fax number to which the document was transmitted.

## VOTING ASSISTANCE

### General:

As citizens of the United States of America and the State of South Carolina, adults with disabilities have the right to vote. When an adult with disabilities needs assistance to exercise his/her right to vote, assistance can and should be provided. Assisting someone to vote may include but may not be limited to the following:

- Providing information about voting and the electoral process;
- Assisting with registering to vote or updating his/her voter registration;
- Providing information about how to vote, such as information about voting systems (e.g., machines), the roll of poll workers, the assistance (e.g., curbside voting, reading the ballot) that can be provided, how to get needed assistance at the poll, who can (e.g., friends, family, poll workers) and cannot (e.g., service provider staff, employer/boss) assist with casting a ballot;
- Helping the person to find information about upcoming elections and candidates (e.g., providing a printed sample ballot); and
- Helping the person with transportation to their polling place on election day.

While much support can and should be provided to people eligible for DDSN services to exercise their right to vote, employees or contractors of DDSN, a Disabilities and Special Needs Board or a DDSN-contracted service provider are **strictly prohibited** from:

- Seeking to influence the person's political preference or party affiliation,
- Seeking to influence the person's choice of candidate or response to ballot measures.
- Taking any actions or making any statements to discourage the person from exercising his/her right to vote,
- Taking an action or making any statement that may lead the person to believe that a decision to vote or not vote has any bearing on the availability or continuation of services or benefits.
- Taking an action or making any statement that may lead the person to believe that a decision to vote for or against a specific candidate or ballot measure has any bearing on the availability or continuation of services or benefits, and
- Assisting the person to cast his/her ballot when voting in person.

#### Absentee Voting:

Registered voters with disabilities are qualified to vote absentee prior to Election Day. Absentee voting can be completed in-person or by mail. When a person eligible for DDSN services is a registered voter and requests assistance to vote absentee, the person should be asked if they prefer to vote absentee in-person or by mail.

If the person prefers to vote absentee in-person, assistance should be provided as needed to support their decision. This assistance may include sharing information about the in-person absentee voting process, or arranging for providing transportation to the office of the county board of voter registration and elections.

If the person is not receiving Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) services or Residential Habilitation, and prefers to vote absentee by mail, assistance should be provided as needed and appropriate. Any assistance provided must be documented. The person may, for example, be assisted to:

- Obtain an application form to request an absentee ballot by mail. Application forms can only be requested by the person (the voter), a member of the person's immediate family, or an authorized representative acting on behalf of the person. Please note, for people who are not receiving ICF/IID services or Residential Habilitation, employees or contractors of DDSN, a Disabilities and Special Needs Board or a DDSN-contracted service provider agency are **prohibited** from acting as the authorized representative of the person for the purpose of requesting an absentee ballot by mail.
- Complete the application for absentee voting and transmit the completed application to the county voter registration and elections office by the deadline which is 5:00 p.m. on the fourth (4th) day prior to the election. Applications can be transmitted by mail, e-mail, fax or personal delivery.
- Return/submit the completed ballot to the county board of voter registration and elections.



For DDSN, Disabilities and Special Needs Boards and DDSN-qualified providers of ICF/IID services or Residential Habilitation (agencies), information found on the South Carolina Election Commission website “Absentee Voting at Residential Care Facilities” should serve as a guide for assisting those supported in these settings to exercise their right to vote by casting an absentee ballot by mail. Employees of an agency who are designated by the agency as the voting coordinator may, for the sole purpose of absentee voting by mail, serve as an authorized representative of a person receiving ICF/IID services or Residential Habilitation from the agency. An agency may only designate a voting coordinator if the agency issues a policy on absentee voting which:

- Specifies the minimum qualifications of the employee who may serve as the voting coordinator,
- Specifies that the duties of the voting coordinator includes coordinating any absentee voting by mail efforts with the people supported (voters), their family members / representatives, and the county board of voter registration and election,
- Requires the written acknowledgement by the employee serving as the voting coordinator that it is unlawful to vote or attempt to vote for a voter, impersonate a voter, attempt to bribe a voter, provide assistance when not requested, and falsely take an authorized representative’s oath.
- Specifies that the agency will notify law enforcement if any unlawful actions (above) are witnessed by the voting coordinator or any agency staff member or contractor.

### Purpose:

~~The purpose of this directive is to establish guidelines and procedures that enable DSN Boards, Contracted Service Coordination Providers, and DDSN Regional Centers to function as voter registration locations for people with disabilities receiving or requesting services.~~

### Disabilities Agency Registration Provision

~~The National Voter Registration Act (NVRA) and South Carolina Voter Registration Act of 1993 require that individuals be given the opportunity to register to vote (or change their voter registration data) in elections for federal office when applying for (or receiving) services or assistance at an office in the state that provides state funded programs. This Act applies to agencies engaged in providing services to persons with disabilities.~~

~~Individuals must be provided this opportunity at the time of their application for services, when filing any renewal (interpreted as when someone has separated from DDSN Services and their file has been closed but is reapplying for services or *renewing* their services), or in the event there is a change of address form relating to such services.~~

### Implementation

- ~~1. Designation of Coordinator.~~

~~To comply with the NVRA mandate, each DSN Board, contracted service coordination provider, and DDSN Regional Center must function as a voter registration location. Someone must be appointed to coordinate the Act's implementation at the local level. The duties of the coordinator will be to ensure an adequate supply of forms, monitor voter registration activities, train new employees, and resolve questions and problems that arise in coordination with state and local election officials and other agencies. This responsibility will be ongoing, but not full time. Each DDSN Regional Center, DSN Board, or contracted Service Coordination Agency Head must select one staff person to function in the role as local coordinator. The local coordinator will be responsible for teaching staff how to offer registration.~~

2. ~~Designating appropriate staff to offer registration.~~

~~A. Executive Directors, contracted Qualified Intellectual Disability Professional (QIDP) Agency Heads and Facility Directors must designate which staff is appropriate to offer registration at the time of initial application for services.~~

~~1. For the DDSN Regional Centers, the Service Coordinator is suggested.~~

~~2. For Service Coordination Providers, the designated person for completing Intake is recommended to be the appropriate staff to offer voter registration when a person is applying for DDSN services/eligibility. If a person is already eligible for DDSN services, the person's Service Coordinator is suggested as the appropriate staff to offer registration should there be a change of address.~~

~~B. The local coordinator will teach staff how to offer registration.~~

3. ~~Duties of staff related to these activities will be:~~

~~A. Offer adults with disabilities the opportunity to register to vote when applying for services, when filing any renewal for services or when there is a change of address explaining the process and the options to register or decline.~~

~~B. Assist adults with completing the voter registration form (supplied by and available through the SC Election Commission or also available in the DDSN Human Resources Office) and explain the nature of the form. The form must be signed by the person.~~

~~C. Provide a Voter Registration Declination form—Attachment A (supplied by and available through the SC Election Commission or also available in the DDSN Human Resources Office) and ask the adult to read the form, complete all checkboxes necessary, and sign the form. Give the bottom tear away portion of the form to the adult.~~

~~D. Enter the data on the CDSS.~~

- ~~E. Mail the form to the county voter registration office for final decision regarding registration.~~
- ~~4. Data from the CDSS regarding name, voting address and age will be transmitted to the state election commission via a connection through DSIT. Address changes will automatically be sent to the state election commission when they are entered on the CDSS.~~
  - ~~5. Each DDSN Regional Center or provider will keep voter registration forms for distribution but will not be responsible for recording or mailing the voter registration forms for anyone except those applying or eligible for services.~~
  - ~~6. Declinations to apply will be recorded and kept by the Agency in a confidential manner for one (1) year.~~
  - ~~7. Voter Registration information can be obtained from the SC Election Commission ([www.sevotes.org](http://www.sevotes.org)) or from the DDSN Director of Service Coordination and Plan development ([Imanos@ddsn.sc.gov](mailto:Imanos@ddsn.sc.gov)). Voter Registration Declination forms can be requested from the SC Election Commission or from the DDSN Human Resources Office.~~

## REGISTRATION

~~Determining if a person “would like to register or decline to register to vote” can be done by asking the person and having them check the appropriate box on the Voter Registration Declination form. Failure to check either box constitutes a declination to register. If the person declines to check a box they should be told “if you do not check either box, you will be considered to have decided not to register to vote at this time”. Make a note in the record (chart) of the offer and declination.~~

~~If a person needs assistance in completing the form, it can be offered and provided to the same degree of assistance given to complete other forms.~~

~~State law requires that each person who registers to vote must be:~~

- ~~1. A citizen of the U.S.~~
- ~~2. A resident of the state, the county and precinct in which he/she registers.~~
- ~~3. At least 18 years old or will be 18 years old before the election in which he/she wishes to vote.~~
- ~~4. Not convicted of a felony or an offense against the election laws.~~
- ~~5. Not under a court order declaring the individual mentally incompetent.~~

~~The final requirement for people with a disability is that when presenting oneself to vote, that person must be capable of asking for assistance with the voting process. Assistance can be given by the people in the voting place, but not by staff of DSN Boards, contracted providers or DDSN Regional Centers.~~

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Kathi Lacy, Ph.D.

Associate State Director Policy

(Originator)

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Beverly A.H. Buscemi, Ph.D.

State Director

(Approved)

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Barry D. Malphrus

Vice Chairman

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Stephanie M. Rawlinson


Chairman

***To access the following attachments, please see the agency website page “Current Directives” at: <https://ddsn.sc.gov/providers/ddsn-directives-standards-and-manuals/current-directives>***

RELATED FORM: SEC Form 2030-201004 Declination to Register to Vote

**REFERENCE**

**DOCUMENTS**

 An official website of the United States government  
[Here's how you know](#)



THE UNITED STATES  
 DEPARTMENT OF JUSTICE

## NATIONAL VOTER REGISTRATION ACT OF 1993 (NVRA)

These questions and answers are designed to provide information and guidance to state and local officials as well as the general public concerning the provisions of the NVRA and its interaction with the other statutes enforced by the Department. The Department welcomes comments concerning this document.

### QUESTIONS AND ANSWERS

#### OVERVIEW

##### 1. What is the NVRA?

The National Voter Registration Act of 1993 (also known as the “NVRA” or “motor voter law”) sets forth certain voter registration requirements with respect to elections for federal office. Section 5 of the NVRA requires that States offer voter registration opportunities at State motor vehicle agencies. Section 6 of the NVRA requires that States offer voter registration opportunities by mail-in application. Section 7 of the NVRA requires that States offer voter registration opportunities at certain State and local offices, including public assistance and disability offices. Section 8 of the NVRA contains requirements with respect to the administration of voter registration by States and requires States to implement procedures to maintain accurate and current voter registration lists.

##### 2. What States are covered by the NVRA's requirements?

The requirements of the NVRA apply to 44 States and the District of Columbia. Six States (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming) are exempt from the NVRA because, on and after August 1, 1994, they either had no voter-registration requirements or had election-day voter registration at polling places with respect to elections for federal office. Likewise, the territories are not covered by the NVRA (Puerto Rico, Guam, Virgin Islands, American Samoa). While the NVRA applies to elections for federal office, States have extended its procedures to all elections.

#### SECTION 5 – MOTOR VEHICLE AGENCIES

##### 3. What voter registration opportunity is required by Section 5 of the NVRA?

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. This application for voter registration must be considered as updating any previous voter registration by the applicant.

In addition, any change of address form submitted for State driver's license purposes must also serve as notification of change of address for voter registration purposes unless the registrant states on the form that the change of address is not for voter registration purposes. This means that all changes of address submitted to State motor vehicle offices must be forwarded to election authorities unless the registrant affirmatively requests otherwise by opting out on the form.

##### 4. Do the voter registration requirements of Section 5 of the NVRA apply to all license transactions with driver's license offices?

Yes. The NVRA defines the term "motor vehicle driver's license" to include "any personal identification document issued by a State motor vehicle authority." Hence, the NVRA voter registration opportunity applies to applications, renewals, and change of address transactions regarding any personal identification document issued by a State motor vehicle authority.

Moreover, to the extent that the State provides for remote applications for driver's licenses, driver's license renewals, or driver's license changes of address, via mail, telephone, or internet or other means, then provision

must be made to include the required voter registration opportunity as well.

**5. Does Section 5 of the NVRA mandate the use by States of any particular forms or procedures?**

Yes. Each State must include a voter registration form as part of an application for a State driver's license and any application for driver's license renewal.

The voter registration portion of the application may not require any information that duplicates information required on the driver's license portion of the application and may require only the minimum amount of information necessary to prevent duplicate voter registrations and permit State officials both to determine the eligibility of the applicant to vote and to administer the voting process.

The voter registration application must state each voter eligibility requirement (including citizenship), contain an attestation that the applicant meets each requirement, state the penalties provided by law for submission of a false voter registration application and require the signature of the applicant under penalty of perjury. In addition, the application shall also include statements specifying that: 1) if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and 2) if an applicant does register to vote, the identity of the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

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.

**6. What is a motor vehicle agency required to do with completed voter registration applications accepted at its offices?**

Completed voter registration applications accepted at a motor vehicle agency must be transmitted to the appropriate State election official no later than ten days after acceptance. However, if an application is accepted at a motor vehicle agency within five days of a voter registration deadline for an election, the application must be transmitted to election officials no later than five days after acceptance. The agency providing voter-registration services may not require a registrant to mail in the form himself or herself or discourage him or her in any manner from submitting the form to the agency. Similarly, if it is agency practice to make sure that agency forms are completed and signed when submitted by an applicant, the same practice should apply to a voter registration application submitted by that applicant.

