State of New York
Office of the State Comptroller
Division of Management Audit

STATE BOARD OF ELECTIONS

STAFF STUDY ON NEW YORK STATE'S IMPLEMENTATION OF, AND COMPLIANCE WITH, THE NATIONAL VOTER REGISTRATION ACT OF 1993

REPORT 95-D-42

H. Carl McCall

Comptroller

State of New York
Office of the State Comptroller

Division of Management Audit

Report 95-D-42

Mr. Thomas R. Wilkey
Executive Director
State Board of Elections
Empire State Plaza
Swan Street Building, Core 1
Albany, NY 12223-0002

Dear Mr. Wilkey:

The following is our staff study on New York State's implementation of, and compliance with, the National Voter Registration Act of 1993.

This study was performed pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law. Major contributors to this study are listed in Appendix A.

Office of the State Comptroller
Division of Management Audit

February 29, 1996

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Executive Summary

State Board of Elections Staff Study on New York State's Implementation of, and Compliance with, the National Voter Registration Act of 1993

Scope of Study

The primary objective of the National Voter Registration Act of 1993 (NVRA), effective January 1, 1995, is to increase opportunities for eligible citizens to register to vote and participate in Federal elections. NVRA focuses voter registration efforts at motor vehicle offices, at state offices providing public assistance and services to disabled persons, and through mail-in efforts. Legislation amending the State's Election Law to implement and comply with NVRA has been adopted. It designates 14 State agencies with about 880 local sites to participate in NVRA. State law also requires the State and City University Systems to conduct certain voter registration drives.

NVRA requires that individuals be given the opportunity to register to vote or change their registration data at the point of service. Participating agencies are responsible for prominently displaying promotional materials informing the public of voter registration services at that site. Agency staff are also required to provide each person who chooses to register to vote with the same level of assistance provided in completing the agency's own forms. The State Board of Elections (Board) is the coordinating agency for NVRA implementation.

Our study addressed the following questions relating to New York State's implementation of and compliance with NVRA:

- What is the status of compliance with applicable Federal and State laws by participating State entities?
- What are the primary causes of non-compliance and how can voter registration activities be enhanced?

Study Observations and Conclusions

We conclude that participating agency implementation of, and compliance with, NVRA has been inconsistent at best, and that significant improvement is needed in many agencies. While New York reportedly ranks third in the nation in gross total NVRA registrations, New York's overall success in increasing its percentage of registered voters through NVRA is below the national average, according to available but unverified data. New York, like many other states, appears to be relatively successful in registering voters through the Department of Motor Vehicles. However, New York, like many other states, is reportedly having less success in registering eligible public assistance recipients, and appears to be reaching only a minor portion of eligible disabled persons. We found varying degrees of commitment, effort and results among the 14 participating agencies. In addition, there is a need to ensure that

appropriate program evaluation, data collection, monitoring and enforcement exist.

We conclude that the Board has made a good effort to coordinate NVRA implementation. Among other things, the Board designed and provided an extensive training program for participating agencies, actively established data collection and communication systems, and disseminated materials and information. In addition, the Board is working to identify all state-funded programs which must comply. While the Board's efforts have been noteworthy, the success of NVRA depends, in major part, on participating agency implementation and compliance efforts. (See pp. 5-7)

We found that the level of NVRA implementation ranges from almost none at the Department of Labor to full implementation at the Department of Motor Vehicles. However, even where significant effort is being made, we noted some problems in NVRA implementation at local sites. It appears that most of the 14 agencies have not demonstrated the necessary commitment and effort to fully comply with NVRA. Some agency officials and site coordinators brought certain matters to our attention which may affect the level of NVRA implementation. Issues raised include high staff turnover resulting in more training needs, concern over storage costs for NVRA materials, and additional workloads on existing staff. Officials from several agencies serving disabled persons further indicated that many of their clients are already served by public assistance agencies. (See pp. 8-16)

We noted that the Federal Election Commission is responsible for reporting NVRA results to Congress by June 1997. However, uniform program evaluation and data collection systems have not been established by which to measure the success or failure of current voter registration efforts. While NVRA has increased voter registration activities throughout the nation, there is no assurance that activities are achieving desired results in the most efficient or effective manner. Federal and state policymakers should consider developing uniform evaluation and data collection systems. (See pp. 17-18)

While the Federal Department of Justice is specifically responsible for enforcing NVRA, we were unable to find a specific provision to enforce State law. Program implementation primarily rests with the 14 participating agencies. The Board has no power to force agencies to comply with, or implement, NVRA. New York State policymakers should consider the need for an effective monitoring and enforcement system with a clear delineation of responsibilities. (See pp. 18-19)

Comments of Board Officials

Board officials believe that there is a strong program in place and a solid foundation on which to build improvements. They further state that they have made and continue to make every effort to provide as much training and information to participating state agencies as possible. The Board also included comments of participating agencies of which several indicated that the study did not fully reflect the current status of their efforts towards NVRA implementation.

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Introduction

Background

The National Voter Registration Act of 1993 (NVRA) was adopted by Congress on May 20, 1993, and became effective January 1, 1995. Congress concluded, among other things, that citizens should have a fundamental right to vote and government has a duty to promote the exercise of that right. The primary objective of NVRA is to increase the opportunities for eligible citizens to register to vote and participate in Federal elections. NVRA supplements existing public voter registration efforts. These existing voter registration efforts include the public contacting State or local election boards or completing registration forms at various governmental offices. We also noted that New York State has had mail-in registrations for over twenty years, while some states have just begun mail-ins as part of NVRA.

NVRA focuses on agency-based voter registration at motor vehicle offices, at state offices providing public assistance and services to persons with disabilities, as well as through mail-in efforts. NVRA also provides that each state may designate additional participating agencies to further voter registration. State legislation amending the Election Law to implement and comply with NVRA was adopted on August 2, 1994, and became effective January 1, 1995. Additional State provisions concerning Department of Motor Vehicles change of address forms became effective in January 1996 to further comply with NVRA.

The State law designates 14 State agencies with approximately 880 local sites to participate in NVRA activities. These agencies are listed in Exhibit 1. In addition, the State University of New York (SUNY) and City University of New York (CUNY) are required by Section 5.211 of the State Election Law to provide each student with a voter registration application at the start of each school year, and again in January or February of each Presidential election year.

NVRA's agency-based registration component requires that individuals be given the opportunity to register to vote or change their registration data at the point services are provided. This would be accomplished when individuals apply for services or assistance at any office providing public assistance or services to persons with disabilities, and at certain other offices. Applicants are to be offered the opportunity to register to vote, or to decline in writing, when initially applying or recertifying for benefits, and when notifying agencies of an address change.

Participating agencies are responsible for prominently displaying promotional materials informing the public of voter registration services at that location or site. Agencies are also responsible for timely

submission of completed applications to county election boards, retention of specified information and statistics, maintaining confidentiality of the data, training their personnel, developing agency-specific procedures for ensuring compliance, and designating an overall program coordinator as well as site coordinators. Required agency assistance to individuals includes offering them voter registration forms, assisting applicants in completing forms, and receiving and transmitting forms to local election boards.

