

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered between the United States of America, through the Civil Rights Division of the U.S. Department of Justice, and the State of Alaska (the State), through the Office of the Lieutenant Governor and the Department of Administration.

I. Statement of the Parties

The United States of America and the State of Alaska (the Parties) hereby recognize the following:

1. By letter dated November 3, 2021, the United States notified the State of Alaska that the Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice had authorized litigation against the State and appropriate State officials to enforce Section 5 of the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20504.

2. The Assistant Attorney General for the Civil Rights Division had authorized litigation following an investigation in which the United States gathered evidence that established the State's noncompliance with Section 5 of the NVRA.

3. The United States and the State of Alaska share the goal of ensuring that Alaska citizens enjoy convenient opportunities to register to vote and to update voter registration information.

4. The United States and the State of Alaska share the goal of facilitating the maintenance of up-to-date voter registration information.

5. The United States and the State of Alaska have negotiated in good faith and hereby agree to this MOU as an appropriate means to further their shared goals.

II. The National Voter Registration Act of 1993

6. The NVRA, 52 U.S.C. §§ 20501-11, includes certain requirements with respect to voter registration procedures for elections for federal office by states covered by the NVRA. The State of Alaska is covered by the NVRA and is therefore obliged to ensure compliance with the NVRA's requirements. *Id.* §§ 20502(4), 20503.

7. Section 5(a) of the NVRA requires that each Alaska "motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law . . . serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application." *Id.* § 20504(a)(1).

8. For NVRA purposes, a "motor vehicle driver's license" includes "any personal identification document" issued by the Alaska Department of Administration. *Id.* § 20502(3).

9. The Alaska Department of Administration issues driver's licenses, Alaska Stat. Ann. § 28.15.111, and identification cards, *id.* § 18.65.310.

10. In Alaska, a "driver's license" is any "license, provisional license, or permit to drive a motor vehicle, or the privilege to drive or to obtain a license to drive a motor vehicle, under the laws of [Alaska] whether or not a person holds a valid license issued in [Alaska] or another jurisdiction." *Id.* § 28.90.990(a)(10).

11. Section 5(c) of the NVRA requires the voter registration portion of an application for a motor vehicle driver's license to state each eligibility requirement for registration, including citizenship; contain an attestation that the applicant meets each such requirement; and require the signature of the applicant under penalty of perjury. 52 U.S.C. § 20504(c)(2)(C).

12. The voter registration portion of the application must also inform voters of the penalties for the submission of a false voter registration application; that a decision not to register will remain confidential and will be used only for registration purposes; and that if the applicant registers to vote, the office at which the applicant submitted a voter registration application will remain confidential and will be used only for registration purposes. *Id.* § 20504(c)(2)(D).

13. Section 5(d) of the NVRA requires that "[a]ny change of address form submitted in accordance with State law for purposes" of a motor vehicle driver's license must also "serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes." *Id.* § 20504(d).

III. Terms of Agreement

NOW, THEREFORE, for full and adequate consideration given and received, the United States, through the Civil Rights Division of the U.S. Department of Justice, and the State of Alaska, through the Office of the Lieutenant Governor and the Department of Administration, agree as follows:

A. Motor Vehicle Driver's License Applications

14. Within 60 days of the effective date of this MOU, the State will develop and implement uniform forms, policies, and procedures to ensure that each motor vehicle driver's license application (including any renewal application) submitted to the Alaska Department of Administration, Division of Motor Vehicles (DMV) both (1) serves as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application, as required by Section 5(a) of the NVRA, 52 U.S.C. § 20504(a), and (2) meets the technical requirements of Section 5(c) of the NVRA, *id.* § 20504(c).

15. Within 60 days of the effective date of this MOU, the State will ensure that any application form for a motor vehicle driver's license that does not comply with NVRA requirements will no longer be available at DMV offices or on State websites.

16. Within 60 days of the effective date of this MOU, the State will remove any references to applications for a motor vehicle driver's license that are not NVRA-compliant from all DMV materials—including forms, applications, and manuals—and from all State websites.