**SECTION 6 – MAIL REGISTRATION**

**7. What are the requirements for voter registration by mail provided by Section 6 of the NVRA?**

Section 6 of the NVRA requires each State to accept and use the federal mail voter registration application form developed by the U.S. Election Assistance Commission. This form is available on the EAC's web site at <http://www.eac.gov/program-areas/national-voter-registration-form>. In addition to containing a voter-registration application, this EAC application booklet describes certain state-specific requirements. The national form and booklet have been developed by the EAC in consultation with the States.

**8. Can a State develop its own mail voter registration application?**

Yes. Section 6 of the NVRA also provides that, in addition to accepting and using the federal mail application, a State may develop and use its own mail voter registration form, if it meets all of the same criteria the NVRA requires for the EAC's national mail voter registration application.

**9. What are the requirements for the national mail voter registration application?**

Section 9 of the NVRA provides that the national mail voter registration application may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.

The application also must include a statement that specifies each eligibility requirement (including citizenship), contain an attestation that the applicant meets each such requirement and require the signature of the applicant

under penalty of perjury. The mail application must also include a statement of the penalties provided by law for submission of a false voter registration application.

The mail application must also include statements specifying that: 1) if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and 2) if an applicant does register to vote, the identity of the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes. The mail application may not include any requirement for notarization or other formal authentication.

Section 303(b) of the Help America Vote Act of 2002 (HAVA) also requires that the national mail application include certain additional information: First, the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. Second, the question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. Third, the statement, "If you checked 'no' in response to either of these questions, do not complete this form." Fourth, a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate identification required by HAVA must be submitted with the mail-in registration form to avoid the additional identification requirements upon voting for the first time. (See Question 11 below for a list of these forms of identification).

**10. Does the NVRA require States to make mail voter registration applications available?**

Yes. The chief election official of each State must make mail voter registration applications available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs. Most states satisfy these requirements by, among other things, making applications available at local registrar offices, driver license offices, public assistance offices and disability-service offices, to groups doing voter registration drives, and through the internet on the website of the chief election official. These forms are also available on the website of the U.S. Election Assistance Commission.

**11. What requirements does federal law place on first-time voters who register to vote by mail?**

If a person registers to vote by mail and has not previously voted in a federal election in a State, Section 303(b) of the Help America Vote Act of 2002 established new requirements.

Where a person registers to vote by mail and has not previously voted in a federal election in a State, if the voter does not qualify for one of the exemptions in Section 303(b)(3) of HAVA (described below), then he or she must submit one of the forms of identification required by Section 303(b)(2)(A) of HAVA the first time that he or she votes in a federal election. These forms of identification are: 1) a current and valid photo identification; or 2) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. If the voter does not present the required identification, Section 303(b)(2)(B) of HAVA provides that he or she may nonetheless cast a provisional ballot.

Sections 303(b)(3)(A)-(C) of HAVA create certain exemptions from these identification requirements. An applicant who provides the specified identification documents with his or her registration application (or otherwise provides such documentation to election officials before Election Day), is exempt from the requirement to show identification the first time he or she votes in a federal election. Likewise, an applicant who provides his or her driver's license number or last four digits of his or her social security number, and the State is able to match this information against an existing State record, is exempt from the requirement to show identification the first time he or she votes in a federal election. In addition, persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, or entitled to vote other than in person under the Voting Accessibility for the Elderly and Handicapped Act or other federal law, are exempt from HAVA's identification requirements.

**SECTION 7 – VOTER REGISTRATION AGENCIES**

**12. Under Section 7 of the NVRA, which offices must offer voter-registration services?**

Any office in a covered State that provides either public assistance or state-funded programs primarily engaged in providing services to persons with disabilities must offer voter-registration services. Armed Forces recruitment



offices must also provide voter registration services. In addition, a State must designate other offices in the State as voter-registration agencies. (See Question 15 below for a description of these other offices).

**13. What is an office that provides public assistance under Section 7?**

“Public assistance” offices that must offer voter-registration services under Section 7 of the NVRA include each agency and office in a State that administers or provides services or assistance under any public assistance programs. This includes any of the following federal public assistance programs: the Supplemental Nutrition Assistance Program (SNAP, formerly the Food-Stamp Program), the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the Temporary Assistance for Needy Families (TANF) program (formerly the Aid to Families with Dependent Children or AFDC program), the Medicaid program, and the State Children’s Health Insurance Program (SCHIP). This also includes state public assistance programs.

**14. What is an office that provides state-funded programs primarily engaged in providing services to persons with disabilities?**

Offices that provide state-funded programs primarily engaged in providing services to persons with disabilities include offices providing vocational rehabilitation, transportation, job training, education counseling, rehabilitation, or independent-living services for persons with disabilities. Because States vary greatly in the manner in which they provide services to persons with disabilities, each State must identify the specific offices and agencies that fit this definition. In doing so, States may want to consult with offices that deal with issues related to persons with disabilities, such as the protection and advocacy offices and client assistance program offices within that State. A list of such offices for each State is available at:

[http://www.napas.org/aboutus/PA\\_CAP.htm](http://www.napas.org/aboutus/PA_CAP.htm). Section 7 also requires that if an office provides services to a person with disabilities at the person’s home, the office must provide the opportunity to register to vote at home. Offices serving persons with disabilities often offer specialized assistance in completing the agency service or benefit application forms, and Section 7 requires such offices to offer voter registration applicants the same degree of assistance in completing voter registration forms as is offered in completing the agency’s own application forms.

**15. Does Section 7 require designation of other offices as voter registration agencies?**

Yes. In addition to offices providing public assistance and services to persons with disabilities, States are also required by Section 7 to designate “other offices” within a State 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. Such other agency designations may include State or local government offices such as public libraries, public schools, State colleges, universities and community colleges, city and county clerks offices, marriage license offices, fishing and hunting license offices, government revenue offices, and unemployment compensation offices. Offices not otherwise covered under the NVRA that provide services to persons with disabilities may also be designated. In addition, with the agreement of such entities, States may designate as voter-registration agencies nongovernmental offices (such as private colleges) or Federal government offices.

**16. Do armed forces recruitment offices have to provide voter-registration services?**

Yes. The NVRA provides that all federal Armed Forces recruitment offices in each State subject to the NVRA must provide voter registration services. Within the Department of Defense, the Federal Voting Assistance Program (FVAP) maintains a web site that contains information concerning voter registration at Armed Forces recruitment offices: <http://www.fvap.gov/reference/laws/nat-vote-reg-act.html> and <http://www.fvap.gov/reference/milinfo.html>.

**17. What voter-registration services must be made available?**

Each office designated as a voter registration agency under Section 7 that provides service or assistance in addition to conducting voter registration must do the following:

1. distribute voter-registration application forms;
2. provide an “information” form that contains information on the voter-registration process (see Question 21 below for a description of the “information” form);

3. provide the same level of assistance to all applicants in completing voter-registration application forms as is provided with respect to every other service or application for benefits (unless the applicant specifically refuses such assistance);
4. accept completed voter-registration forms from applicants; and
5. transmit each completed voter-registration application to the appropriate State election official within a prescribed time frame.

**18. What persons must be provided the opportunity to register to vote by Section 7 designated offices and agencies?**

Designated agencies must provide the opportunity to register to vote to persons when: (1) applying for the agency's assistance or services; (2) seeking recertification or renewal of those services; and (3) changing address for the assistance or services.

**19. What does Section 7 require with regard to distribution of voter registration forms and information forms?**

Each office designated under Section 7 that provides services or assistance must distribute to each applicant for services or assistance, and each applicant for recertification, renewal or change of address with respect to such services or assistance, one of the voter registration application forms described in Question 20 below. In addition, each such office also must distribute to each applicant a form, known as an information form, described in Question 21 below.

**20. What types of voter-registration forms can be distributed to applicants?**

Section 7 agencies must distribute one of the three voter-registration forms listed below:

1. National Mail Voter Registration Form — The agency may use this federal form, which has been developed by the U.S. Election Assistance Commission. This form is available on the EAC's web site at <http://www.eac.gov/program-areas/national-voter-registration-form>. In addition to containing a voter-registration application, this document lists certain state-specific voting requirements.
2. State mail voter-registration form — The agency may use its State mail voter-registration form, so long as it meets the requirements of Section 9 of the NVRA. This State form would not be as lengthy as the federal form, which contains information about voter registration in each state. Such a form should be easier for applicants to navigate and easier for agencies and election officials to process.
3. Designated agency's own form — The agency also may use its own version of a voter-registration form, if it is equivalent to the federal form and has been approved by the State. This type of form may lead to more efficient voter-registration transactions at designated agencies that provide services or assistance, since it could be made a seamless part of the forms normally used by the designated agency. As an example, where agency assistance/services forms are generated by computer during the process of interviewing the applicant, the voter-registration form likewise might be generated during this same process, pre-populated with information already provided by the applicant. Or a perforated voter-registration application might be attached at the bottom of a State services form, so that it can be easily completed, detached, and transmitted to the appropriate election official.

**21. What is the "information form," and what should States put on it?**

Section 7 requires that designated offices provide each applicant for services or assistance an information form containing specific information concerning the individual's opportunity to register to vote. This form, which may be part of or separate from the voter-registration form, must include the following information:

1. the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";
2. if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";
3. boxes for the applicant to check to indicate whether the applicant would like to register to vote or declines to register to vote, together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME." (Failure to check either box is deemed a declination to register for purposes of receiving assistance in registration but is not deemed a written declination to receive an application);

4. the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and
5. the statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with \_\_\_ \_\_\_." The blank should be filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed.

No information relating to a declination to register to vote may be used for any purpose other than voter registration. If the information form is separate from the voter-registration form, it is recommended that a statement regarding this non-use of declination information be included on the voter-registration form, as well as a statement that if the applicant registers to vote, information submitted will be used only for voter-registration purposes.

**22. Are Section 7 agencies required to assist persons in completing a voter-registration application?**

Yes. Section 7 agencies must provide to each applicant the same degree of assistance in completing the voter-registration application form as is provided by the office in completing its own agency forms, unless the applicant declines to register to vote or declines such assistance.

As an example, if it is the practice of a Section 7 agency for its employees to take time to explain to each applicant the various forms involved in the agency application, recertification or other process and answer applicant questions before the applicant completes the forms, this type of assistance must also be given at that time to such applicants with regard to the voter registration application process. Similarly, if it is agency practice to make sure that agency forms are completed and signed when submitted by an applicant, the same practice should apply to a voter registration application submitted by that applicant.

Offices serving persons with disabilities often offer specialized assistance in completing the agency service or benefit application forms. Section 7 requires such offices to offer voter registration applicants the same degree of assistance in completing voter registration forms as is offered in completing the agency's own application forms.

**23. Does Section 7 put any restrictions on how office staff may interact with applicants?**

Yes. Any person who provides voter-registration services at a Section 7 agency is prohibited from: 1) seeking to influence an applicant's political preference or party registration; 2) displaying any political preference or party allegiance; 3) taking any action or making any statement to an applicant to discourage the applicant from registering to vote; or 4) taking any action or making any statement that may lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

**24. Do the voter registration requirements of Section 7 of the NVRA apply to all application, renewal, recertification and change of address transactions with designated offices?**

Yes. 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.

**25. What is a Section 7 agency required to do with completed voter registration applications accepted at its offices?**

The designated agency must submit the completed voter-registration application to the appropriate State or local election official within a prescribed period of time unless the applicant desires to submit it himself or herself. The agency providing voter-registration services may not require a registrant to mail in the form himself or herself or discourage him or her in any manner from submitting the form to the agency. When an applicant submits a completed voter-registration application to an agency, the agency must transmit the form to the appropriate State or local election official within ten days. However, if the agency receives a completed voter-registration application within five days before the last day to register to vote in an election, the application must be transmitted to the appropriate State or local election official within five days.

**SECTION 8 – ADMINISTRATION OF VOTER REGISTRATION**

**26. What does Section 8 of the NVRA require States to do?**

Section 8 mandates certain action by States concerning the administration of voter registration for elections for federal office. These requirements involve important issues such as the date by which valid voter registration applications must be accepted and eligible persons registered, rules for changing a registrant's address information, rules for removing names from the voter registration list, and administration of a uniform, nondiscriminatory voter registration list maintenance program that complies with the Voting Rights Act.

**27. Does Section 8 impose a time deadline on States for accepting voter registration applications and registering eligible applicants?**

Yes. States must set a voter registration cutoff for federal elections of no more than 30 days before the election. A valid voter registration application from an eligible applicant is considered timely and the State has to ensure that the applicant is registered to vote if it is: 1) submitted not later than the lesser of 30 days, or the period provided by State law, before the date of a federal election to a driver's license office, designated public assistance or disability office, other designated office, or an appropriate State or local election official, or 2) postmarked not later than the lesser of 30 days, or the period provided by State law, before a federal election when submitted by mail. **States can set a voter registration deadline for federal elections shorter than 30 days, and a number of States do so, but cannot set a longer deadline.**

**28. Are States required to let an applicant know what has happened to his or her application?**

Yes. Section 8 requires State election officials to notify each applicant of the disposition of his or her registration application, e.g., a voter registration card if the application is accepted or a notice of rejection if the application is not accepted.

Where a notice of disposition for a mail voter registration application is sent by nonforwardable mail and returned as undeliverable, Section 6 of the NVRA provides that local election officials may proceed in accordance with the provisions of Section 8(d) of the NVRA (see Question 35 below).

**29. Under the NVRA, what are the circumstances under which a State can remove a person's name from the voter registration rolls?**

Section 8 permits States to remove the name of a person from the voter registration rolls upon the request of the registrant, and, if State law so provides, for mental incapacity or for criminal conviction. The Act also requires States to conduct a general voter registration list maintenance program that makes a reasonable effort to remove ineligible persons from the voter rolls by reason of the person's death, or a change in the residence of

the registrant outside of the jurisdiction, in accordance with procedures set forth in the NVRA. The list maintenance program must be uniform, nondiscriminatory and in compliance with the Voting Rights Act.