NVRA requires the Department of Motor Vehicles to offer customers the opportunity to complete a voter registration application while completing any transaction involving a driver's license or non-driver ID. The law requires that staff will provide each person who chooses to register to vote with the same level of assistance provided in completing the agency's own forms. In addition, agency policy requires staff to ask the customer if they wish to apply to register to vote if no choice was indicated on the voter registration form.

The State Board of Elections (Board) has provided training and developed training manuals and employee guides for all agency employees' use. The training manual states that employees should ask clients, "If you are not registered to vote where you live now, or if you have moved, would you like to register here today?" The law requires all voter registration applications to be forwarded to the appropriate County or City Board of Elections within 10 days of receipt. Additionally, signed declinations are to be maintained by sites for 22 months.

The Board is the State's coordinating agency for the implementation of NVRA. The Board's NVRA functions include coordinating and monitoring the distribution of voter registration forms, promotional materials and other public information, as well as training agency employees. The Board is also responsible for adopting necessary rules and regulations, assisting participating agencies, and compiling statistics from agencies and county elections boards, as required by the Federal Elections Commission. For the 1994-95 fiscal year, the State legislature appropriated $4.8 million to the Board. This included $2.5 million for NVRA activities, such as printing registration forms for the Department of Social Services, integrating registration forms and upgrading computers at the Department of Motor Vehicles, and providing Board supplies and staff. For the 1995-96 fiscal year, the Board's appropriation was about $2.6 million, and the Board employed 51 staff, including 13 staff for NVRA. Subsequently, the Board's appropriation was reduced by $306,000 which resulted in a loss of nine positions, six of which had been devoted to NVRA.

New York State has an estimated 13.4 million individuals of voting age based on the 1992 Federal census current population report, with about 8.9 million individuals currently registered to vote. There have been 313,891 new registrations through December 31, 1995 attributable to NVRA, with the majority (203,132) from DMV sites. In response to the draft report, Board officials indicate 316,494 new voters registered through NVRA for calendar year 1995. This data was compiled through February 14, 1996.

Scope, Objectives and Methodology of Study

Our study of the State's implementation of, and compliance with NVRA, as well as the State's implementing law, covered the period January 1, 1995 through December 31, 1995. We assessed the status of efforts by the Board and each of the participating agencies in implementing the law's agency-based registration component. The objectives of our study were to determine the status of the agencies' compliance with applicable Federal and State laws, to determine the existence of and the primary causes of non-compliance, and to evaluate whether existing voter registration activities can be enhanced. This study is intended to raise pertinent questions and draw certain conclusions about the State's compliance with NVRA.

To accomplish these objectives, we reviewed relevant laws, rules and regulations as well as those policies and procedures established to implement NVRA. To determine the current overall status of NVRA program implementation and compliance with the laws, we:

- met with Board officials and designated program officials for the 14 participating agencies, and reviewed pertinent Board records and program statistics,
- contacted responsible SUNY and CUNY officials to ascertain the status of their required voter registration activities,
- conducted site visits to assess the status of implementation and compliance with NVRA where NVRA activity was the highest (Department of Motor Vehicles, Department of Social Services and Department of Health),
- interviewed site coordinators and clients and observed site operations, and
- met with officials from the Federal Department of Justice to determine the status of their investigation into New York State's compliance with NVRA.

In addition, to place the status of New York's NVRA implementation in perspective, we contacted NVRA officials from 40 other states to gather information concerning their NVRA programs. This information was formally transmitted to the Board subsequent to our issuing the draft report. We also met with officials from several public interest groups to obtain their input regarding New York's NVRA progress, and to obtain comparative data reported for other states. It should be noted that the completeness and quality of the data we received varied by source. We did not audit the data provided, nor did we review the quality of NVRA services provided by the other states included in this study.

Response of Board Officials

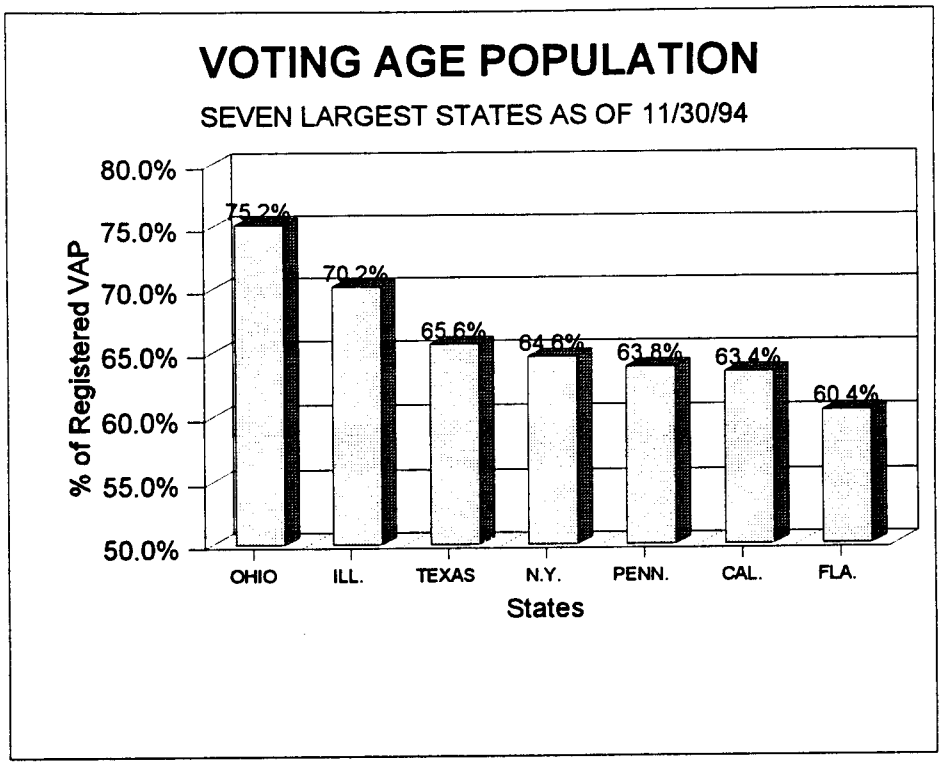
Draft copies of this study were provided to Board officials for their review and comment. Their comments have been considered in preparing this report and are included in Appendix B.

Status of NVRA Implementation

Reports from Human Serve, a public interest group, on NVRA results indicate that New York ranks third among states in the gross total number of NVRA registrations, including mail-in activity. However, New York's success in increasing its percentage of registered voters through NVRA is below the national average. Many other states, especially in the South and Southwest, reportedly have done much better. While most states, including New York, report having success in registering voters through the Department of Motor Vehicles, reports indicate that only about 10 percent of public assistance voter age eligibles have been registered nationwide through NVRA. Many other states (i.e., Missouri, Indiana, Utah, Alabama, Texas and Florida) reportedly are doing much better in registering people eligible for public assistance than New York. In addition, most states do not appear to be reaching a significant number of individuals with disabilities.

