BRENNAN
CENTER
FOR JUSTICE

Brennan Center for Justice
at New York University School of Law

161 Avenue of the Americas
12th Floor
New York, New York 10013
212.998.6730 Fax 212.995.4550
www.brennancenter.org

June 23, 2008

The Honorable Ross Miller
Secretary of State
Nevada State Capitol Building
101 North Carson Street, Suite 3
Carson City, NV 89701

Dear Secretary Miller:

We write to draw your attention to what we believe is a conflict between the National Voter Registration Act of 1993 ("NVRA") and the State of Nevada's apparent policy with respect to the acceptance of mail-in voter registration forms. It is our understanding, based on the text of your department's web site, that only those mail-in forms *received* by the mail-in book-closing deadline, thirty days before the election, will be processed. *See* "2008 Election and Voter Registration Dates," *at* http://sos.state.nv.us/elections/nvelection/electionDates.asp (last visited June 15, 2008). But the NVRA clearly states that the state must ensure that applicants are registered to vote "in the case of registration by mail . . . if the valid voter registration form of the applicant is *postmarked* not later than the lesser of 30 days, or the period provided by state law, before the date of the election." 42 U.S.C. § 1973gg [6](a)(1)(B) (emphasis added). We believe this text clearly mandates that mail-in forms postmarked thirty days or more before an election must be accepted for registration for that election, regardless of whether they are received less than thirty days after an election.

We believe that no changes to the Nevada Revised Statutes or Administrative Code will be necessary in order to come into compliance with the NVRA's postmark deadline. The applicable statute reads: "For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only by appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035." Nev. Rev. Stat. § 293.560(5). A registrant who mails a registration form before this period is not "registering to vote" during this period; instead, the county clerk is simply processing a registration application made before the in-person registration period.

Please contact us to let us know how you intend to resolve this issue, by phone at (212) 992-8162, or by email at renee.paradis@nyu.edu and theresa.lee@yale.edu, or by mail at the address listed above. We would be happy to provide assistance to your office to ensure that it is properly resolved in advance of this year's registration deadline.

Sincerely,

Renée Paradis
Counsel

Theresa J. Lee
Legal Intern