**30. Does the NVRA contain any prohibitions on removal of persons' names from the voter registration list?**

Yes. Section 8 of the NVRA prohibits removing registrants from the voter registration list solely because of a failure to vote. It also places restrictions of notice and timing on removals from the voter registration list based on a change of residence.

**31. What is "removal at the request of the registrant" under Section 8?**

A "removal at the request of the registrant" under the NVRA involves first-hand information from a registrant that can originate in at least three ways: 1) a registrant requesting to remove his or her name from the voting registration list, 2) a registrant completing and returning a notice card indicating an address change outside the jurisdiction, or 3) a registrant submitting a new application registering to vote a second time in a new jurisdiction, and providing information regarding the registrant's prior voter registration address on the new application, which the State can treat as a request to cancel or transfer his or her prior registration. A registrant advising of a new address within the same jurisdiction, or registering to vote a second time at a new address within the same jurisdiction, should trigger an updating of the original registration, rather than its cancellation.

**32. Are there any required procedures in the NVRA concerning removal of a person's name from the voter registration rolls for mental incapacity, criminal conviction or death?**

The NVRA does not require any particular process for removing persons who have been disqualified from voting pursuant to State law based upon a criminal conviction or an adjudication of mental incapacity. Moreover, while the NVRA requires States to make reasonable efforts to remove persons who have died, it does not require any particular process for doing so. States can follow whatever State law process exists for doing this. Section 303(a) of HAVA adds an additional requirement for NVRA covered States to coordinate the statewide voter registration database with State records on felony status and death. HAVA provides that list maintenance on the statewide database shall be done on a regular basis in accordance with the requirements of the NVRA.

In those States where state law provides for removals from the voter rolls based on mental incapacity or criminal conviction, state laws generally provide for election officials to rely on court determinations to identify the individuals who are subject to removal. Section 8 of the NVRA also provides for the U.S. Attorney Offices to forward information regarding felony criminal convictions in federal courts to chief state election officials.

**33. Under what circumstances does the NVRA allow States to remove a person from the voting rolls based on change of residence?**

A State may remove the name of a person from the voter registration list due to a change of residence upon 1) the person's written confirmation of a change of residence to a place outside the jurisdiction, or 2) completion of the notice process described in Section 8(d) of the NVRA.

**34. What does the NVRA notice process require to remove a person from the voting rolls based on a change of residence?**

In the absence of a written confirmation from a registrant of a change of address outside the jurisdiction, Section 8(d) of the NVRA sets forth a process for removing a person based on change of residence. This process requires sending a forwardable notice, in the form of a postage-prepaid and pre-addressed return card, on which the person may state his or her current address. The notice must include the language required by Section 8(d) (2) of the NVRA. For example, the notice must advise (1) that if the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should complete and return the card not later than the voter registration deadline for the next election; (2) that if the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice; and (3) that if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

The jurisdiction may designate the registrant as inactive if the registrant fails to return the card by the voter registration deadline for the next election after the notice is sent.

The jurisdiction may remove the registrant from the voter rolls after sending the notice in two circumstances. First, if the registrant confirms in writing, such as by completing and returning the notice card, that the registrant has changed residence to a place outside the jurisdiction then the registrant can be removed from the list immediately. Second, if the registrant fails to respond to the notice and fails to vote or to appear to vote in an election beginning on the date the notice is sent and ending on the day after the date of the second federal general election after the notice is sent, then the registrant can be removed from the list after that second federal general election.

**35. Does the NVRA create a “safe harbor” procedure under which States can satisfy their obligation to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the voter rolls due to a change of residence?**

Yes. The NVRA gives one example of a safe harbor procedure. Under that procedure, States may utilize change-of-address information supplied by the United States Postal Service through its National Change of Address program (NCOA) to identify registrants who may have changed residences and then take one of two actions.

1. If it appears from the NCOA information that the person has moved to a different residence in the same registrar’s jurisdiction, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid, pre-addressed return form by which the registrant may verify or correct the address information.
2. If it appears that the registrant has moved to a residence outside the registrar’s jurisdiction, the registrar uses the NVRA’s Section 8(d) notice process and may remove the registrant from the voter rolls after satisfying all requirements of that process.

**36. Do States have to use the NCOA process to initiate the notice process?**

No. States do not have to use the NCOA process. Under the NVRA, States must have a general program that makes a reasonable effort to identify and remove the names of voters who have become ineligible to vote by means of a change of address. The program has to be uniform, non-discriminatory, in compliance with the Voting Rights Act and must be completed 90 days before a federal election. States otherwise have discretion under the NVRA and HAVA in how they design their general program, and States currently undertake a variety of approaches to how they initiate the notice process.

For example, some general programs involve a State undertaking a uniform mailing of a voter registration card, sample ballot, or other election mailing to all voters in a jurisdiction, and then using information obtained from returned non-deliverable mail as the basis for correcting voter registration records (for apparent moves within a jurisdiction) or for initiating the notice process (for apparent moves outside a jurisdiction or non-deliverable mail with no forwarding address noted).

Another example involves general programs where States initiate the notice process based on information showing that a voter has not voted in elections nor made contact with a registrar over some period of time. This is **not** prohibited by the NVRA and its bar on removing voters from the list solely for failure to vote, since it relies on the NVRA notice process, and thus utilizes both a notice and a waiting period of two federal general elections.

**37. Does Section 8 impose any time restrictions on States as to when a general list maintenance program can be conducted?**

Yes. Section 8 requires States to **complete** any program the purpose of which is to systematically remove the names of ineligible voters from the official list of eligible voters not later than **90 days** prior to the date of a primary election or general election for federal office. This 90 day deadline applies to state list maintenance verification activities such as general mailings and door to door canvasses. This 90 day deadline does not, however, preclude removal of names at the request of the registrant, removal due to death of the registrant,

removal due to criminal conviction or mental incapacity of the registrant as provided by State law, nor does the deadline preclude correction of a registrant's information.

**38. Are there any protections in the NVRA for those eligible registered voters who have changed address to another location within a registrar's jurisdiction, or are otherwise on an inactive voter list, but have not notified the registrar prior to the date of a federal election?**

Yes. The NVRA contains fail-safe provisions to enable such persons who show up to vote on a federal election day to update their registration and to vote in that election even though they have not notified the registrar of the address change:

1. An eligible registered voter who has moved to an address in an area covered by the same polling place as his or her previous address is permitted to vote at that same polling place upon oral or written affirmation by the registrant of the change of address at the polling place;
2. An eligible registered voter who has moved to an address in an area covered by a different polling place from the polling place for his or her previous address, **but within the same registrar's jurisdiction and the same congressional district**, at the option of the registrant:
  1. shall be permitted to correct the voting records and vote at the old polling place upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or
  2. shall be permitted to correct the voting records and vote at a designated central location within the same registrar's jurisdiction, upon written affirmation by the registrant of the new address on a standard form provided by the registrar; or
  3. shall be permitted to correct the voting records for purposes of future elections at the new polling place, and shall be permitted to vote in the current election at that polling place if allowed under State law, upon confirmation by the registrant of the new address by such means as are required by law.

A central voting location need not be made available by the registrar if State law allows the person to vote at either the old or new polling place in the current election upon oral or written affirmation of the address change.

The failsafe provisions of Section 8 draw a distinction between the registrant's need for "affirmation" or "confirmation" of a new address, depending upon the circumstances in which the failsafe voting occurs.

**39. What if a mistake has been made, and registration records indicate that a person has moved from an address covered by a polling place when that person has in fact not moved?**

If a person has not moved, but the registration records indicate that a person has moved from an address covered by a polling place, that person shall be permitted to vote at that polling place upon oral or written affirmation by the registrant that the registrant continues to reside at his or her address previously known to the registrar.

**40. Are States required to keep records of their voter registration activities under the NVRA?**

Yes. Section 8 of the NVRA requires that States keep and make available for public inspection, for a period of at least two years, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered. The records to be kept shall include lists of the names and addresses of all persons to whom Section 8(d) notices are sent, and information concerning whether or not each such person has responded to the notice, as of the date that inspection of the records is made.

In addition, an independent requirement in 52 U.S.C. 20701 mandates that all records and papers relating to any application, registration, or other act requisite to voting in any election for federal office, be preserved for a period of twenty-two months from that federal election. Since voter registration is unitary and permanent, this obligation is ongoing, such that registration records must be preserved as long as the voter registration to which they pertain is considered an "active" one under local law and practice, and those records cannot be disposed of until the expiration of twenty-two months following the date on which the registration ceased to be "active." Hence, States should maintain all written records related to applications to register to vote as well as declinations to

register to vote. The Department of Justice can require that such records be produced for inspection and copying through a written demand, and a lawsuit to enforce such demand.

## **COORDINATION, REPORTING, AND ENFORCEMENT**

### **41. What are the State's obligations to coordinate voter registration activities?**

The State is responsible for ensuring compliance with the NVRA. The NVRA requires each State to designate a State officer or employee as the chief State election official to be responsible for coordinating State responsibilities under the Act. Because of the importance of monitoring compliance with the NVRA's voter registration requirements, States should consider employing a person at the State level to serve as the NVRA coordinator for the State. This person could be responsible for coordinating and overseeing all NVRA activity at designated voter-registration agencies/offices in the State. In addition, States may consider employing a person at each designated voter-registration agency, and at each designated agency office, whose ongoing responsibility would be coordinating and overseeing the conduct of all voter registration activities in that agency/office. This person's responsibilities could include ensuring that the voter registration responsibilities are carried out, ensuring that the voter registration system is administered in a uniform and non-discriminatory manner, reviewing monthly data of voter-registration activity at voter registration offices, monitoring voter-registration activities, training new employees and providing for training updates at periodic intervals, ensuring an adequate supply of forms, and resolving voter-registration coordination issues that arise between State and local officials.

### **42. Are States required to report on their NVRA voter-registration and list maintenance efforts?**

Yes. States must report various voter registration information to the U.S. Election Assistance Commission (EAC), in response to the EAC survey, every two years. This includes the number of voter-registration applications by mail and from motor vehicle offices, public-assistance offices, offices providing state-funded programs primarily serving persons with disabilities, Armed Forces recruitment offices, and other state-designated offices and agencies. Likewise, States must report voter registration list maintenance information in response to the EAC survey every two years.

These biennial NVRA reports are available on the EAC web site at the following link:

<http://www.eac.gov/program-areas/research-resources-and-reports/completed-research-and-reports/national-voter-registration-act-studies>.

States should ensure that the NVRA data provided to the EAC is complete and accurate. The Department of Justice carefully considers this data, among other information, in determining how it will carry out its enforcement responsibilities.

To facilitate accurate NVRA data reporting to the EAC, states should consider having a system in place to track the number of voter registration applications from each designated voter registration agency. Barcodes or other coding could be included on voter registration applications to designate the agency from which the form originated. Such coding can be implemented in such a way that also allows states to comply with the obligation not to disclose the office at which any particular individual has registered to vote.

### **43. For jurisdictions covered by the language minority provisions of the Voting Rights Act, what obligations do such jurisdictions have to ensure voter registration access under the NVRA to covered limited-English proficient citizens?**

Certain States and local jurisdictions are covered by the language minority requirements of the Voting Rights Act (VRA) for specific language minority groups. The VRA requires that when covered states and jurisdictions provide voter registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, they must provide them in the language of the applicable minority group as well as in the English language. The NVRA provides that its requirements do not supersede, restrict, or limit the application of the requirements of the VRA. Thus, each State or jurisdiction covered by the language minority requirements of the VRA should consider how to ensure that NVRA voter registration opportunities are conducted so as to provide language access to covered limited-English proficient language minority citizens so that they have equal access to the voter registration process.



To assist covered States and jurisdictions, extensive information regarding the language minority requirements is available on the Voting Section's website: [http://www.justice.gov/crt/voting/sec\\_203/activ\\_203.php](http://www.justice.gov/crt/voting/sec_203/activ_203.php). Various language resources are also available on the EAC website. These include versions of the national mail voter registration form translated into Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese. <http://www.eac.gov/voter/Register to Vote>. These resources also include translated versions of a voter's guide to federal elections. <http://www.eac.gov/voter/voters-guides>. And these resources also include a glossary of election terms in six languages. <http://www.eac.gov/voter/language-accessibility-program-1>.

**44. What agency is responsible for enforcement of the NVRA?**

The U.S. Department of Justice has enforcement responsibility under the NVRA. The Department undertakes activities designed to ensure compliance with the NVRA, including monitoring state compliance, conducting investigations and, filing litigation in federal court to enforce the NVRA's requirements. Private parties may also bring litigation in federal court to enforce the NVRA. The U.S. Election Assistance Commission is responsible for administration of the national voter registration form, as well as State reporting under the NVRA.

**45. What are some examples of the Department's activities to enforce the provisions of the NVRA?**

An extensive description of the Department's NVRA enforcement activities can be found [here](#).

In particular, significant NVRA decisions or settlements have been obtained by the Department in litigation with the [State of Tennessee](#) (Sections 5 and 7 of the NVRA); and the [State of New York](#) (Section 7 of the NVRA).

**46. How can I contact the Department of Justice about the NVRA's voter registration requirements?**

As a general matter, the Department of Justice does not issue advisory opinions concerning the statutes that it enforces. The Department will certainly consider inquiries from State officials concerning the NVRA, however, in the hope of providing assistance. Within the Department of Justice, the responsibility for NVRA enforcement is committed to the Voting Section of the Civil Rights Division. You may reach the Voting Section at its toll-free telephone number, 800-253-3931.