According to the 1992 population report update of the 1990 Federal census, New York has the second largest voter age population estimated at 13.4 million. However, only about 8.9 million people (66 percent) are currently registered. This relatively low percentage of registered voters places New York 37th out of 50 states according to the 1994 report from Election Data Services, Inc. of Washington, D.C. Total registered voters in New York have ranged from a low of 8.1 million in November 1991 to a high of 9.2 million in November 1992. Board officials expect that total registrations should increase in 1996 because it is a Presidential election year and NVRA activity is expanding.

When New York is included with six other states which have the largest voter age populations (California, Texas, Florida, Pennsylvania, Illinois, Ohio), the percentage of eligible voters registered ranges from a low of 60.4 percent in Florida to a high of 75.2 percent in Ohio, as illustrated in the following graph. Many other less populated states, including South Dakota, Maine, Iowa, Oklahoma, Montana, Oregon, Mississippi and Michigan, reportedly have significantly higher percentages of registered voters than these seven largest states.



We conclude that the Board has made a good effort to coordinate the implementation of NVRA. The Board designed and provided an extensive training program for all participating agencies, actively established data collection and communication systems, and disseminated materials and information to all parties. The Board also monitors its data base to identify reporting problems as well those agency sites with little or no activity. Officials from some of the participating agencies as well as from public interest groups have told us that the Board has been forthright in their efforts to further the program. Board officials were also very instrumental in helping design and implement NVRA at the Federal level as well as in helping other states implement their own programs.

The Board is working with the participating agencies to identify all State-funded programs which must comply with NVRA. In addition, the Board is going beyond NVRA by identifying over 3,000 locations such as nursing homes, clinics, doctors' offices, and other places that distribute Medicaid applications. Once identified, the Board will make the people at these locations aware of the fact that the voter registration form is attached to the Medicaid application and encourage these private organizations to offer the opportunity to their clients, and instruct them on how to handle completed forms. The Board has also requested that

agencies provide it with data concerning the number of clients served annually. However, to date, most agencies have not provided this data to Board officials.

While the Board's efforts have been noteworthy, the success of NVRA depends, in major part, on participating agency implementation and compliance. While the Board has some monitoring responsibilities, ultimate responsibility for implementing the program rests with the participating agencies. In attempting to ascertain the status of participating agency implementation and compliance, we considered various factors as explained on the following pages. First, we assessed the agency's overall commitment to implement NVRA. Second, we determined the extent of efforts made to establish program policies and procedures, to train staff, and to monitor program operations. Third, we reviewed Board records and/or made site visits to assess program activity and results.

The table below summarizes all NVRA activity for the 14 participating agencies based on Board records (provided to us on January 31, 1996) as of December 31, 1995:

STATE BOARD OF ELECTIONS
SUMMARY OF NVRA ACTIVITY
AS OF DECEMBER 31, 1995

AGENCY	TOTAL SITES	SITES WITH NO ACTIVITY	PEOPLE WHO APPLIED*	PEOPLE WHO DECLINED	TOTAL NVRA ACTIVITY**	TOTAL REGISTERED
DMV	125	0	307,242	3,449,780	3,757,022	203,132
DSS-HRA	214	31	154,676	619,116	773,792	94,611
DOH-WIC	155	40	21,611	80,477	102,088	13,113
AGING	58	23	1,066	10,776	11,842	632
WORKER'S COMPENSATION	7	1	109	11,580	11,689	58
STATE	8	1	86	9,319	9,405	28
VESID	16	0	134	3,703	3,837	71
OMRDD	70	43	508	1,546	2,054	360
OASAS	14	1	533	1,503	2,036	329
VETERAN AFFAIRS	72	57	70	1,205	1,275	53
COMM. FOR BLIND	15	2	166	1,024	1,190	86
OMH	21	13	364	646	1,010	194
LABOR	94	93	6	0	6	3
ADVOCATE FOR DISABLED	9	4	10	6	16	3
OTHERS***			1,841	2,367	4,208	1,218
	878	309	488,442	4,193,048	4,681,470	313,891

* Includes new registrations; changes in address, name, and enrollment; duplicate registrations; incomplete registrations; and forms transmitted between county boards of election.

** Does not include 43,272 mail-in registration forms distributed to agency clients, of which 10,456 were received by county boards of election.

*** Includes activity at military recruiting offices and unidentified sites.

Based on our study, we conclude that the State's implementation of, and compliance with NVRA, as well as with the State's implementing law, has been inconsistent and significant improvement is needed in many agencies. We found varying degrees of agency commitment, effort and

results among the 14 participating agencies. The level of implementation ranges from almost none at the Department of Labor to full implementation at the Department of Motor Vehicles. However, even at those agencies where significant effort is being made, we noted some problems in NVRA implementation at local sites. It appears that most agencies have not demonstrated the necessary commitment and effort to fully comply with applicable Federal and State laws. Officials from SUNY and CUNY, as well as Board officials, indicated that steps are being taken to implement NVRA at the various campuses.

During our discussions with agency officials and visits to agency NVRA sites, certain matters were brought to our attention which may affect the level of NVRA implementation at certain agencies and sites. For example, NVRA coordinators from several agencies, including the Department of Social Services, stated they have experienced high staff turnover at agency sites, impacting on program continuity and necessitating additional staff training. Some agency coordinators also voiced concerns about the need and cost for storing NVRA forms, supplies and declinations by clients served. In addition, site coordinators from various agencies told us that NVRA mandates have placed additional workload burdens on existing supervisory and line staff.

Participating Agencies With Significant NVRA Activity

Three State agencies account for the most NVRA activity. The Department of Motor Vehicles has fully implemented NVRA at all sites, but we noted some procedural problems. The Department of Health's WIC sites have significant NVRA activity, despite not yet implementing NVRA at many of these sites. The Department of Social Services has implemented NVRA at most of its sites, but has experienced some problems in getting service delivery sites, particularly some New York City sites, to comply with various aspects of NVRA. The following are additional details regarding these three agencies.

At the Department of Motor Vehicles, officials told us they have fully implemented the program, including training, policies and procedures, and monitoring. However, as of 1995, the State's 12 million licensed drivers were only required to renew their driver's licenses once every four years, and beginning in 1996, they will only be renewing once every five years. Consequently, not all licensed drivers are being reached annually because of the law. Board records show that about 80 percent of all NVRA activity in the State occurs at DMV's 125 sites. However, during our site visits and client interviews, we noted several procedural problems in NVRA implementation including a lack of compliance with DMV policy, at certain sites.

We reviewed driver's license forms at 8 of the 32 DMV offices we visited. We found that for 289 of 453 (64 percent) driver's license forms we reviewed, the voter registration section was blank. This significant percentage raises concern as to whether staff provided appropriate assistance in asking customers that turned in blank forms whether or not they wished to register or to decline. We also noted other indications that DMV's policies and procedures are not being followed at all sites. For example, at one site, a cashier stated that she does not ask clients if they want to register if the box is left blank. At another site, the coordinator stated that employees do not verbally ask the clients if they want to register to vote. At a third site, employees we interviewed stated they were told that if the box is blank, then it should be considered a no. They also stated they were told that, contrary to DMV policy, they did not have to ask clients if they wanted to register.

