



August 25, 2006

Maria Del Valle Koch
Deputy Director
Division of Elections
44 S. Clinton Avenue, 7th Floor
Trenton, NJ 08625

Re: Proposed Rule PRN 2006-149

Dear Ms. Del Valle Koch:

We write on behalf of the Brennan Center for Justice at NYU School of Law to comment on Proposed Rule 13:17-17(e), requiring “voter registration application[s] collected by a third party” to “be submitted no later than five days after collection thereof.” The Brennan Center has been monitoring state efforts to restrict third-party voter registration drives, and we are concerned that the proposed rule will have a detrimental effect on voter registration drives and on the citizens they register to vote. We therefore urge you not to adopt Proposed Rule 13:17-17(e).

Voter registration drives run by private citizens or organizations serve a valuable function in our democracy by affirmatively seeking out eligible citizens who might not ordinarily register to vote and encouraging and helping them to do so. Third-party groups often focus their efforts on those citizens who find it most difficult to register to vote and those communities that have been traditionally disenfranchised, including low-income citizens, people of color, the elderly, and the disabled. Many members of these communities benefit from voter registration drives because they are uninformed about or feel disengaged from the political process, do not have access to computers, or would have difficulty visiting government offices during work hours. Drives by third-party groups have played an increasingly important role in the voter registration process, engaging new voters, and helping to increase overall voter registration in the past few years. New Jersey received 2.7 million voter registration applications in 2002-2004, and a significant portion of those were submitted by third-party groups.

A hard-and-fast five-day deadline is inconsistent with the ways various civic groups do voter registration. For instance, union volunteers may gather completed forms over the course of a month and then turn them in at a monthly meeting; a church might gather forms after church services for multiple weeks and then turn them in at the end of the month. Groups with limited resources will find those resources strained if they have to deliver forms in person to an elections office every five days or pay the postage to mail those forms. This problem is particularly acute for smaller community groups and those that rely on volunteers.

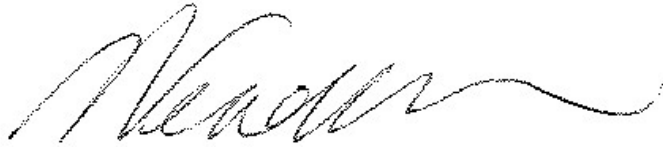
Many organizations running voter registration drives typically collect completed forms from their volunteers or employees, and then review those forms for completeness and accuracy. This review process serves a number of purposes, including monitoring their own volunteers and employees for compliance with the law, ensuring that each form is completely and accurately filled out, following up with voters to get further necessary information, following up with elections officials to make sure voters get onto the rolls, and alerting election officials to any problems. Some groups also keep track of the voters they register to further engage them with voter education and get-out-the-vote activities. The five-day deadline leaves little room for these important practices.

In short, the proposed rule imposes a severe burden on voter registration groups. In the face of such a rule, many New Jersey organizations that run voter registration drives may forego that activity, resulting in fewer registered voters, and in particular, fewer new voters from traditionally disenfranchised communities that are reached by third parties.

In addition, the proposed rule will yield little benefit to the state. The apparent purpose of the rule is to attempt to spread out the submission dates of voter registration applications to reduce administrative burdens on election officials. But the new rule will not have this effect because it will not change the consistent and universal pattern of voter behavior: most people will register to vote near voter registration deadlines, when news media coverage of elections increases and voters become more interested in the elections. The rate at which voter applications is submitted has been consistent over time and is the same all across the country.

There is no reason to believe that third-party groups hold onto forms beyond the reasonable review and processing of forms described above. To the contrary, in a study we conducted in Florida, we found that the rate at which forms were submitted in 2004, the year with the highest amount of third-party voter registration activity, was no different than the rate in the previous four presidential election years. In other words, although third-party groups were responsible for an increase in the overall number of voters who registered in 2004, they were no more likely than voters themselves to turn in forms just before (or even after) book-closing. Generally, third-party voter registration groups impose only one significant additional administrative burden on the state: they increase the overall number of citizens registering to vote. To the extent that particular individuals act maliciously, or with gross negligence, New Jersey has other tools at its disposal to curb such behavior, short of imposing a blanket hard-and-fast deadline on all groups.

Restricting third-party voter registration will ultimately have a detrimental affect on New Jersey's citizens, who will have fewer opportunities to register to vote. Because any minor administrative benefit to the state will come at the cost of reducing voter registration and democratic participation, we recommend that you withdraw the proposed rule.

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Wendy Weiser
Deputy Director

A handwritten signature in black ink, appearing to read 'Renée Paradis', with a large, stylized initial 'R' and a long horizontal flourish.

Renée Paradis
Associate Counsel

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