*Updated March 11, 2020*

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Was this page helpful?

Yes No

CHAPTER 5  
Qualifications and Registration of Electors

ARTICLE 1  
County Boards of Voter Registration and Elections

**SECTION 7-5-10.** Appointment of board members; previous offices abolished; training and certification requirements.

(A)(1) The Governor shall appoint, upon the recommendation of the legislative delegation of the counties, competent and discreet persons in each county, who are qualified electors of that county and who must be known as the "Board of Voter Registration and Elections of \_\_\_\_\_ County". The total number of members on the board must not be less than five nor more than nine persons. At least one appointee on the board shall be a member of the majority political party represented in the General Assembly and at least one appointee shall be a member of the largest minority political party represented in the General Assembly.

(2) After their appointment, the board members must take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 26, Article III of the Constitution: "I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected (or appointed), and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God."

(3) The oath must be filed immediately in the office of the clerk of court of common pleas of the county in which the commissioners are appointed, or if there is no clerk of court, in the office of the Secretary of State.

(4) The Governor shall notify the State Election Commission in writing of the appointments. The members appointed are subject to removal by the Governor for incapacity, misconduct, or neglect of duty.

(B)(1) The Governor shall appoint the initial appointees within six months of the effective date of this section. Four of the initial appointees shall serve two-year terms, and the remaining initial appointees shall serve four-year terms. Upon expiration of the terms of those members initially appointed, the term of office for the members of the board is four years, and until their successors are appointed and qualify. Members may succeed themselves.

(2) A member must be present at a meeting in order to vote.

(3) If a member misses three consecutive meetings of the board, the chairman or his designee immediately shall notify the Governor who shall then remove the member from office.

(4) In case of a vacancy on the board, the vacancy must be filled in the same manner as an original appointment, as provided in this section, for the unexpired term.

(5) The board shall elect from among its members a chairman and such other officers as it may consider desirable. The board shall then notify the State Election Commission in writing of the name of the persons elected as chairman and officers of the board. Each officer shall be elected for a term of two years.

(6) The board must hire a director. The director is responsible for hiring and managing the staff. Staff positions are subject to the personnel system policies and procedures by which all county employees are regulated, except that the director serves at the pleasure of the board. A member of the board must not be hired or serve as a member of the staff while serving as a board member.

(7) Members of the board and its staff shall receive compensation as may be appropriated by the governing body of the county.

(C) The previous offices of county election commissions, voter registration boards, or combined boards are abolished. The powers and duties of the county election commissions, voter registration boards, or combined boards are devolved upon the board of voter registration and elections for each county created in subsection (A). Those members currently serving on the county election commissions, voter registration boards, or combined boards shall continue to serve in a combined governing capacity until at least five members of the successor board members established under this section are appointed and qualify.

(D)(1) Each member, and each staff person designated by the board, must complete, within eighteen months after a member's initial appointment or his reappointment following a break in service, or within eighteen months after a staff person's initial employment or reemployment following a break in service, a training and certification program conducted by the State Election Commission. When a member or staff person has successfully completed the training and certification program, the State Election Commission must issue the member or staff person a certification, whether or not the member or staff person applies for the certification.

(2) If a member does not fulfill the training and certification program as provided in this section, the Governor, upon notification, must remove that member from the board unless the Governor grants the member an extension to complete the training and certification program based upon exceptional circumstances.

(3) Following completion of the training and certification program required in item (1), each board member, and each staff person designated by the board or commission, must take at least one training course each year.

**HISTORY:** 1962 Code Section 23-51; 1952 Code Section 23-51; 1950 (46) 2059; 1967 (55) 634; 1970 (56) 2337; 1988 Act No. 422, Section 1, eff March 28, 1988; 1996 Act No. 465, Section 1, eff August 21, 1996; 1998 Act No. 304, Section 1, eff May 27, 1998; 2007 Act No. 100, Section 1, eff June 18, 2007; 2014 Act No. 196 (S.815), Section 3, eff June 2, 2014.

**SECTION 7-5-20.** Deputy members of boards.

The board of voter registration and elections of each county may appoint deputy members of the board, in numbers as may be necessary, whose terms shall be for a period of time as determined by the boards. The deputy members shall have the same powers and duties as regular members of the board. The clerk to each board may be made a deputy member of the board for the purpose of taking applications.

**HISTORY:** 1962 Code Section 23-51.1; 1967 (55) 634; 1984 Act No. 510, Section 2, eff June 28, 1984; 2014 Act No. 196 (S.815), Section 4, eff June 2, 2014.

**SECTION 7-5-30.** Duties of boards.

Such boards shall register and conduct the registration of the electors who shall apply for registration in their respective counties as herein required. Their office shall be at the county seat, and they shall keep a record of all their official acts and proceedings. Provided, that nothing herein shall be construed as prohibiting the boards of registration from taking their registration books across adjoining county lines to register qualified electors of their respective county whose regular place of employment is in an adjoining county or who are otherwise unable to get to the county seat during office hours to register. One member of the board shall constitute a quorum for the purpose of registering or refusing to register applications for registration.

**HISTORY:** 1962 Code Section 23-52; 1952 Code Section 23-52; 1950 (46) 2059; 1967 (55) 634; 1978 Act No. 391, eff Feb. 2, 1978; 2014 Act No. 196 (S.815), Section 5, eff June 2, 2014.

**SECTION 7-5-40.** Supplements to counties to help defray expenses of registration office.

Each county shall receive an annual supplement from the State to help defray the expenses of personnel in keeping the registration office open as required in Section 7-5-130. Counties with populations from twenty-five thousand to one hundred thousand shall receive twice the amount of such supplement; counties with populations from one hundred thousand one to two hundred thousand shall receive three times the amount of the supplement; counties with over two hundred thousand shall receive four times the amount of the supplement. Such supplements shall be in such amounts as provided for in the annual general appropriations act of the State.

HISTORY: 1962 Code Section 23-51.2; 1967 (55) 634.

**ARTICLE 3**  
Requirement of and Qualifications for Registration

**SECTION 7-5-110.** Persons must register in order to vote.

No person shall be allowed to vote at any election unless he shall be registered as herein required.

HISTORY: 1962 Code Section 23-61; 1952 Code Section 23-61; 1950 (46) 2059; 1967 (55) 634.

**SECTION 7-5-120.** Qualifications for registration; persons disqualified from registering or voting.

(A) Every citizen of this State and the United States who applies for registration must be registered if he meets the following qualifications:

- (1) meets the age qualification as provided in Section 4, Article II of the Constitution of this State;
- (2) is not laboring under disabilities named in the Constitution of 1895 of this State; and
- (3) is a resident in the county and in the polling precinct in which the elector offers to vote.

(B) A person is disqualified from being registered or voting if he:

- (1) is mentally incompetent as adjudicated by a court of competent jurisdiction; or
- (2) is serving a term of imprisonment resulting from a conviction of a crime; or
- (3) is convicted of a felony or offenses against the election laws, unless the disqualification has been removed by service of the sentence, including probation and parole time unless sooner pardoned.

HISTORY: 1962 Code Section 23-62; 1952 Code Section 23-62; 1950 (46) 2059; 1961 (52) 50; 1963 (53) 155; 1967 (55) 657; 1974 (58) 2188; 1981 Act No. 1 Section 2, eff January 14, 1981; 1986 Act No. 345, Section 1, eff March 7, 1986; 1994 Act No. 365, Section 1, eff May 3, 1994; 1996 Act No. 408, Section 1, eff on the ratification of the amendment to Section 4, Article II of the Constitution of this State to change the age qualification to vote (ratified March 25, 1997).

Editor's Note

1981 Act No. 1, Section 2A, provides as follows:

"Section 2A. The provision of paragraph (b) of Section 7-5-120, as amended in Section 2, shall apply to all persons falling within the amended provision regardless of the date of their conviction."

**SECTION 7-5-125.** Written notification of registration.

(A) Any person who applies for registration to vote and is found to be qualified by the county board of voter registration and elections to whom application is made must be issued a written notification of registration. This notification must be on a form prescribed and provided by the State Election Commission.

(B) If an elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of voter registration and elections upon request in person, or by telephone or mail.

HISTORY: 1988 Act No. 507, Section 1, eff May 9, 1988; 2011 Act No. 27, Section 2, eff May 18, 2011.

**SECTION 7-5-130.** Time and place where books must be kept open for registration.

The books of registration shall be open at each county courthouse, or at such other place as may be provided by the governing body of the county, during the same hours as other county offices are normally open, except as provided for in Section 7-5-150.

HISTORY: 1962 Code Section 23-63; 1952 Code Section 23-63; 1950 (46) 2059; 1967 (55) 634.

**SECTION 7-5-140.** Additional days and hours for registration; notice of time and place.

Boards of voter registration and elections shall remain open as provided by law and, in addition thereto, shall remain open and available for registration on any additional days, during such hours and at such

various places throughout the county as the boards may determine. Such boards also shall remain open and available for absentee registration and absentee voting responsibilities during such additional hours as the boards may deem necessary. Notice of the time and place shall be given by prior publication in a newspaper of general circulation in the county.

HISTORY: 1962 Code Section 23-65.1; 1957 (50) 671; 1967 (55) 634; 1982 Act No. 280, Section 3, eff February 24, 1982.

**SECTION 7-5-150.** Closing registration books; registration of persons coming of age while books closed.

The registration books shall be closed thirty days before each election, but only as to that election or any second race or runoff resulting from that election, and shall remain closed until the election has taken place, anything in this article to the contrary notwithstanding; provided, that the registration books shall be closed thirty days before the June primary and shall remain closed until after the second primary and shall likewise be closed thirty days before the November general election. They shall thereafter be opened from time to time in accordance with the provisions of this article. Any person eligible to register who has been discharged or separated from his service in the Armed Forces of the United States, and returned home too late to register at the time when registration is required, is entitled to register for the purpose of voting in the next ensuing election after the discharge or separation from service, up to 5:00 p.m. on the day of the election. This application for registration must be made at the office of the board of voter registration and elections in the county in which the person wishes to register, and if qualified, the person must be issued a registration notification stating the precinct in which he is entitled to vote and a certification to the managers of the precinct that he is entitled to vote and should be placed on the registration rolls of the precinct. Persons who become of age during this period of thirty days shall be entitled to register before the closing of the books if otherwise qualified.

HISTORY: 1962 Code Section 23-66; 1952 Code Section 23-66; 1950 (46) 2059; 1957 (50) 671; 1958 (50) 1548; 1996 Act No. 222, Section 1, eff February 12, 1996.

**SECTION 7-5-155.** Registration of electors by mail.

(a) Notwithstanding any other provision of law, the following procedures may be used in the registration of electors in addition to the procedure otherwise provided by law.

(1) Subject to the provision of Section 7-5-150, any qualified citizen may register to vote by mailing or having delivered a completed state registration by mail application form or a completed national registration by mail application form prescribed by the Federal Election Commission not later than thirty days before any election to his county board of voter registration and elections. The postmark date of a mailed application is considered the date of mailing. If the postmark date is missing or illegible, the county board of voter registration and elections must accept the application if it is received by mail no later than five days after the close of the registration books before any election.

(2) If the county board of voter registration and elections determines that the applicant is qualified and his application is legible and complete, the board shall mail the voter written notification of approval on a form to be prescribed and provided by the State Election Commission pursuant to Section 7-5-180. When the county board of voter registration and elections mails the written notification of approval, it must do so without requiring the elector to sign anything in the presence of a member of the board, a deputy member, or a registration clerk, and the attestation of the elector's signature is not required so long as the conditions set forth above are met.

(3) Any application must be rejected for any of the following reasons:

- (i) any portion of the application is not complete;
- (ii) any portion of the application is illegible in the opinion of a member and the clerk of the board;
- (iii) the board is unable to determine, from the address stated on the application, the precinct in which the voter should be assigned or the election districts in which he is entitled to vote.

(4) Any person whose application is rejected must be notified of the rejection together with the reason for rejection. The applicant must further be informed that he still has a right to register by appearing in person before the county board of voter registration and elections or by submitting the information by mail necessary to correct his rejected application. The form for notifying applicants of rejection must be prescribed and provided by the State Election Commission pursuant to Section 7-5-180.

(b) Every application for registration by mail shall contain spaces for the home and work telephone numbers of the applicant and the applicant shall enter the numbers on the application where applicable.

(c) The State Election Commission shall furnish a sufficient number of application forms to the county boards of voter registration and elections and voter registration agencies specified in Section 7-5-310(B) so that distribution of the application forms may be made to various locations throughout the counties and mailed to persons requesting them.

County boards of voter registration and elections shall distribute application forms to various locations in their respective counties, including city halls and public libraries, where they must be readily available to the public.

(d) The original applications must remain on file in the office of the county board of voter registration and elections.

(e) The State Election Commission may promulgate regulations to implement the provisions of this section.

HISTORY: 1986 Act No. 535, eff June 23, 1986; 1996 Act No. 466, Sections 4, 5, eff August 21, 1996.

**SECTION 7-5-160.** Voter registration; permanent registration.

Effective July 1, 1976, any person who is registered to vote according to law shall remain permanently registered and entitled to all rights and privileges of such registration unless his name is removed from the registration list for cause. The provisions of this section shall not be construed to modify or repeal any of the provisions of this title or acts of the General Assembly which establish registration procedures and prescribe the causes for termination of registration or purging of registration rolls except those which require re-registration at ten-year intervals.

HISTORY: 1962 Code Section 23-67; 1952 Code Section 23-67; 1950 (46) 2059; 1957 (50) 671; 1976 Act No. 518.