At the Department of Social Services, policies and procedures have been developed, and all staff have been trained at its upstate local delivery sites. However, at some New York City sites, not all staff have been trained, and the Human Resources Administration (HRA) recently canceled two Board training sessions for local staff. In addition, the HRA program coordinator did not appear knowledgeable of Board reports. While Board records show that the Department of Social Services accounts for the second highest level of NVRA activity in the State, 31 of 214 local delivery sites are reporting no activity.[1] Our site visits and client interviews noted various problems including some employees who have had no training, NVRA posters not always displayed, and some clients who did not always get needed assistance for voter registration. In addition, some upstate site coordinators expressed negative feelings about NVRA which could adversely affect its implementation. Their comments indicated the following:

- some workers are not happy about the extra work;
- some workers do not think voter registration should be their job and politics should not be involved;
- some coordinators believe the amount of time to record declinations is absurd and keeping the declinations is a waste of time; and

[1]See Endnote 1.

- some workers question why they must maintain blank forms which have been returned by individuals.[2]

At the Department of Health, officials told us that many WIC sites have not implemented NVRA. The Department of Health had not established its own policies or procedures. The agency coordinator told us that she was unaware of any monitoring responsibilities, the agency received no funding or additional time to perform NVRA activities, and that immigrants may avoid applying for WIC because of voter registration provisions. Furthermore, the agency coordinator stated that 62 of the 155 (40 percent) WIC sites are not complying with various aspects of NVRA. However, she noted that she will be sending an agency memo to all local participating site coordinators to explain what was expected of them regarding compliance with NVRA and State law. Board records showed there was no activity at 40 of the 155 sites.

Our site visits and client interviews at the Department of Health noted problems in NVRA implementation as follows:

- The Director of WIC Programs in Nassau County stated that NVRA has currently not been implemented at any of the eight WIC sites in Nassau County because of a lack of staff and resources. They planned to implement NVRA beginning in 1996 when additional staff is hired. However, the Director stated that she believes the program should be implemented in such a way that employees should not have to say anything to clients regarding NVRA. This is contrary to current law which requires that agency assistance be provided. In addition, the Director stated that WIC employees will not provide assistance in completing the voter registration forms due to time constraints. The Director also stated that she sees no reason why the sites should maintain declinations for two years, and she stated that they do not have adequate space to do so.

- Some recipients stated to us that they did not get voter registration forms, were not verbally offered the opportunity to register or decline, or did not receive needed assistance in completing the form.

- The coordinator and program aide for the WIC site at Fulton Developmental Facility stated that voter registration forms are not being handed out to customers.

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[2]See Endnote 2.

- Certain sites do not have formal policies and procedures, do not complete and send transmittal forms timely, do not maintain declinations as required, and do not display NVRA posters or counter tents as required.

Participating Agencies With Limited NVRA Activity

Eleven of the fourteen designated agencies account for a small percentage of NVRA activity. To date, these agencies have had limited NVRA activity. The following are additional details regarding these 11 agencies.

Board officials told us that, pending resolution of a dispute with Federal Department of Labor officials regarding the use of Federal funds, the Department of Labor would not implement or comply with NVRA. An official from the Department of Labor told us that 90 percent of the agency's funding comes from Federal grants. This official indicated that the Regional Director of the United States Department of Labor advised the Department, in January 1995, that they could not use Federal funds to perform a state function. Since the State opted to include the Labor Department as an NVRA participating agency, State funds would have to be used for this purpose. In addition, along with the Governor's 1996-97 Executive Budget, proposed legislation was submitted, which calls for the deletion of the Labor Department from the list of NVRA designated agencies.

On January 19, 1996, after our fieldwork ended, Labor Department officials advised the Board that they will fully implement NVRA by February 1996. This action results from a court settlement between the Labor Department and Community Service Society of New York, a non-profit group which brought a suit against the Labor Department for NVRA non-compliance. It is expected that about 180,000 people, who visit Labor Department offices each month, would be reached for NVRA purposes. The Department official told our auditors that 20 State funded positions have been allocated to implement NVRA.

At nine agencies, primarily those serving disabled persons, we concluded there has been limited commitment and effort, as well as minor results. Officials of several of these agencies indicated that their agencies should not be included in NVRA because many of their clients were already served by other public assistance agencies. In fact, some of these agencies have many sites, but apparently have relatively few NVRA transactions based on Board records. For example, clients of one agency (VESID) do most of their business by mail, and do not come to agency offices to obtain face-to-face services. Board officials stated they are

concerned about agencies which have few NVRA transactions because of the need to train staff and distribute supplies to numerous agency sites.

For example, the following 9 of 14 participating agencies which have 220 sites, have accounted for only about one percent of the total NVRA transactions, including declinations. Records show that 102 of the 220 sites have produced no voter registration activity during 1995. While the level of compliance varies among these 9 agencies, it is not known whether NVRA results would be significantly better with full compliance.

- Officials from the Office of Alcoholism and Substance Abuse Services and Office of Mental Health claim they have implemented NVRA to some extent. However, Board records show minor activity to date for both agencies. The Board decided to implement NVRA at the disability agencies in two phases. Office of Mental Health officials stated that the Board instructed them to only include in-patients in State facilities for the first stage of NVRA implementation. Therefore, clients served through State-funded programs at hundreds of community-based outpatient clinics or not-for-profit agencies have not been afforded the opportunity to register to vote under NVRA. Office of Mental Health officials told our auditors that their records show that this could involve over 700,000 clients annually enrolled in all State and local programs (Emergency, Inpatient, Outpatient, and Community Support). Officials currently are undertaking efforts to change the focus of their NVRA activity from inpatients to Housing and Intensive Care Management Programs. The Board is currently working with both agencies to identify all State-funded programs which should be participating in NVRA as part of the second stage of implementation.

- At the Workers' Compensation Board, officials indicated they do not believe the agency should be required to participate in NVRA. Officials stated that two of seven districts have not implemented NVRA. There are also no agency-specific policies and procedures for program implementation, no monitoring efforts, and no assurance that all staff have been trained due to significant turnover. Through November 1995, Board reports received from the agency indicated that only 9,026 of 176,819 clients had participated in NVRA. Agency officials are now attempting to emphasize NVRA by training staff and distributing forms and supplies. Board records indicate 11,689 NVRA transactions for 1995, of which only 109 were registration

applications. Board officials indicated that this agency now has a staff person to work on NVRA.[3]

- At the Office of Vocational and Educational Services for Individuals with Disabilities, the majority of VESID clients receive mail applications for services. Board records show only minor activity at all sites, with the majority of NVRA activity being mail-in forms which are mailed by clients to local election boards. These forms are coded as NVRA related forms, but this activity cannot be specifically tracked to VESID. In addition, there is limited monitoring of sites.

- At the Department of State, officials indicated they would provide NVRA forms on their office counters and would provide other information and assistance only if asked. Officials have also not established their own procedures and do not monitor sites. Board records showed only minor activity at 7 of 8 sites.