17. Once the State has updated its motor vehicle driver's license application to comply with Sections 5(a) and 5(c) of the NVRA, *see* Paragraph 14, the State will ensure that any applicant who submits a prior version of a motor vehicle driver's license application form that is not NVRA-compliant is sent an application to register to vote.

18. Within 60 days of the effective date of this MOU, the State will publicize the voter registration opportunities afforded by the NVRA to DMV clients, including the opportunity to register to vote as part of an application for a motor vehicle driver's license and the opportunity to update voter registration records when submitting a change of address for motor vehicle driver's license purposes.

19. The State may update or modify portions of application forms for a motor vehicle driver's license that do not concern voter registration with respect to elections for Federal office without implicating this MOU.

B. Notifications of Change of Address

20. The State has informed the United States that Alaska will no longer accept notifications of change of address by paper, whether on a State-provided form or through informal letter, for purposes of a motor vehicle driver's license. Rather, the State has determined that it will accept such notifications through its online system only, which serves as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

21. The State has also informed the United States that, when needed, Alaska will assist individuals in completing an online notification of a change of address, including by accepting requisite information by phone and completing the online notification on behalf of the submitting individual.

22. In the event that an individual submits a paper notification of change address for purposes of a motor vehicle driver's license, the State shall ensure that the individual who submitted the paper notification is directed to the State's online notification of change of address system, and, when needed, is provided the assistance referred to in Paragraph 21.

23. Within 30 days of the effective date of this MOU, the State will remove from all DMV materials and from all State websites any references to submitting notifications of change of address for purposes of a motor vehicle driver's license by paper.

C. DMV NVRA Coordinator

24. Within 30 days of the effective date of this MOU, the State will appoint a DMV NVRA Coordinator for the State of Alaska (DMV NVRA Coordinator).

25. The DMV NVRA Coordinator will:
- a. Within 30 days of the effective date of this MOU, attend training provided by the Lieutenant Governor that explains NVRA requirements for motor vehicle driver's license applications, notifications of change of address for purposes of a motor vehicle driver's license, and this MOU;
 - b. Oversee the training of Training Specialists and the training offered to NVRA Site Coordinators, *see* Paragraphs 26, 28(a);
 - c. In the event that the DMV receives a version of a motor vehicle driver's license application that is not NVRA-compliant, ensure that the applicant who submitted that application is sent a voter registration application;
 - d. In the event that the DMV receives a paper notification of change address for purposes of a motor vehicle driver's license, ensure that:
 - i. The applicant is directed to the State's NVRA-compliant online notification of change of address system, *see* Paragraph 22, and
 - ii. The applicant is notified that assistance in completing the online notification is available, *see* Paragraph 21;
 - e. Ensure the production of the biannual reports described in Paragraph 31;
 - f. Provide technical assistance to DMV offices as needed; and
 - g. Determine whether corrective action plans are needed statewide or at individual DMV offices and direct the implementation of such plan(s), as needed.

D. Training Specialists

26. Within 30 days of the effective date of this MOU, the State will designate a sufficient number of Training Specialists to provide:
- a. Initial training to all employees and contractors with NVRA responsibilities within 30 days of receiving training from the DMV NVRA Coordinator; and
 - b. Training to all new employees and contractors with NVRA responsibilities within 45 days of the new employee's start date.

E. NVRA Site Coordinator

27. Within 30 days of the effective date of this MOU, the State will appoint an NVRA Site Coordinator for each DMV office.

28. The NVRA Site Coordinators will:

- a. Within 30 days of the effective date of this MOU, attend training provided by a Training Specialist;
- b. Maintain (or supervise the maintenance of) their office's voter registration application data and materials; and
- c. Collect the information and data necessary for compliance with the NVRA and for compliance with this MOU, including the information and data described in Paragraph 31.