**SECTION 7-5-170.** Necessity for written application for registration; information to be contain on form; oaths; decisions on applications.

(1) Written application required.—A person may not be registered to vote except upon written application or electronic application pursuant to Section 7-5-185, which shall become a part of the permanent records of the board to which it is presented and which must be open to public inspection. However, the social security number contained in the application must not be open to public inspection.

(2) Form of application. — The application must be on a form prescribed and provided by the executive director and shall contain the following information: name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in any public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must take the following oath: "I, do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein is my sole legal place of residence and that I claim no other place as my legal residence." Any applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

(3) Administration of oaths. — Any member of the county board of voter registration and elections, deputy registrar, or any registration clerk must be qualified to administer oaths in connection with the application.

(4) Decisions on applications. — Any member of the county board of voter registration and elections, deputy registrar, or registration clerk may pass on the qualifications of the prospective voter. In case of a question of an applicant being refused registration, at least one member of the board shall pass on the qualifications of the voter. A concise statement of the reasons for the refusal must be written on the application.

HISTORY: 1962 Code Section 23-68; 1952 Code Section 23-68; 1950 (46) 2059; 1951 (47) 78; 1957 (50) 671; 1965 (54) 283; 1967 (55) 657; 1968 (55) 2316; 1974 (58) 2185; 1984 Act No. 304, eff March 22, 1984; 1984 Act No. 510, Section 3, eff June 28, 1984; 1986 Act No. 345, Section 2, eff March 7, 1986; 1993 Act No. 90, Section 1, eff January 1, 1994; 2004 Act No. 239, Section 1, eff May 24, 2004; 2012 Act No. 265, Section 1, eff upon preclearance approval or declaratory judgment.

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

**SECTION 7-5-175.** Providing voter registration application forms to high school administration.

The board of voter registration and elections in each county, or the entity charged by law with registering an elector, shall provide voter registration application forms to the administration of any high school in this State, upon the administration's request.

HISTORY: 2004 Act No. 253, Section 1, eff June 15, 2004.

**SECTION 7-5-180.** Procedure for registration when qualification is completed after closing books.

Except as otherwise provided by law, a person who has not attained the age of eighteen years before the closing of the books of registration preceding any election, including presidential primary elections, but attains that age before the next ensuing election appears before the county board of voter registration and elections and makes application for registration, under oath as to the facts above stated entitling a person to registration, the board shall register the applicant, if he is otherwise qualified. Any person not laboring under the disabilities named in the Constitution and in Section 7-5-120 and whose qualification as an elector is completed after the closing of the registration books, but before the next ensuing election, has the right to apply for and secure registration at any time within one hundred twenty days immediately preceding the closing of the books for the election or for the primary election preceding the election. Written notification of approval or rejection must be issued personally or mailed by the board to each applicant on a form to be prescribed and provided by the State Election Commission. The decision of the county board of voter registration and elections may be appealed as provided by Section 7-5-230.

HISTORY: 1962 Code Section 23-69; 1952 Code Section 23-69; 1950 (46) 2059; 1967 (55) 634; 1968 (55) 2316; 1976 Act No. 695 Section 1; 1984 Act No. 510, Section 4, eff June 28, 1984; 1988 Act No. 589, eff June 2, 1988; 1996, Act No. 408, Section 2, eff on the ratification of the amendment to Section 4, Article II of the Constitution of this State to change the age qualification to vote (ratified March 25, 1997).

**SECTION 7-5-185.** Electronic applications for voter registration.

(A) A person who is qualified to register to vote and who has a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles may submit an application for voter registration electronically on the Internet website of the State Election Commission.

(B)(1) An application submitted pursuant to this section is effective upon receipt of the application by the State Election Commission if the application is received thirty days before an election to be held in the precinct of the person submitting the application.

(2) The applicant shall attest to the truth of the information provided in the application.

(3) For voter registration purposes, the applicant shall assent to the use of his signature from his driver's license or state identification card issued by the Department of Motor Vehicles.

(4) For each electronic application, the State Election Commission shall obtain an electronic copy of the applicant's signature from his driver's license or state identification card issued by the Department of Motor Vehicles directly from the Department of Motor Vehicles with no fee.

(5) An application submitted pursuant to this section must contain the applicant's name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in a public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted, that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must attest to the following: "I do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein is my sole legal place of residence and that I claim no other place as my legal residence." An applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

(C) Upon submission of an application pursuant to this section, the electronic voter registration system shall provide immediate verification that the:

(1) applicant has a South Carolina driver's license or state identification card issued by the Department of Motor Vehicles and that the number for that driver's license or identification card provided by the applicant matches the number for that person's driver's license or state identification card that is on file with the Department of Motor Vehicles;

(2) date of birth provided by the applicant matches the date of birth for that person, which is on file with the Department of Motor Vehicles;

(3) name provided by the applicant matches the name for the person which is on file with the Department of Motor Vehicles; and

(4) State Election Commission employs security measures to ensure the accuracy and integrity of voter registration applications submitted electronically pursuant to this section.

(D) Should there be a failure to match any of the information required in this section with the Department of Motor Vehicles, the State Election Commission immediately shall notify the applicant of the failure to match information and inform the applicant that his application for registration was not accepted.

(E) The State Election Commission may promulgate regulations necessary to effectuate the provisions of this section.

**HISTORY:** 2012 Act No. 265, Section 2, eff upon preclearance approval or declaratory judgment.

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

**SECTION 7-5-186.** Statewide voter registration database.

(A)(1) The State Election Commission shall establish and maintain a statewide voter registration database that must be administered by the commission and made continuously available to each county board of voter registration and elections and to other agencies as authorized by law.



(2)(a) State agencies, including, but not limited to, the Department of Health and Environmental Control, Office of Vital Statistics, Department of Motor Vehicles, Department of Employment and Workforce, and the Department of Corrections, shall provide information and data to the State Election Commission that the commission considers necessary in order to maintain the statewide voter registration database established pursuant to this section, except where prohibited by federal law or regulation. The State Election Commission shall ensure that any information or data provided to the State Election Commission, which is confidential in the possession of the entity providing the data, remains confidential while in the possession of the State Election Commission.

(b) Information provided under this division for maintenance of the statewide voter registration database must not be used to update the name or address of a registered elector. The name or address of a registered elector only must be updated as a result of the elector's actions in filing a notice of change of name, change of address, or both.

(c) A county board of voter registration and elections shall contact a registered elector by mail at the address on file with the board to verify the accuracy of the information in the statewide voter registration database regarding that elector if information provided under subsection (A)(2)(a) of this section identifies a discrepancy between the information regarding that elector that is maintained in the statewide voter registration database and maintained by a state agency.

(3) The State Election Commission may enter into agreements to share information or data with other states or groups of states, as the commission considers necessary, in order to maintain the statewide voter registration database established pursuant to this section. Except as otherwise provided in this subsection, the commission shall ensure that any information or data provided to the commission that is confidential in the possession of the state providing the data remains confidential while in the possession of the commission. The commission may provide such otherwise confidential information or data to persons or organizations that are engaging in legitimate governmental purposes related to the maintenance of the statewide voter registration database.

HISTORY: 2012 Act No. 265, Section 3, eff upon preclearance approval or declaratory judgment.

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

**SECTION 7-5-210.** Physically disabled persons may execute forms by mark.

In cases of inability to write on account of physical disability only, any prospective registrant to vote may sign the application and oath by mark in the presence of a clerk or a member of the county board of voter registration and elections.

HISTORY: 1962 Code Section 23-72.1; 1958 (50) 1591; 1984 Act No. 510, Section 5, eff June 28, 1984.

**SECTION 7-5-220.** Certificates invalid at election within thirty days of issuance.

Except as provided in Section 7-5-150, registration made thirty days or less before any election is not valid for that election or any second race or runoff resulting from that election but such registration shall be valid in any other election.

HISTORY: 1962 Code Section 23-72.2; 1958 (50) 1548; 1984 Act No. 510, Section 6, eff June 28, 1984; 1996 Act No. 222, Section 3, eff February 12, 1996.

**SECTION 7-5-230.** Legal qualifications; challenges; proof of residency or domicile; appeals.

(A) The county boards of voter registration and elections to be appointed under Section 7-5-10 shall be the judges of the legal qualifications of all applicants for registration. The board is empowered to require proof of these qualifications as it considers necessary.

Once a person is registered, challenges of the qualifications of any elector, except for challenges issued at the polls pursuant to Sections 7-13-810, 7-13-820, and 7-15-420 must be made in writing to the county board of voter registration and elections in the county of registration. The board must, within ten days following the challenge and after first giving notice to the elector and the challenger, hold a hearing, accept evidence, and rule upon whether the elector meets or fails to meet the qualifications set forth in Section 7-5-120.

(B) When a challenge is made regarding the residence or domicile of an elector, the board must consider the provisions of Section 7-1-25(D).

(C) Any person denied registration or restoration of his name on the registration books shall have the right of appeal from the decision of the county board of voter registration and elections denying him registration or such restoration to the court of common pleas of the county or any judge thereof and subsequently to the Supreme Court.

HISTORY: 1962 Code Section 23-73; 1952 Code Section 23-73; 1950 (46) 2059; 1967 (55) 657; 1999 Act No. 103, Section 2, eff June 30, 1999; 2011 Act No. 27, Section 3, eff May 18, 2011.

**SECTION 7-5-240.** Proceedings on appeal in court of common pleas.

Any person denied registration or restoration of his name on the registration books and desiring to appeal must within ten days after written notice to him of the decision of the county board of voter registration and elections file with the board a written notice of his intention to appeal therefrom. Within ten days after the filing of such notice of intention to appeal, the board shall file with the clerk of court of common pleas for the county the notice of intention to appeal and any papers in its possession relating to the case, together with a report of the case if it deem proper. The clerk of the court shall file the same and enter the case on a special docket to be known as calendar number four. If the applicant desires the appeal to be heard by a judge at chambers he shall give every member of the board four days' written notice of the time and place of the hearing. On such appeal the hearing shall be de novo.

HISTORY: 1962 Code Section 23-74; 1952 Code Section 23-74; 1950 (46) 2059; 1967 (55) 657.

**SECTION 7-5-250.** Right to and proceedings on further appeal to Supreme Court.

From the decision of the court of common pleas or any judge thereof the applicant may further appeal to the Supreme Court by filing a written notice of his intention to appeal therefrom in the office of the clerk of court of common pleas within ten days after written notice to him of the filing of such decision and within such time serving a copy of such notice on any member of the county board of voter registration and elections. Thereupon, the clerk of the court of common pleas shall certify all the papers in the case to the clerk of the Supreme Court within ten days after the filing of such notice of intention to appeal. The clerk of the Supreme Court shall place the case on a special docket, and it shall come up for hearing upon the call thereof under such rules as the Supreme Court may make. If such appeal be filed with the clerk of the Supreme Court at a time that a session thereof will not be held between the date of filing and election at which the applicant will be entitled to vote if registered, the Chief Justice or, if he is unable to act or disqualified, the senior associate justice shall call an extra term of the court to hear and determine the case.

HISTORY: 1962 Code Section 23-75; 1952 Code Section 23-75; 1950 (46) 2059; 1967 (55) 634.

**SECTION 7-5-280.** State Election Commission shall furnish registration forms.

The applications provided for in this article as well as all other forms necessary for registration, must be furnished to each county by the State Election Commission.

HISTORY: 1962 Code Section 23-80; 1957 (50) 671; 1971 (57) 85; 1984 Act No. 510, Section 7, eff June 28, 1984.

#### ARTICLE 4

### Multiple Site Voter Registration and Responsibilities of the State Election Commission in Implementing the National Voter Registration Act of 1993

#### **SECTION 7-5-310.** Definitions; designations.

(A) As used in this article:

(1) "Voter registration agency" means an office designated to perform specific voter registration activities;

(2) "Motor vehicle driver's license" means any personal identification document issued by the Department of Motor Vehicles.

(B) There are designated the following voter registration agencies:

(1) Department of Social Services;

(2) Department of Health and Environmental Control - WIC program;

(3) Department of Disabilities and Special Needs;

(4) Commission for the Blind;

(5) Department of Vocational Rehabilitation;

(6) South Carolina Protection and Advocacy System for the Handicapped;

(7) Armed Forces recruiting offices;

(8) Alcohol and Other Drug Abuse Services;

(9) Department of Mental Health.

(C) At each voter registration agency, the following services must be made available:

(1) distribution of voter registration application forms in accordance with subsection (F);

(2) assistance to applicants in completing voter registration application forms, unless the applicant refuses the assistance;

(3) acceptance of completed voter registration application forms for transmittal to the county board of voter registration and elections.

(D) If a voter registration agency designated under the provisions of this section provides services to a person with a disability at the person's home, the agency shall provide the services described in subsection (C) at the person's home.

(E) A person who provides services described in subsection (C) may not:

(1) seek to influence an applicant's political preference;

(2) display a political preference or party allegiance;

(3) 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

(4) 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 to vote has any bearing on the availability of services or benefits.

(F) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall:

(1) distribute to each applicant for the service or assistance, and with each recertification, renewal, or change of address form relating to the service or assistance the voter registration application form, including a statement that:

(a) specifies each eligibility requirement (including citizenship);

(b) contains an attestation that the applicant meets the requirement; and

(c) requires the signature of the applicant, under penalty of perjury; or

(2)(a) provide a form that includes:

(i) the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(ii) if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote (failure to check either box being considered to constitute a declination to register for purposes of subsection (G), together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iv) the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(v) the statement, "If you believe that someone has interfered with your right to register or decline to register to vote, your privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the State Election Commission." The name, address, and telephone number of the Executive Director of the State Election Commission must be printed on the form; and

(b) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses the assistance.