- At the Commission for the Blind, officials stated they have not developed their own policies or procedures, staff providing services are not trained in NVRA, and no monitoring is done. Officials stated that two sites are having problems getting needed supplies from the Board. In addition, the program coordinator stated that an Executive Director at one site apparently refuses to implement NVRA. Board records show only minor activity at 13 of 15 sites.[4]

- At the Division of Veteran Affairs, officials told us that the coordinator needs training, policies were not developed until November 30, 1995, and most counselors are not receptive to NVRA. Officials stated that less than 1,300 of 117,000 client contacts have resulted in NVRA activity. Board records show only minor activity at 15 of 72 sites. However, since being notified of the Federal Justice Department's investigation in November 1995, agency officials have taken additional steps to ensure they comply with the law.[5]

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[3]See Endnote 3.

[4]See Endnote 4.

[5]See Endnote 5.

- At the Office for the Aging, officials stated they have implemented NVRA, but some sites are not in compliance. One officials we spoke with indicated he does not believe they should be part of NVRA. Officials cite a small client base, a duplication of efforts with other public assistance agencies, and a lack of funding. Board records show low activity to date at 35 of 58 sites.[6]

- At the Office of the Advocate for Persons with Disabilities, officials stated that because the nature of their services requires no application/certification, requirements to integrate voter registration opportunities into application procedures are not appropriate. Consequently, contacts with the NVRA-eligible client base are minimal, and there is little monitoring of sites. Board records show no activity at 4 sites and almost no activity at the other 5 sites.

In contrast to the preceding agencies where their NVRA commitment is limited, at the Office of Mental Retardation and Developmental Disabilities, officials appear to be enthusiastic about NVRA. They have developed policies and procedures, and have trained staff. Officials stated they are identifying all State-funded programs for inclusion of all clients in NVRA as part of the second phase of NVRA implementation at disability agencies. Board records show limited activity to date, with 43 of 70 sites reporting no activity. In explaining their limited activity, OMRDD officials stated that many of the individuals in their programs are not capable of exercising their voting rights and, thus, it is not uncommon or unusual for some sites to report no activity.[7]

SUNY and CUNY

In addition, while not designated in State law as participating agencies, SUNY and CUNY are involved in NVRA. The law requires SUNY and CUNY to provide each student with a voter registration form. Completed forms are to be sent directly by students to local election boards. Therefore, there is no data available for us to evaluate the extent of activity, or to what degree these agencies have complied with State law. We discussed the status of SUNY and CUNY's required efforts with Board officials as well as program coordinators from SUNY and CUNY.

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[6]See Endnote 6.

[7]See Endnote 7.

The SUNY NVRA coordinator indicated that SUNY attempted to implement the program in the Fall of 1995. Each campus was required to have a voter registration coordinator, program guidelines were issued, and an overall plan was submitted to the Board. However, due to delays in receiving NVRA supplies, the coordinator did not believe that implementation of NVRA was very successful. Board officials indicated that forms were delayed to SUNY because of the delayed State budget. SUNY officials indicated they will be mailing voter registration forms to all students and will be offering voter registration along with issuing parking permits beginning in 1996.

Board officials advised our auditors that CUNY's plans for the Fall of 1995 appeared to comply with NVRA requirements. Each campus reportedly had a program coordinator, as well as a plan for distributing voter registration forms. On January 23, 1996, CUNY's NVRA coordinator indicated that all registering students have received voter registration forms. In addition, forms were inserted into admissions applications and NVRA was extensively promoted. The coordinator also stated that CUNY was planning a targeted NVRA campaign by identifying those students who are not registered based on available voter registration data.

Issues to be Addressed for NVRA Implementation

The results of our study indicate that several major issues need to be addressed at both the Federal and state levels. The problems posed by these issues currently hinder full implementation of NVRA, and need to be resolved, through a cooperative Federal/state effort, to enhance voter registration results. We noted that no uniform program evaluation and data collection systems were established by which to measure the success or failure of national and individual state efforts. In addition, while the Federal Department of Justice is responsible for enforcing NVRA, there does not appear to be any such provision to enforce the State's implementing law. There also appears to be confusion about which entities in New York State are responsible for monitoring NVRA implementation.

Do Adequate Program Evaluation and Data Collection Systems Exist?

To help ensure that a program operates as intended, government programs should be designed and implemented to include: (1) specific program goals and measurable objectives, (2) performance measures, and (3) systems to document performance, appraise program status, and report on results.

We conclude that the NVRA and State law were broadly written and do not identify specific program goals or objectives, or any of the other requirements by which to measure program success or failure. While NVRA has increased voter registration activities throughout the nation, there is no assurance that these activities are achieving desired results in the most efficient or effective manner. In addition, there are no uniform data gathering mechanisms by which to gauge current national or state progress and results.

Currently, various public interest groups are involved in costly and time consuming litigation with several states, including New York, for alleged non-compliance with NVRA. One major factor in such litigation involves the comparison of NVRA activity data reported by different states. Conclusions are being reached about compliance based on inconsistent NVRA data reported by certain states.

Each state is required to report bi-annual NVRA statistical activity to the Federal Election Commission. The Federal Election Commission (FEC) is required to submit a report to Congress, by June 1997, assessing the impact of NVRA on Federal elections and recommending changes or improvements. However, no uniform systems currently exist to allow for accurate and consistent data collection, analysis and comparison of

each state's progress. Board officials, who have had extensive involvement with other state officials, told us that reported NVRA results of each state are not consistent, and may be misleading. According to Board officials, some states include both registrations and declinations as NVRA activity, whereas other states only include registrations. Board officials indicated that current state-by-state comparisons remain unreliable until the official report is issued by the FEC. In addition, the data we received from states indicate inconsistent reporting of NVRA data. For example, certain states are including unrelated activity such as registrations through local government offices, post offices and other entities outside of NVRA. In addition, mail-in activity reported by certain states may be overstated due to the inclusion of non-agency based mail-in activity. Consequently, it remains to be seen whether the FEC reporting system will be sufficient.[8]

Conclusion

Currently, appropriate program evaluation and data collection systems are not in place to ensure that NVRA operates as intended, or to allow for comparative state/national analyses of NVRA results. The absence of such systems has resulted in many questions from interested parties concerning the status of state NVRA efforts. Such systems would benefit all parties involved or interested in voter registration activities. Therefore, we suggest that State policymakers work with their Federal counterparts to consider developing a uniform program data collection and evaluation system that will enable appraisal of program status and results at the state and national levels.

Does the State Law Provide for Effective NVRA Monitoring and Enforcement?

While the Federal Department of Justice is specifically responsible for enforcing the NVRA, we were unable to find a specific provision in the State's Election Law to enforce NVRA. Although the Board is responsible for program coordination and oversight, program implementation primarily rests with the 14 participating agencies, and the Board has no power to force these agencies to comply with, or implement, NVRA. We did note that NVRA provides for prevailing parties (other than the United States) to obtain reasonable court expenses and attorney fees in a civil action. As a result, the State may be more susceptible to litigation by public interest groups.

In addition, there appears to be some confusion among participating agencies and the Board as to which State entities are responsible for monitoring NVRA implementation. Officials from some participating

[8]See Endnote 8.

agencies indicated they believe that the Board is responsible for NVRA monitoring, including site compliance with Board and agency policies and procedures. Other agencies indicated they believe that, while the Board has overall monitoring responsibilities, agency program and site coordinators are responsible for ensuring day-to-day compliance.