29. Once the State has updated its motor vehicle driver's license application to comply with Sections 5(a) and 5(c) of the NVRA, *see* Paragraph 14, NVRA Site Coordinators must ensure that:

- a. Every motor vehicle driver's license application provided by their DMV office complies with the NVRA and
- b. Any applicant who submits a motor vehicle driver's license application to their assigned DMV office that does not comply with the NVRA is sent a voter registration application.

30. In the event that their DMV office receives a paper notification of change address for purposes of a motor vehicle driver's license, NVRA Site Coordinators must ensure that:

- a. The applicant is directed to the State's online notification of change of address system, *see* Paragraph 20, and
- b. If needed, the applicant is provided assistance to complete the online notification, *see* Paragraph 21.

F. Reporting and Monitoring

31. On April 31 and October 31 of each year this MOU is in effect, the State will submit to the United States a report that provides the following information for the six-month period ending March 30 and September 30, respectively:

- a. A summary of efforts to comply with this MOU;
- b. The number of completed motor vehicle driver's license applications received, on an office-by-office basis;
- c. The number of completed voter registration applications received as part of a motor vehicle driver's license application, on an office-by-office basis;
- d. The number of notifications of change of address submitted for purposes of a motor vehicle driver's license; and

- e. The number of notifications of change of address for voter registration received as part of a notification of change of address submitted for purposes of a motor vehicle driver's license.

IV. Deadlines

32. Any deadline in this MOU may be extended by the consent of the parties. The United States will not unreasonably withhold consent following a showing of good cause by the State.

33. With respect to any time deadline imposed on the State in this MOU, if the State is unable, despite good faith efforts, to comply with such deadline, the State will notify the United States of such inability prior to the expiration of such deadline and may request a reasonable extension of the deadline.

V. Enforcement

34. The State of Alaska authorizes the United States to conduct audits without prior notice to the State, to contact DMV employees without prior notice to the State, and to call or visit DMV offices without prior notice to the State.

35. If at any time, the United States obtains information that the State of Alaska is in breach of or is about to breach any of the terms of this MOU, the United States will advise the Alaska Attorney General, the Lieutenant Governor, and the Department of Administration in writing by notice sent by overnight mail and email. The notice will identify the facts that form the basis of the alleged breach. The Alaska Attorney General, the Lieutenant Governor, and the Department of Administration will have five business days following the receipt of such notice to respond in writing to the United States. The Parties will thereafter immediately attempt to resolve any potential issue of noncompliance. If the Parties are unable to agree on a resolution of the issue, the United States may take appropriate action to enforce the terms of this MOU or to immediately terminate the MOU and enforce Section 5 as provided in Section 11 of the NVRA, 52 U.S.C. § 20510.

36. Nothing in this MOU will prevent the United States from taking any actions required to enforce any and all applicable provisions of the NVRA.

37. Any legal proceedings arising in connection with this MOU may be brought only in the United States District for the District of Alaska, and all parties consent to venue in that court.

38. Any legal proceeding to enforce this MOU may seek specific performance of the terms herein.

39. This MOU creates no third-party rights and may not be enforced by any individual, organization, or entity not a party hereto.

VI. Effective Date

40. This MOU will take effect immediately upon signing by all signatories.

VII. Termination

41. This MOU will remain in effect for three years from its effective date, unless terminated earlier by the parties.

42. Any legal proceeding to enforce the terms of this MOU brought before the MOU's termination date will toll the termination of the MOU during the pendency of such proceeding.

VIII. Construction

43. This MOU will be interpreted as if jointly written by all parties, and the rule of construction providing that any ambiguities are to be resolved against the drafting party will not be used in interpreting this MOU.

44. Prior drafts of this MOU may not be used to construe this MOU.

The undersigned agree to entry of this MOU.

For the United States of America:

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Date 6/13/2022

For the State of Alaska:


KEVIN MEYER

Lt. Governor
State of Alaska

Date: 6/13/2022

Paula Vrana Digitally signed by Paula Vrana
Date: 2022.05.31 15:01:51 -0400

PAULA VRANA
Commissioner
Alaska Department of Administration

Date: 05/31/2022