(G) No information relating to a declination to register to vote in connection with an application made at an office described in subsection (B) may be used for any purpose other than voter registration.

(H)(1) A completed registration application accepted at a voter registration agency must be transmitted to the county board of voter registration and elections not later than ten days after acceptance.

(2) If a registration application is accepted within five days before the last day for registration to vote in an election, the application must be transmitted to the county board of voter registration and elections not later than five days after the date of acceptance.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

**SECTION 7-5-320.** Application for motor vehicle driver's license and voter registration.

(A)(1) Each state motor vehicle driver's license application, including a renewal application, submitted to the Department of Motor Vehicles serves as an application for voter registration unless the applicant fails to sign the voter registration application. Failure to sign the voter registration portion of the driver's license application serves as a declination to register.

(2) An application for voter registration submitted under item (1) is considered to update any previous voter registration by the applicant.

(B) No information relating to the failure of an applicant for a state motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(C)(1) The Department of Motor Vehicles shall include a voter registration form as part of an application for a state motor vehicle driver's license.

(2) The voter registration application portion of an application for a state motor vehicle driver's license:

(a) may not require any information that duplicates information required in the driver's license portion of the form, other than a second signature or other information necessary under subitem (c);

(b) may require only the minimum amount of information necessary to:

(i) prevent duplicate voter registrations; and

(ii) enable a county board of voter registration and elections to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(c) includes a statement that:

(i) states each eligibility requirement, including citizenship;

(ii) contains an attestation that the applicant meets each requirement; and

(iii) requires the signature of the applicant under penalty of perjury;

(d) includes in print identical to that used in the attestation portion of the application:

(i) the information required in Section 7-5-320(C)(2)(c);

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that, if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(e) must be made available, as submitted by the applicant, to the county board of voter registration and elections in which the application is made.

(D) A change of address form submitted in accordance with state law for purposes of a state motor vehicle driver's license serves as notification of change of address for voter registration unless the qualified elector states on the form that the change of address is not for voter registration purposes.

(E)(1) A completed voter registration portion of an application for a state motor vehicle driver's license accepted at a state motor vehicle authority must be transmitted to the county board of voter registration and elections no later than ten days after the date of acceptance.

(2) If a registration application is accepted within five days before the last day for registration to vote in an election, the application must be transmitted to the county board of voter registration and elections not later than five days after the date of acceptance.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

**SECTION 7-5-325.** Address changes given under oath; fraud; penalties.

Any change of address submitted by an elector for registration or voting purposes as provided by Sections 7-5-320(D), 7-5-330(F)(2)(a), and 7-5-440, and any other written notification of change of address signed by an elector are considered to be given under oath. An elector convicted of fraudulently providing such change of address is guilty of violating Section 7-25-10 and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1999 Act No. 103, Section 3, eff June 30, 1999.

**SECTION 7-5-330.** Completion, receipt, and disposition of voter registration application; discretionary removal of elector.

(A) In the case of registration with a motor vehicle application under Section 7-5-320, the valid voter registration form of the applicant must be completed at the Department of Motor Vehicles no later than thirty days before the date of the election.

(B) In the case of registration by mail under Section 7-5-155, the valid voter registration form of the applicant must be postmarked no later than thirty days before the date of the election.

(C) In the case of registration at a voter registration agency, the valid voter registration form of the applicant must be completed at the voter registration agency no later than thirty days before the date of the election.

(D) In any other case, the valid voter registration form of the applicant must be received by the county board of voter registration and elections no later than thirty days before the date of the election.

(E)(1) The county board of voter registration and elections shall:

(a) send notice to each applicant of the disposition of the application; and

(b) ensure that the identity of the voter registration agency through which a particular voter is registered is not disclosed to the public.

(2) If the notice sent pursuant to the provisions of subitem (a) of this item is returned to the county board of voter registration and elections as undeliverable, the elector to whom it was sent must be reported by the board to the State Election Commission. The State Election Commission must place the elector in an inactive status on the master file and may remove this elector upon compliance with the provisions of Section 7-5-330(F).

(F)(1) The State Election Commission may not remove the name of a qualified elector from the official list of eligible voters on the ground that the qualified elector has changed residence unless the qualified elector:

(a) confirms in writing that the qualified elector has changed residence to a place outside the county in which the qualified elector is registered; or

(b)(i) has failed to respond to a notice described in item (2); and

(ii) has not voted or appeared to vote and, if necessary, correct the county board of voter registration and elections record of the qualified elector's address, in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice.

(2) "Notice", as used in this item, means a postage prepaid and preaddressed return card, sent by forwardable mail, on which the qualified elector may state his current address, together with a statement to the following effect:

(a) if the qualified elector did not change his residence, or changed residence but remained in the same county, the qualified elector shall return the card no later than thirty days before the date of the election. If the card is not returned, affirmation or confirmation of the qualified elector's address may be required before the qualified elector is permitted to vote during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice, and if the qualified elector does not vote in an election during that period, the qualified elector's name must be removed from the list of eligible voters;

(b) if the qualified elector has changed residence to a place outside the county in which the qualified elector is registered, information as to how the qualified elector can re-register to vote.

(3) The county board of voter registration and elections shall correct an official list of eligible voters in accordance with change of residence information obtained pursuant to the provisions of this subsection.

(4) The program required pursuant to the provisions of subsection (F) of this section must be completed no later than ninety days before the date of a statewide primary or general election.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

**SECTION 7-5-340.** Duties of State Election Commission, removal of elector from official list.

The State Election Commission shall:

(1) ensure that the name of a qualified elector may not be removed from the official list of eligible voters except:

(a) at the request of the qualified elector;

(b) if the elector is adjudicated mentally incompetent by a court of competent jurisdiction; or

(c) as provided under item (2);

(2) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of:

(a) the death of the qualified elector; or

(b) a change in the residence of the qualified elector;

(3) inform applicants under Sections 7-5-155, 7-5-310, and 7-5-320 of:

(a) voter eligibility requirements; and

(b) penalties provided by law for submission of a false voter registration application;

(4) complete, no later than ninety days before the date of a statewide primary or general election, a program to systematically remove the names of ineligible voters from the official lists of eligible voters in compliance with the provisions of Section 7-5-330(F); this subitem may not be construed to preclude:

(a) the removal of names from official lists of voters on a basis described in items (1) and (2); or

(b) correction of registration records pursuant to this article.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

ARTICLE 5  
Registration Books and Lists of Electors

**SECTION 7-5-410.** Maintenance and inspection of official registration records.

Each county board of voter registration and elections shall deposit the official records of registration for safekeeping in the board's office or in the office of the clerk of court of common pleas for its county, who shall keep them with the other records in his office. The official registration records shall be public records open to the inspection of any citizen at all times and shall not be removed from the office by any person except the county board of voter registration and elections which may take and keep them as long as may be necessary to enable it to perform its duties. The official records of registration shall not be kept anywhere else except when their use is required elsewhere by the provisions of this Title.

HISTORY: 1962 Code Section 23-97; 1952 Code Section 23-97; 1950 (46) 2059; 1967 (55) 634.

**SECTION 7-5-420.** Lists of voters for party primaries.

Immediately preceding each party primary election the board of voter registration and elections in each county shall furnish to the county committee of each political party proposing to hold a primary two official lists of voters for each polling precinct in the county, containing in each the names of all electors entitled to vote at each precinct.

HISTORY: 1962 Code Section 23-98; 1952 Code Section 23-98; 1950 (46) 2059; 1967 (55) 634.

**SECTION 7-5-430.** Books for general and special elections.

Immediately preceding each general election or any special election, the county board of voter registration and elections must furnish one registration book for each polling precinct in the county containing the names of all electors entitled to vote at each precinct.

HISTORY: 1962 Code Section 23-99; 1952 Code Section 23-99; 1950 (46) 2059; 1996 Act No. 434, Section 2, eff June 4, 1996.

**SECTION 7-5-440.** Failure to notify county board of voter registration and elections of change in address.

(A) A qualified elector who has moved from an address in a precinct to an address in the same precinct shall, notwithstanding failure to notify the county board of voter registration and elections of the change of address prior to the date of an election, be permitted to vote at that precinct's polling place upon oral or written affirmation by the qualified elector of the change of address before an election official at that polling place.

(B) A qualified elector who has moved from an address in one precinct to an address in another precinct within the same county, or has moved to another county within the thirty-day period before an election, and who has failed to notify the county board of voter registration and elections of the change of address before the date of an election, at the option of the elector:

(1) must be permitted to correct the voting records and vote provisional ballots containing only the races for federal, statewide, countywide, and municipalwide offices pursuant to the provisions of Section 7-13-830 at the elector's former polling place, upon oral or written affirmation by the elector of the new address before an election official at that polling place; or

(2) must be permitted to correct the voting records and vote at a central location located at the main office of the county board of voter registration and elections in his new county of residence where a list of eligible voters is maintained, upon written affirmation by the elector of the new address on a standard form provided at the central location.

(C) If the registration records indicate inaccurately that a qualified elector has moved from an address in the precinct, the elector shall be permitted to vote at that polling place, upon oral or written affirmation by

the elector before an election official at that polling place that the qualified elector continues to reside at his address.

(D) For voting purposes, in the case of a change of address of a qualified elector to another address within the same county, the county board of voter registration and elections shall correct the voting registration list accordingly, and the elector's name may not be removed from the official list of eligible voters except as provided in Section 7-5-330(F).

(E) At least one member of the county board of voter registration and elections, the clerk, or deputy registrar must be present in the board's office at all hours during which the polls are open on every election day for the purpose of carrying out the provisions of this section.

HISTORY: 1962 Code Section 23-100; 1952 Code Section 23-100; 1950 (46) 2059; 1967 (55) 657; 1968 (55) 2316; 1984 Act No. 510, Section 8, eff June 28, 1984; 1996 Act No. 466, Section 6, eff August 21, 1996; 2000 Act No. 392, Section 2, eff August 1, 2000.

**SECTION 7-5-460.** Custody of books and return after election.

The commissioners of election or the county committee, as the case may be, shall turn over registration books to the election managers of each polling precinct, who are responsible for the care and custody of these books and the return of them within three days after the election. The commissioners of election or the county committee, as the case may be, shall return the books to the board of registration before the day on which the books of registration are next required by law to be opened by the board of registration and not later than twenty days after the election.

HISTORY: 1962 Code Section 23-102; 1952 Code Section 23-102; 1950 (46) 2059; 2010 Act No. 245, Section 2, eff June 2, 2010.

**SECTION 7-5-470.** Division of registration books into sections.

The county board of voter registration and elections may divide the registration books into as many separate sections as shall be directed by the county committee of any political party, the cost of such additional separate section or sections to be borne by such county committee. The books constituting a separate section or sections shall first be approved by the State Election Commission.

HISTORY: 1962 Code Section 23-103; 1952 Code Section 23-103; 1950 (46) 2059, 2442; 1971 (57) 85.

## ARTICLE 7

### Special Provisions for Municipal Elections

**SECTION 7-5-610.** Citizens entitled to vote in municipal elections.

Every citizen of this State and of the United States:

- (1) Of the age of eighteen years and upwards;
  - (2) Having all the qualifications mentioned in Section 7-5-120;
  - (3) Who has resided within the corporate limits of any incorporated municipality in this State for thirty days previous to any municipal election;
  - (4) Who has been registered for county, state, and national elections as herein required;
- is entitled to vote at all municipal elections of his municipality.

HISTORY: 1962 Code Section 23-111; 1952 Code Section 23-111; 1950 (46) 2059; 1951 (47) 78; 1984 Act No. 290, Section 1, eff March 5, 1984.

**SECTION 7-5-620.** Production of identification and proof of residence.

The production of a valid South Carolina driver's license or other form of identification required by Section 7-13-710, if he is not licensed to drive, and proof of the residence of the elector within the limits of



the municipality for thirty days preceding any election constitutes conditions prerequisite to the right of any elector to vote.

HISTORY: 1962 Code Section 23-112; 1952 Code Section 23-112; 1951 (47) 78; 1984 Act No. 290, Section 2, eff March 5, 1984; 1984 Act No. 510, Section 9, eff June 28, 1984.

**SECTION 7-5-630.** Municipal registration or enrollment not required.

There shall be no registration or enrollment required for voting in municipal elections except the registration required for voting in county, State and national elections.

HISTORY: 1962 Code Section 23-113; 1952 Code Section 23-113; 1951 (47) 78, 229.

**SECTION 7-5-660.** Preparation of registration books.

The Executive Director of the State Election Commission must, along with the county board of voter registration and elections in each county, prepare duplicate sets of books of registration for each ward or each precinct, showing the duly registered electors, according to the county registration books, living in each particular ward or precinct in the municipality.

HISTORY: 1962 Code Section 23-116; 1952 Code Section 23-116; 1951 (47) 78, 229; 1984 Act No. 290, Section 3, eff March 5, 1984.

**SECTION 7-5-670.** Use and custody of registration books.

The books of registration must be prepared and turned over to the managers of each voting place within the ward or precinct for use in conducting all municipal elections, but immediately following a municipal election the books must be turned over to the county board of voter registration and elections.

HISTORY: 1962 Code Section 23-117; 1952 Code Section 23-117; 1951 (47) 78, 229; 1996 Act No. 434, Section 3, eff June 4, 1996.

**SECTION 7-5-675.** Voter registration cards; use.

The State Elections Commission shall implement a system in order to issue voter registration cards with a photograph of the elector. This voter registration card may be used for voting purposes only.

HISTORY: 2011 Act No. 27, Section 4, eff upon preclearance approval or declaratory judgment.