The State law only requires the Board to monitor the distribution of voter registration forms to various sites. No other monitoring provisions are specified in State or Federal laws. We noted that the Board has assumed more monitoring responsibilities to identify non-performing sites, based on reported data, and to attempt to bring them on line. However, because the law is silent, the level of NVRA monitoring of each site ultimately depends on each agency's receptiveness to compliance. Board officials indicated that since June 1995, they have made it very clear that agencies are mainly responsible for monitoring. As previously discussed, this level of monitoring varies among agencies.

The combined absence of State NVRA enforcement provisions and the inadequately-defined monitoring authority for agency site compliance, increases the likelihood that NVRA non-compliance could go undetected and uncorrected at certain agencies and sites.

Conclusion

State policymakers should consider designating the appropriate State entity or official for enforcing State laws related to NVRA. In addition, policymakers should consider whether State law needs modification to ensure that the respective monitoring responsibilities are clearly delineated for the Board and participating agencies.

Endnotes

Note 1. DSS officials raised concerns about our reporting of site activity. They indicated that the list of active sites maintained by the Board is inaccurate and that our interpretation of total inactive sites is also incorrect. They stated that in some social service districts, voter registration data is consolidated and transmitted from a single site.

Our report accurately reflects the Board's data on NVRA activity at DSS. DSS officials stated, and Board officials concurred, that several DSS sites in NYC are actually volunteer sites at hospitals and medical centers. These sites report their data through two DSS sites. Due to this, the total number of DSS sites and the number of inactive sites on the Board's reports may both be overstated. Board officials need to modify their reports to accurately report DSS data on NVRA activity.

Note 2. HRA officials believe our report is vague and ambiguous. They further indicate no distinctions are drawn between the social service agencies; the study's presentation of statistics is framed in general terms; and the study's assertions are not substantiated with supporting facts.

Of the 214 DSS sites, 108 are HRA sites in NYC. Of the 31 sites reporting no activity, 26 are HRA sites. In their response, HRA incorrectly compared their total voter registration applications sent to the local boards of elections to the total new registrations generated by DSS as a whole. Not all voter registrations applications become new registrations. Many are duplicates, recertifications, or other classifications. For example, as of January 9, 1996, HRA had forwarded 72,598 voter registrations applications which had resulted in only 36,405 new registrations.

HRA officials also criticize the reports conclusion that canceled training sessions indicate a lack of HRA commitment to the NVRA program. The Board's training officer indicated he had difficulty in scheduling HRA staff training. The Board originally scheduled five days of training in September and October. HRA officials initially requested this be cut to two days in October and then canceled it at the last minute. It took the Board six calls over 12 days to then schedule HRA training in December. HRA canceled this training on one week's notice and stated the reason for the cancellation was to accommodate the staff of the NYS Comptroller's Office. However, HRA officials did not advise us of this impending training during our initial meeting with them on November 21, 1995. Had we been advised of this conflict, we could have scheduled our site visits to accommodate the training. The Board finally held two training sessions for 192 HRA employees on February 20, 1996.

HRA officials included their response to our preliminary study findings in their draft report response. This response has been deleted because HRA officials' comments contained therein were considered in writing the draft report.

Note 3. WCB officials do not believe the study accurately represents the current status of NVRA implementation at the WCB. Specifically, officials indicated that new policies and procedures were issued on December 7, 1995, that the administration has undertaken an aggressive and comprehensive program to implement NVRA, and that these actions are supported by the 30 percent increase in WCB NVRA activity during the month of December 1995. Further, officials stated that they did not state that WCB should not be required to participate in NVRA.

At the time of our initial contact with WCB officials in November 1995, formal agency policies and procedures for NVRA had not been issued. Subsequently, officials issued policies and procedures (WCB Subject No. 815) on December 7, 1995 and provided us with copies on December 27, 1995. Further, we visited one site on December 19, 1995 and found that they did not have these procedures on hand. We also found other procedural problems during this visit indicating that this site may not be successfully fulfilling its NVRA obligations. While there was a 30 percent increase in NVRA activity in December, there were less than 12,000 NVRA transactions out of over 176,000 client contacts during the year. In addition, as cited in the report, WCB only processed 109 voter registration applications during the year. The comments made in the report are an accurate representation of testimonial evidence made by WCB officials regarding WCB's participation in NVRA during an interview with two auditors. Officials have now explained further why they conclude the integration on NVRA into the WCB process does not appear appropriate.

Note 4. Commission officials stated that they have now taken steps to properly implement NVRA including developing and issuing policies and procedures, training staff, and monitoring site activities. In addition, they stated that no executive director has refused to implement NVRA. However, there was a situation involving one executive director which may have caused a temporary disruption of normal services, including NVRA. This situation has since been resolved according to Commission officials.

Our report accurately describes the conditions at the Commission at the time of our review in November 1995. The comments made in the report are an accurate representation of testimonial evidence made by the official on the Commission's implementation of the NVRA during an interview with two auditors. As stated in their response, Commission officials have taken actions to address these conditions since our review.

Note 5. Division of Veterans' Affairs officials indicate the statement that policies were not developed until November 30, 1995 is absolutely untrue. They also state that under the previous administration sites were listed which were not appropriate or, in some cases, did not exist. In addition, they indicated that there were other reporting errors due to confusion over what had to be reported and when reports were to be submitted. Further, officials indicated that

they took steps to ensure full implementation of NVRA by the Division because of correspondence from the Board, not the Department of Justice's investigation.

Prior to the issuance of the Division's memorandum of November 30, 1995, there were no agency specific policies and procedures. Originally, site coordinators were instructed to use the Board's NVRA training manual as their procedures until the new memorandum was issued. While officials cite various reporting problems, they provided no documentation to indicate what the actual sites and activity were for 1995. Division officials state that the issuance of the November 30, 1995 memorandum was not the beginning of a policy, but merely an attempt by the administration to improve NVRA implementation in light of recent developments. Officials did not provide the details of these recent developments. However, the Division's Project Assistant stated that the memorandum was issued as a direct result of the receipt of a letter dated November 14, 1995 from the Justice Department announcing their intention to begin an investigation into the State's implementation of NVRA.

Note 6. Office of the Aging officials took strong exception to the report's implication that their commitment to implementing NVRA is limited. In addition, they questioned the statement in the report which indicated that an Office official did not believe the Office should be part of NVRA.

We acknowledge that the information provided in the study's Summary of NVRA Activity indicates that the total NVRA activity and new voter registrations for the Office of the Aging are significantly greater than that reported for OMRDD. However, OMRDD's registration activity is greatly limited by the clients they serve. Further, the comments made in the report are an accurate representation of testimonial evidence made by the official on the Office's implementation of the NVRA during an interview with two auditors.

Note 7. Board officials stated that the report's references to agency officials are vague and very misleading.

"Agency officials" as used in the report refers to the highest ranking agency officials with direct NVRA program responsibilities as designated by each agency's respective commissioner or executive director.

Note 8. In responding to our draft report, Board officials stated the FEC has established a uniform reporting system and that the FEC will publish its first report in 1997. Board officials indicated that the FEC report will provide a much more accurate measure of NVRA activity than the current series of unofficial reports based on inconsistent data that are now being issued by various advocacy groups.

The FEC reporting mechanism will allow for the compilation of data by election officials from each state to uniformly report voter registration efforts, including NVRA. Subsequent to receiving the Board's response to our draft report, we contacted a FEC official who acknowledged that the FEC will not verify the data reported by each state. In addition, the FEC does not mandate how states will collect NVRA data; therefore, there is no assurance

these data collection systems will be uniform or accurate. Thus, the data reported to the FEC by each state may not be accurate or comparable.

Listing of the 14 State Agencies Designated to Implement NVRA

(Advocate for Disabled)	Office of the Advocate for Persons with Disabilities
(Aging)	Office for the Aging
(Commission for Blind)	Commission for the Blind and Visually Impaired
(DOH-WIC)	Department of Health Women's, Infant's and Children's Program
(DMV)	Department of Motor Vehicles
(DSS)	Department of Social Services
(Labor)	Department of Labor
(OASAS)	Office of Alcohol and Substance Abuse Services
(OMH)	Office of Mental Health
(OMRDD)	Office of Mental Retardation and Development Disabilities
(State)	Department of State
(VESID)	Office of Vocational and Educational Services for Individuals with Disabilities
(Veteran Affairs)	Division of Veteran Affairs
(Workers' Comp)	Workers' Compensation Board

Exhibit 1

Major Contributors to This Report

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STATE BOARD OF ELECTIONS

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February 16, 1996

Mr. David R. Hancox
Director of State Audits
Office of the State Comptroller
Management Audit Bureau
13th Floor
Alfred E. Smith Building
Albany, NY 12236

Dear Mr. Hancox:

Attached please find the State Board of Elections' formal response to Draft Report 95-D-42. The Board appreciates the opportunity to comment on the Comptroller's study of the implementation of the National Voter Registration Act in New York State.

Please do not hesitate to contact me if your staff has any questions or requires any additional information.

Sincerely,

Thomas R. Wilkey
Executive Director

STATE OF NEW YORK

STATE BOARD OF ELECTIONS

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2/16/96

The State Board of Elections appreciates the opportunity to respond to the Office of the State Comptroller's Draft Report 95-D-42, *Staff Study On New York State's Implementation Of, and Compliance With, The National Voter Registration Act Of 1993.* Our response will provide a general overview of the NVRA, and will also address the challenges of this program, our current strategies in administering it, and some possible solutions for future improvements. In closing, we will respond to some specific issues raised in the report which we believe require further clarification.

Overview

As soon as the bill was signed by the President, the State Board of Elections convened a 28 member task force to study the federal legislation and to recommend implementation strategies and draft legislation for New York State. The task force included representatives from state agencies included in the legislation, State Board of Elections staff, county board of elections commissioners, the state legislature, the governor's office, and representatives of voter registration organizations. This diverse group explored every detail of this legislation, and the Board can say with certainty that no section of the bill was more difficult, or involved more discussion and disagreement, than the agency-based registration provisions.

However, despite a wide range of views on the topic, we were able to produce a comprehensive report in March of 1994 that served as the basis for our state's conforming legislation. Because of this process, and the fact that our staff has now spent well over two years working on this program, the Board believes there is a strong program in place and a solid foundation on which to build improvements.

Challenges

The challenges in developing and administering this program are many and they are ongoing. It is never easy to fit one program of this magnitude neatly into 14 different state agencies with 875 office sites, each with their own way of doing business. And make no mistake, this is a huge program requiring the attention and cooperation of thousands of public employees. However, the State Board of Elections made, and continues to make, every effort to provide as much training and information to participating state agencies as possible. To date this includes:

- 20 train-the-trainer sessions conducted throughout the state in October and November of 1994 and attended by over 500 agency personnel.

- A two hour training teleconference that was broadcast to 25 locations throughout the state in March of 1995. The teleconference demonstrated and explained the agency-based registration process. In addition, a live call-in question and answer session followed the teleconference. All questions that were not answered during the broadcast were compiled, answered in writing, and a question and answer booklet was distributed to all sites. Over 700 agency employees attended and we continue to make VHS copies of the teleconference available to agencies at no cost.

- The development and distribution of a comprehensive 25 page training and reference manual that was distributed to the site coordinators at every state agency office participating in the program. This manual outlines all aspects of the agency-based voter registration process and can be used as a quick reference and training tool for participating offices.

- Six regional train-the-trainer sessions attended by 90 Department of Labor employees in January, 1996.

- Two regional train-the-trainer sessions attended by 42 Department of Health employees on January 26 and February 14, 1996.

- Two training sessions for employees of the Human Resources Administration in New York City on February 20th.

- Several other training sessions delivered to participating agencies at their request.

Planning, organizing, developing and delivering training and information for a program of this magnitude is a monumental challenge, and we have made every effort to meet that challenge. Over the course of the past year, we have made it clear to the agencies that we are here to help and that we will do whatever we can to provide training and assistance. That offer continues to stand.

In terms of administration, the most important component of our program is a computer database system that was developed specifically for the NVRA. This enables us to keep up-to-date information on each and every office participating in this program, including the address, telephone number and the name of the site coordinator who is responsible for administering the program. This computer system also tracks all statistics and enables us to monitor exactly how many voter registration transactions are being processed by each agency site. The Board knows of few other states that have the ability to track and compile NVRA statistics the way we do in New York. This coordination on our part was designed to insure that information, training, and the gathering of statistics would be handled by a single source, rather than have each county develop its own strategy, which is a common method employed by other states. It should be noted that this was all made possible by the fact that New York was one of the few states that was given, and continues to receive, state funding for NVRA implementation and administration.

Current Strategies

As for current strategies, we are continuing our efforts to provide more training and information to each of the agencies. Each month we distribute a report to the agencies which shows them the level of voter registration activity at each of their sites. Beginning March 1, 1996, the Board will begin distributing another monthly report to participating agencies that will show the last date registration forms were submitted by each site. The combination of these two reports will provide agencies with a clearer picture of registration activity.

We also distribute a quarterly newsletter to all site coordinators that provides program information, discusses common problems and solutions, and provides other information that is useful to agency employees involved in this program.

Our staff in Albany makes every effort to contact sites by phone or in writing whenever we notice a problem, and we are always available to answer questions and resolve problems.

Solutions

The Board believes the program is off to a good start in New York. We realize that people have, and will, compare us to other states with higher NVRA transaction numbers. However, one must be very careful in making those comparisons and look closely at what voter registration systems were in place prior to NVRA. For example, in states like Georgia, Florida and Texas where there was no mail-in registration, everyone expected the response to this program to be overwhelming. Remember, New York has had mail registration for over 20 years. Also, according to Human Serve's reports, nobody is quite sure what data states are including in their statistics. New York has only reported on new voters registered as a result of the NVRA agency-based program. However, in Human Serve's report, many states appear to be including additional information unrelated to the NVRA as part of their statistics. Because the integrity of the data in these reports is questionable, the Board is not so confident that these state by state comparisons are valid. However, the Board is certain that New York has one of the best systems in the country for collecting and reporting this data.