Editor's Note

The United States District Court for the District of Columbia precleared sections 4, 5, 7, and 8 of 2011 Act No. 27 for future elections in South Carolina beginning with any elections in 2013, see *South Carolina v. U.S.*, 898 F.Supp.2d 30, 2012 WL 4814094 (D.D.C.,2012).

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**Patrick Maley**  
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Reference Number: 413-10-DD

Title of Document: Telecommuting Policy and Procedure

Date of Issue: December 16, 2021

Date of Last Revision: December 16, 2021 (NEW)

Effective Date: December 16, 2021

Applicability: All DDSN State Employees

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS (DDSN). THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. DDSN RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

### **PURPOSE**

S. C. Code Ann. § 8-11-15(B) says that state agencies “may use alternate work locations, including telecommuting, that result in greater efficiency and cost savings.” Therefore, to be compliant with the law, the decision to allow telecommuting should be based on clearly defined and measurable benefits for the agency and the taxpayers.

The purpose of this Directive is to define the South Carolina Department of Disabilities and Special Needs (DDSN) telecommuting program and the rules under which it will operate. This policy is designed to help supervisors and employees understand telecommuting.

### Authority

The agency head has the authority to establish a telecommuting program within the agency, based on S.C. Code Ann. § 8-11-15(B), as amended, and the Telecommuting Guidelines established by the South Carolina Department of Administration's Division of State Human Resources (DSHR). The agency head or his/her designee has the ability to set the work schedule and work location for agency employees. Each telecommuting program should be implemented following the Telecommuting Guidelines published by DSHR and all other appropriate federal and state laws, as well as agency regulations and policies.

Before implementing a telecommuting program, an agency must be able to demonstrate through quantifiable measures that telecommuting provides a benefit to the agency and, by extension, the taxpayers. Agencies may be asked to provide this information to legislators, the public or other interested parties. Plans that require DSHR approval must include an actual or predicted positive Return on Investment (ROI) for the telecommuting program (see DSHR Telecommuting Guidelines for additional information).

### Definitions

**Telecommuting/Teleworking:** A work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their primary workplace, in accordance with telecommuting agreements. May also be referred to as remote work. Three main categories of telecommuting exist:

- Regular, recurring telecommuting. May be full-time or part-time, such as one or two days a week or parts of each workday (to avoid peak commuting hours). This level of telecommuting requires a formal agreement between the employee and the agency, and the time telecommuting must be tracked in SCEIS or as required for non-SCEIS agencies.
- Periodic, intermittent, telecommuting arrangements such as when an employee is assigned a project with a short timeframe or one that requires uninterrupted time to complete. This level of telecommuting does not require the formal agreement or checklist process. While it is not required that employees in these arrangements sign a telecommuting agreement, it is advised that the agency document the approval of the periodic, intermittent telecommuting arrangement in writing with the employee.
- Temporary or emergency telecommuting may be used during short-term illness, transportation emergency due to weather, a natural disaster, pandemic health crises, or other similar unplanned emergent events. This level of telecommuting does not require a formal agreement or checklist process. These arrangements require a verbal agreement between the employee and the agency. These arrangements should be limited to the duration of the short-term illness, transportation emergency due to weather, natural disaster, pandemic health crisis, or other similar unplanned emergency event.

**Primary Workplace:** The telecommuter's usual and customary agency workplace. This primary workplace may include time spent by the employee at the agency's other office locations (e.g., satellite or county offices). For employees who primarily work in the field, or who are full-time telecommuters, the primary work location should still be an agency office.

**Alternate Workplace:** A workplace other than the employee's usual and customary workplace (primary workplace) and may include the employee's home. The alternate workplace is not an agency office.

**Telecommuting Application:** The document used by supervisors and employees to evaluate the employee's ability to successfully telecommute.

**Telecommuting Agreement:** The signed document that outlines the understanding between the agency and the employee regarding the telecommuting arrangement. A telecommuting agreement should be renewed at least annually. The telecommuting agreement should be reviewed and updated if there is a permanent change to the employee's job duties or if the provisions of the telecommuting agreement change. Telecommuting agreements are not transferable from one position to another.

**Telecommuter or Teleworker:** An employee who has an agreed-upon schedule during which they are expected to work at a telecommuting location rather than the Agency's primary location.

**Telecommuting Coordinator:** The person responsible for providing support to telecommuting employees and their supervisors and monitoring the success of the telecommuting program.

**Child Care and Dependent Care:** Telecommuting workers may have household members or others who depend on them for care. Telecommuters with these obligations must have adequate care arrangements that do not interfere with their job responsibilities. Telecommuting is not a substitute for child care, dependent care or other personal responsibilities. Telecommuters are required to use accrued leave when necessary, to provide dependent care or when addressing other personal responsibilities. This includes time spent caring for ill household members or other people.

#### **ELIGIBILITY REQUIREMENTS FOR TELECOMMUTING:**

Telecommuting is a management option and not a universal employee benefit. Telecommuting may not be suitable for all employees and/or positions. **The decision to allow an employee to telecommute is solely at the discretion of the agency. The agency may revoke the approval of any employee to telecommute at any time, with or without notice and the decision to revoke the right to telecommute is not a grievable action under the South Carolina Employee Grievance Procedure Act.**

Generally, an employee's participation in the agency's telecommuting program is voluntary and must be mutually agreed upon by the employee and supervisor, with final approval by the agency head or his/her designee. The agency head or his/her designee may; however, designate a position as telecommuting only. In this case, telecommuting would not be voluntary.

To be eligible to participate in telecommuting, an employee must have completed one year of satisfactory employment with the agency. This requirement may be waived at the discretion of the agency head or designee if the position has been designated as a telecommuting position or for any reason deemed appropriate by the agency head. Employees in a warning period of substandard performance or those who were recently subject to disciplinary action are not eligible for telecommuting. These requirements can be waived by the agency head or his/her

designee if the position is one in which telecommuting is required or for any other reason deemed appropriate by the agency head.

The supervisor and employee should complete a “Telecommuting Application” to determine if the employee will be permitted to participate in a telecommuting arrangement.

**CONDITIONS OF EMPLOYMENT:**

The employee’s duties, responsibilities, and conditions of employment remain the same as if the employee were working at the agency’s primary workplace. The telecommuter’s supervisor may; however, assign additional duties related to communication, work progress and productivity. The employee will continue to comply with federal and state law, and agency policies and procedures while working at an alternate place. The employee shall remain subject to all agency disciplinary policies and procedures while performing work at the alternate workplace. This includes Fair Labor Standards Act (FLSA) requirements related to the payment for time worked and overtime compensation.

**WORK HOURS:**

Work hours and location are specified as part of the telecommuting agreement. The employee must be accessible during the specified work hours. The agency and the employee agree that, at the agency’s discretion, the employee may perform assigned work for the agency at a location other than the agency’s on-site office as a “telecommuter.”

Telecommuters are expected to be working and focused on the performance of their job duties during all work hours. All personal activities, including child and dependent care, pet care, housework, yardwork, personal errands, etc., should be done only during established break times, lunch time and before and after work hours. Telecommuters are required to use accrued leave when necessary, to provide dependent care or when addressing other personal responsibilities. This includes time spent caring for an ill household member or other person.

Working hours cannot coincide or overlap with any other type of employment.

**PAY AND ATTENDANCE:**

The employee’s salary and benefits remain the same as if the employee were working at the agency’s primary workplace. If the employee works less than the employee’s normal workweek, salary and benefits must be adjusted accordingly.

Telecommuters who have provided a medical certification prohibiting them from working are similarly prohibited from working remotely.

**ADVANCEMENT:**

Telecommuting will not adversely affect an employee’s eligibility for advancement or any other employee right or benefit. An employee will be compensated for all pay, leave, and overtime (for non-exempt employees) as if all duties were being performed at the employee’s primary workplace.

### **LEAVE AND OVERTIME:**

Requests to work overtime and use sick, annual or any other leave must be approved by the agency in the same manner as when working at the agency's primary workplace. **An employee shall not work overtime unless authorized in advance by the agency or as otherwise authorized by the agency's overtime policy.** Telecommuting hours are regular work hours and, therefore, employees may not perform personal activities during these hours. The employee agrees that telecommuting is not to be viewed as a substitute for dependent care. Telecommuters with dependent care requirements, must make arrangements for someone else to provide dependent care services during the agreed upon work hours. Telecommuters are expected to follow agency leave policies and procedures to request time off from telecommuting to engage in non-work activities.

### **OFFICE AND TELECOMMUTING LOCATION:**

The employee will work at the primary workplace or the approved alternate workplace, and not from another unapproved site. Failure to comply with this provision may result in termination of the agreement, and other appropriate disciplinary action. The agency will establish agreed upon expectations relative to the time the employee would need to spend in the primary workplace and to give adequate notice when these expectations are subject to change, when possible. However, the employee may be required to report to the primary workplace without advanced notice, upon request by the agency.

Generally, the alternate workplace should be in South Carolina. If an agency deems it necessary to allow an employee to designate an alternate workplace outside of South Carolina, the agency should research tax, workers' compensation and other implications of having employees who perform work in another state. Employee requests to designate an alternate work location outside of South Carolina may be denied. **Under no circumstances may an employee conduct work from a location outside of the state of South Carolina unless specific approval is received from their supervisor and human resources. No work may be performed at a location outside of the United States.**

If the alternate workplace is in the employee's home, the employee is responsible for reviewing their home or rental insurance to ensure there is no prohibition against a home office and any relevant zoning requirements to ensure a home office is permitted.

### **WORKSPACE SAFETY:**

The employee agrees to designate a separate workspace in the alternate workplace for the purposes of telecommuting and will maintain this area in a safe condition, free from hazards and other dangers to the employee and the agency's equipment. To ensure the safety of the workspace, the employee agrees to complete and return to the agency a Telecommuting Safety Checklist which will certify the employee's alternate workplace complies with health and safety requirements. The employee must submit this checklist to the agency before he or she may begin telecommuting. The employee agrees that the agency shall have reasonable access to the alternate workplace for the purposes of inspection of the site and retrieval of state-owned property. An employee understands that he or she will be liable for injuries or damages to the person or property of third parties or any members of the employee's family in the alternate

workplace if it is in the employee's home. The employee agrees to consult with the agency before moving any heavy equipment or furniture in the alternate workplace.

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Barry D. Malphrus  
Vice Chairman

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Stephanie M. Rawlinson  
Chairman

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*To access the following attachments, please see the agency website page "Current Directives" at: <https://ddsn.sc.gov/providers/ddsn-directives-standards-and-manuals/current-directives>*

Attachment A: Telecommuting Application  
Attachment B: Telecommuting Agreement  
Attachment C: Telecommuting Workplace Safety Checklist

## TELECOMMUTING APPLICATION

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The decision to telecommute should be based on the ability of an employee to work in a setting that may be in his or her home or other approved area, without on-site supervision. The following tool can be used by an employee as a basis for discussing the option of telecommuting with a supervisor. The employee should submit the application to a supervisor for evaluation and final approval by the agency head or his/her designee. The decision whether to approve or deny a Telecommuting Application is at the discretion of the agency. **There is no right or entitlement to telecommute regardless of the responses to the application.**

Please answer the following questions rating your abilities, using the following scale:

5 – Always	4 – Usually	3 – Sometime	2 – Rarely	1 – Never
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1. I can develop regular routines and am able to set and meet deadlines. I am self-motivated, self-disciplined and able to work independently, completing projects on time with minimal supervision and feedback. I am capable of being productive when no one is checking in or watching at work.

Employee Rating:

Supervisor Rating:

2. I have strong organizational and time-management skills and am results-oriented. I will remain focused on work while telecommuting and not be distracted by television, housework, visiting neighbors, etc. I will manage my time and workload well, solve many of my own problems and find satisfaction in completing tasks on my own. I am comfortable setting priorities and deadlines and can keep my sight on results.

Employee Rating:

Supervisor Rating:

3. I am comfortable working alone, can adjust to the relative isolation of working at home, and can set a comfortable and productive pace while working at home.

Employee Rating:

Supervisor Rating:

4. I have a good understanding of the organization’s culture and environment. I am knowledgeable about the organization’s procedures and policies and have been on the job long enough to know how to do my job in accordance with those policies.

Employee Rating:

Supervisor Rating:

5. I have effective working relationships with co-workers and will be able to maintain such communications while telecommuting.

Employee Rating:

Supervisor Rating:



6. I am adaptable to changing routines and environments and have demonstrated an ability to be flexible about work.

Employee Rating:

Supervisor Rating:

7. I am an effective communicator. I have demonstrated effective communication between supervisors and co-workers, and I am comfortable using various methods of communication.

Employee Rating:

Supervisor Rating:

8. I am in good standing with the agency on my previous and current performance reviews and have no recent disciplinary actions.

Employee Rating:

Supervisor Rating:

9. Is my job appropriate for telecommuting? *(Check those that apply)*

My job responsibilities are arranged so that there is no difference in the level of service provided to the customer regardless of work location.

My job has minimal requirements for on-site supervision or contact with the customer.

My job requires low face-to-face communication, and I have the ability to arrange days when communication can be handled by telephone, email or other electronic means.

My job has minimal requirements for special equipment.

I am able to define tasks and work products with measurable work activities and objectives.

I am able to control and schedule workflow.

10. Is my alternate workplace an appropriate environment for telecommuting? *(Check those that apply)*

I have a safe, comfortable workspace where it is easy to concentrate on work.

I have the appropriate level of security required by the agency.

I have the necessary office equipment and software that meet agency standards.

I have a telephone, with separate home office line if required, an answering machine or voicemail, and sufficient internet access and speed.

I have household members who will understand I am working and will not disturb my work.

I understand that I am prohibited from providing dependent care (either to a child or an adult) during work hours. I understand that all personal activities, including child and dependent care, pet care, housework, yardwork, personal errands, etc., must be done only during established break times, lunch time and before and after work hours.

I understand and agree that I must use accrued leave when providing dependent care or when addressing other personal responsibilities during work hours. This includes time spent caring for an ill household member or other person.

I certify that my home or rental insurance does not prohibit a home office.

I have reviewed the relevant zoning requirements to ensure a home office is permitted.

**TELECOMMUTING AGREEMENT**

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This is an agreement between \_\_\_\_\_ (Agency) and \_\_\_\_\_ (Employee) and shall cover the period from \_\_\_\_\_ through \_\_\_\_\_.

This Agreement establishes the terms and conditions of Telecommuting. The employee agrees to participate in the telecommuting program and to follow the applicable guidelines and policies. The Agency agrees with the employee’s participation. The employee’s signature on this agreement constitutes acceptance of the terms listed throughout the Agency Telecommuting Policy.

**Notice of Intent to Collect Private Information**

As part of this Telecommuting Agreement, the employee shall provide the address of telecommuting location and any contact information for that location, including home phone and/or personal cellphone. If such information changes, the employee has an affirmative duty to inform their supervisor of the updated telecommuting address and phone number before the move. Failure to provide this information initially and after any change will result in the employee being unable to telecommute. This contact information may be shared with human resources, executive leadership, agency safety staff, agency supervisors, and any other agency or state employee with a business need to access this information.

**Designation of Alternate Workplace and Hours**

The following are the working hours and locations agreed to by both parties:

<b>General Work Hours</b>			
<b>Day</b>	<b>Hours</b>		<b>Location</b>
	<b>From</b>	<b>To</b>	<b>P-Primary Workplace      A-Alternate Workplace</b>
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			
Sunday			

Primary Workplace: \_\_\_\_\_

Address (include zip code): \_\_\_\_\_

Phone Number (include area code): \_\_\_\_\_

Alternate Workplace: \_\_\_\_\_

Address (include zip code): \_\_\_\_\_

Phone Number (include area code): \_\_\_\_\_ Fax (if applicable): \_\_\_\_\_

Cellphone (include area code): \_\_\_\_\_ Email Address: \_\_\_\_\_

### Equipment Used in Alternate Workplace

The following table lists the agency or state equipment that will be used at the alternate workplace (attach additional documentation if needed):

Item	Inventory Number	Date Out	Date Returned

### Special Conditions or Additional Agreements (List if applicable):

I have read and received a copy of the Telecommuting Policy and fully understand issues regarding: pay, attendance, advancement, leave, overtime, office location, liability, workers compensation, operating costs, safety, evaluation, termination of agreement, and equipment maintenance.

*(Employee)* My supervisor has reviewed my performance expectations with me, and these expectations are documented in my EPMS planning stage.

*(Employee)* I agree that I am responsible for attending all required meetings, unless my supervisor approves otherwise.

*(Employee)* I agree to be available and accessible during the telecommuting scheduled hours for customers, co-workers, and supervisors/managers. Regardless of my telecommuting arrangement, I can be required to report to the office location at any time with or without advance notice.

*(Employee)* I understand that all personal activities, including child and dependent care, pet care, housework, yardwork, personal errands, etc., should be done only during established break times, lunch time and before and after work hours. I understand and agree that I am prohibited from providing dependent care (either to a child or an adult) while working at the alternate work location.

*(Employee)* I understand that telecommuting agreements are not transferable from one position to another and this agreement is valid only for my position at the time the agreement is signed.

*(Employee)* I agree to return all agency equipment, supplies, material and/or other property immediately upon request, termination of participation in the Telecommuting program and/or termination of employment.

*(Employee)* I agree to inform my manager or supervisor any time there is an actual or suspected security issue that arises during my work at an alternate workplace.

(Employee) I understand that the agency is not liable for any damages to my personal or real property while I am performing official duties my alternate workplace.

(Employee) I agree that I will not conduct any face-to-face agency business at my telework location.

(Employee) I agree to immediately report to my manager or supervisor any work-related injuries that occur while in the Telecommuting arrangement.

(Employee) I agree to provide certificates of my homeowners' or renters' insurance and to submit any renewal or changes as needed, if requested.

(Employee) I agree that it is my responsibility to ensure compliance with any local zoning ordinances related to working at home or maintaining a home office.

(Employee) I agree that any tax implications of telecommuting are entirely my responsibility as the telecommuter. *(Telecommuters are encouraged to seek professional advice in this area).*

We agree to abide by the terms and conditions of this agreement.

\_\_\_\_\_

Employee Signature

Date: \_\_\_\_\_

\_\_\_\_\_

Supervisor Signature

Date: \_\_\_\_\_

\_\_\_\_\_

Agency Head or Designee

Date: \_\_\_\_\_

## TELECOMMUTING WORKPLACE SAFETY CHECKLIST

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Success of a telecommuting arrangement depends, in part, on a realistic assessment of the overall safety of an employee's alternate workplace. The checklist is necessary to make the employee aware of the need for a safe workplace that is conducive to productive work. The telecommuter should read and complete the checklist regarding the designated alternate workplace, discuss any concerns, and always report accidents or injuries immediately to his supervisor.

The completed form should be provided to the employee's supervisor.

### General Environment:

- The workspace area has adequate lighting and ventilation.
- The workspace is reasonably quiet and free of distractions.
- Aisles, doorways and corners are free from obstructions to permit movement.

### Electricity/Equipment:

- There are enough electrical outlets in the alternate workplace to support the required equipment. All electrical equipment is free of recognized hazards that would cause physical harm (e.g., frayed wires, bare conductors, loose or exposed wires). If necessary, consult with an electrician or power utility company on capacity questions.
- Necessary electrical outlets are three-pronged (grounded).
- Computer equipment is connected to a surge protector. The equipment is placed at a comfortable height for viewing and will be powered down after the workday is over.
- Computer equipment is on a sturdy, level, well-maintained piece of furniture and the keyboard and mouse are at a height that does not cause wrist strain.

### Safety and Security:

- There is a fire extinguisher in the alternate workplace and a developed fire evacuation plan in the event of an emergency.
- There is a working smoke detector in the alternate workplace.
- Phone lines, electrical cords, and extension wires are secured underneath a desk or along baseboards.
- There are security controls in place to protect passwords, agency-owned software and files from unauthorized disclosure.

I, \_\_\_\_\_, understand it is my responsibility to maintain the safety and appropriate arrangement of my alternate workplace, if it is my home. I certify that my responses to the checklist are true and completed to the best of my knowledge. I understand that any erroneous, misleading, or fraudulent information is sufficient grounds for my preclusion from telecommuting.

\_\_\_\_\_  
Employee Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Supervisor Signature

Date: \_\_\_\_\_

Reference Number: 413-05-DD  
Title of Document: Work Hours Policy and Procedure  
Date of Issue: February 1, 2019  
Last Review Date: ~~February 1, 2019~~ December 16, 2021  
Date of Last Revision: ~~February 1, 2019~~ December 16, 2021 (**NEWREVISED**)  
Effective Date: February 1, 2019  
Applicability: All DDSN Employees

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## **I. Office Hours**

The Department of Department of Disabilities and Special Needs (DDSN) business office hours are 8:30 a.m. until 5:00 p.m., Monday through Friday except on State holidays.

## **II. Employee Work Schedule**

- A. Core Business Hours: The normal work schedule for all full-time Central Office employees is during DDSN's core business office hours from 8:30 a.m. until 5:00 p.m., Monday through Friday, seven and one-half hours per day, not counting a one-hour meal period. Some positions at DDSN may be required to work a 40 hour work week.

- B. **Alternative Work Schedule (AWS):** When an employee's job duties can accommodate, DDSN offers employees the option of working an AWS to provide flexibility to help balance work and personal responsibilities, while still meeting the mission requirements to serve our consumers. An AWS work day can start/end early (i.e., 7:00 a.m. to 3:30 p.m.) or start/end later (i.e., 9:00 a.m. to 5:30 p.m.). The flexible schedule start times will be between 7:00 a.m. and 9:00 a.m.; exceptions will be considered on a case-by-case basis requiring substantial justification. An AWS requires the employee to consistently work the same alternative scheduled hours every day.

Change in scheduled work hours must be requested and approved in advance by completing the "DDSN AWS Request Form," which is an attachment to this policy. For Regional Centers, approval requires all managers in the employees' chain of command through the Facility Administrator. For Central Office, approval requires all managers in the employees' chain of command through the Deputy Director. The employee will be notified by Human Resources (HR) at least 14 days in advance of the start date of the AWS effective in SCEIS. Once an AWS is approved, the employee does not have the latitude to change this schedule to accommodate unique daily circumstances without the employee's immediate supervisor's approval.

AWS is a privilege and not an entitlement. The employee's immediate supervisor is to ensure the overall work unit is adequately staffed during core business hours. AWS is subject to immediate termination by management to meet the needs of the mission or ability of the immediate supervisor to provide adequate oversight to an employee. Exempt employees using AWS are reminded they still are required to be responsive to meet mission requirements requiring time beyond normal AWS working hours, particularly time-sensitive issues.

Supervisors are permitted to approve adjustments in any employees' daily work schedule start/end times (standard core hours or AWS) on an occasional, time-limited basis to assist employees with balancing work/life needs. Each time limited occasion must be approved in writing, such as via email to maintain accountability.

### **III. Work Schedule and Additional Hours**

Additional hours may be required when the appropriate management official determines that the responsibilities of the office cannot be accomplished in the established work hours. In addition, work week schedules may be altered or changed at the discretion of the supervisor or management. Notification of changes will be made as far in advance as possible. If such changes involve overtime for a non-exempt employee the Overtime/Compensatory Time Policy must be followed.

### **IV. Lunch/Meal Period**

Normally, a one-hour lunch period shall be observed except when special circumstances dictate otherwise on a non-recurring basis. Lunch periods shall be scheduled between the hours of 11:00 a.m. and 2:00 p.m. with an immediate supervisor having the authority to adjust outside of

these times without further review. Lunch times for operations with 2nd and 3rd shifts will be set by immediate supervisors.

## **V. Reporting/Returning to Work**

Employees are expected to report to work at the appointed time and to return from lunch/meal periods at the appointed time.

If an employee is unable to report to work at their normal start time or is going to be late in reporting to work or returning from a lunch/meal period, he/she must call and speak with his/her supervisor directly as soon as possible or, if the supervisor is not available, leave a voice message or email for the supervisor and contact the supervisor's designee. In these instances and upon approval of the supervisor, the employee must complete a leave request in SCEIS Central. Failure to notify the proper authority may result in disciplinary action up to and including termination.

## **VI. Breaks**

- A. Break periods of up to 15 minutes may be granted in the morning and afternoon depending on the section's workload. The scheduling of breaks is the responsibility of the supervisor and is to be done in such a manner to ensure adequate coverage of the section during the workday.
- B. Employees may be denied a break period if the workload dictates or to ensure adequate coverage in the work area.
- C. Break periods may not be used in conjunction with leave or lunch/meal periods.
- D. Employees are expected to observe the 15 minute time limits on breaks.
- E. Unused breaks are lost if not taken at the appropriate time and may not be accumulated.

## **VII. Record Keeping**

It is the responsibility of each Office/Division to insure that accurate records are kept of all hours worked and all leave taken for their respective employees.

## **VIII. Employee Time Report**

- A. The Fair Labor Standards Act (FLSA) requires a record be maintained of all non-exempt employees' time worked. Non-exempt employees must enter time worked for the workweek through the SCEIS Central self-service portal and submit for approval. All employees are expected to key their time in SCEIS Central daily. Selected employees with limited access to the portal will complete a paper timesheet as directed by their supervisor. Time sheets must be completed and submitted by close of business each Monday for the previous workweek. The supervisor must approve an accurate time sheet.



- B. Hours of work for non-exempt employees will be maintained for a period of three (3) years.
- C. In the event that a non-exempt employee works more than 40 hours per week, the Overtime/Compensatory Time Policy must be followed and the use of premium time (time and a half) must be recorded.

**IX. Tele-Commuting**

Tele-Commuting is ~~not permissible on a recurring basis~~. Supervisors are permitted to approve tele-commuting ~~occasionally on a time limited basis~~ to assist employees with balancing work/life needs. ~~Each time limited occasion and~~ must be approved in writing, such as via email to maintain accountability. See DDSN Directive 413-10-DD: Telecommuting Policy and Procedure.

**X. Compressed Work Weeks**

Compressed work weeks are not permissible. Compressed work weeks are defined as employees working more than 7.5 hours per day and either take a whole or half day off in a two (2) week cycle for a total of 75 hours.

**XI. Additional Policy Guidelines**

- A. A supervisor from within the immediate office must be present for the beginning and ending of each work day for FLSA non-exempt (overtime eligible) staff. FLSA non-exempt staff will not be approved to work a schedule that requires more than 40 work hours in the 7-day (Friday through Thursday) DDSN overtime work-week.
- B. Non-Exempt employees must take a one-hour lunch break each work day.

<u>Elizabeth Lemmond</u>	<u>Mary Poole</u>
<u>Human Resource Director</u>	<u>State Director</u>
<u>(Originator)</u>	<u>(Approved)</u>
<u>Barry D. Malphrus</u>	<u>Stephanie M. Rawlinson</u>
<u>Vice Chairman</u>	<u>Chairman</u>

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

*To access the following attachments, please see the agency website page “Current Directives” at: <https://ddsn.sc.gov/providers/ddsn-directives-standards-and-manuals/current-directives>*

Attachment: Alternative Work Schedule (AWS) Request Form