Election and agency administrators across the country knew that it would take time before voter registration became integrated into the normal workflow of participating agencies. The Board, and the Task Force members, knew that much of the first year would be spent solving problems, answering questions and working out the kinks that are always prevalent in a program of this magnitude. Many of the problems we face are unique to New York because of how our state's social service programs are delivered to clients. Despite all of this, the Board is proud of the fact that during 1995 the agencies registered 316,494 new voters and that another 91,500 voter registration transactions, such as changes of address and party enrollment, have been processed.

As for solutions, the Board must continue to foster good working relationships with the agencies, continue to provide training and disseminate information, and continue to work toward making this part of the agency's workday routine. This is a very difficult and laborious process given the fact that thousands of people are involved in the delivery of state services each day. Much of this will come over time, and the rest will come through our hard work and the cooperation of the agencies. The ultimate success or failure of this program rests with each individual state employee who delivers services in the participating agencies. Our staff is now in the process of preparing a very comprehensive and detailed report for the Governor and the Legislature that will outline the history and status of this program.

New York was, and continues to be, a leader in implementing this program. Many states have relied on the materials we developed for their own implementation. New York was not dragged into the program as a result of a

lawsuit. Rather, we elected to immediately move forward with a difficult, and not always popular, program. In fact, we started this program a year early because, by law, we could have waited until January 1, 1996. Many states still have no program at all.

The bottom line numbers on New York's NVRA program in 1995 are as follows:

New Voters Registered:	316,494
Mail-in registrations generated by participating agencies:	10,456
Address Changes Processed:	63,806
Enrollment Changes Processed:	23,066
Name Changes Processed:	4,628
Duplicate Registrations:	40,116
Incomplete Registrations:	26,312

Is there room for improvement in New York's program? Certainly. The Board and its staff will continue to build on the solid foundation that is now in place to ensure that New York has an effective, and efficient, NVRA program in place.

We would be remiss if we did not mention the role of the county boards of elections in this program. Their ability to deal with the NVRA's sweeping changes and the increased workload that resulted should be commended.

Specific Comments on the Report

The following are some specific comments on the report arranged according to the subject headings and page numbers in the draft report.

Study Observations and Conclusions

- The opening paragraph makes reference to New York "reportedly" ranking third in gross total of NVRA registrations but below the national average in increasing the percentage of registered voters. Board staff has consistently talked about the various methods states are using to report statistics and how the data is not reliable. Therefore, we are not certain these

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comparisons are valid.

- The Board is disappointed with the fact that our efforts are reported to be only "good" and "noteworthy." Staff believed the auditors got a very clear picture of the enormous amount of time and effort that has been put into this program since the law was passed in 1993, and we honestly felt this would be reflected in a more positive light.

- The Department of Labor is consistently cited for non-compliance without any mention of the federal regulatory conflict that led to this situation. Pursuant to existing federal regulations, the Department of Labor's federal funds, which constitute 90% of its budget, cannot be used for implementation and administration of the NVRA program. This issue was raised repeatedly throughout our task force meetings in 1993 by the department's representatives. Rumors that this problem would be solved at the federal level persisted throughout the Task Force's deliberations and beyond. Only recently did we learn that the U.S. Department of Labor has decided that their regulation will not be changed. We believe it is unfair to criticize the Department of Labor when there was a very real problem that prevented them from running the program without additional state appropriations.

- Throughout the report, several references are made to the lack of uniform program evaluation and reporting systems to measure the success or failure of overall national and state efforts. The Federal Election Commission bears this responsibility and there is a system in place. However, the first reports to the FEC and Congress are not due until 1997. The FEC report will provide a much more accurate measure of NVRA activity than the current series of unofficial reports based on inconsistent data that are now being issued by various advocacy groups. Since many states were not required to begin NVRA programs until 1996, it is clear that the intent of Congress in establishing this reporting calendar was to give states ample time to establish a track record Furthermore, other states, including New York, had to wait until 1996 to fully implement all aspects of the NVRA because of the need for state constitutional amendments.

Background (Page 1)

- There is still no clear definition of what is meant by "monitoring," and the word is used in several different contexts throughout the report. Our responsibility under the law is to monitor the distribution of forms, and we are confident we have met, and exceeded, that responsibility. Further, neither the federal nor state legislation contains any provisions for additional monitoring activities.

Scope, Objectives and Methodology of Study

- The report mentions the fact that auditors contacted officials from 40 other states to place our program in perspective, yet there is very little evidence of this. The Board respectfully requests that copies of these findings be made available.

Status of NVRA Implementation (Page 5)

- The report makes reference to the 1990 voting age population statistics compiled by the U.S. Census Bureau. It should be noted that the voting age population is not the same as the eligible population. Voting age population statistics include undocumented residents, convicted felons, and other individuals who may not be eligible to vote. This fact skews the numbers for states that may have large populations of ineligible residents. According to the July, 1995 report from Election Data Services, New York now ranks 36th among the states in terms of percentage of voting age population registered. The other large states New York is frequently compared to - Illinois, Texas, Pennsylvania, California and Florida - rank 26th, 35th, 38th, 40th and 45th respectively in percentage of voting age population registered.

(Page 6)

- The language in the second paragraph regarding identification of offices that receive state funding is misleading. Only state-funded programs that provide services to people with disabilities are covered by NVRA. This does not include the Department of Social Services and nursing homes, clinics and doctor's offices that distribute Medicaid applications. New York is going above and beyond our responsibility in trying to determine where DSS applications are distributed so that these private hospitals, clinics and community-based organizations can be made aware of the fact that the voter registration form is attached to the common DSS application. This information will encourage these private organizations to offer the opportunity to their clients, and instruct them on how to handle completed forms. We do not anticipate including these locations as sites.

Summary of NVRA Activity Table (Page 8)

- New York also took an extra step relating to changes of address processed by DMV in 1995. Since the address changes could not be processed directly by boards of elections until the state's constitution was amended, the State Board took the initiative of gathering all change of address transactions from DMV on a weekly basis. Using this information, the Board mailed out 80,115 voter registration forms to individuals who submitted changes of address to DMV. In 1996, all DMV changes of address will be captured as NVRA transactions. Therefore our NVRA statistics will increase significantly in 1996 based on this fact alone.

Participating Agencies with Limited NVRA Activity (Page 13)

- The information following the first bullet is misleading. The Board made it very clear to the disability agencies that we would approach implementation in two phases. First, we planned to implement the program in all state offices, and then we would approach the issue of state-funded programs. The report leads one to believe that the Board told OMH to ignore the state-funded programs completely. The Board is also interested in learning where the 40 states surveyed by the auditors are in terms of addressing the "state-funded program" requirement.

- At several points in this section, the report makes reference to "agency officials." Are these the official positions of the agency in question or the opinions of a particular employee? Did auditors speak with the commissioners or executive directors of any of the agencies to clarify these comments? These vague references are very misleading.

- The comments on VESID are also misleading. Board staff explained that the majority of VESID's applications for services are mailed out to clients resulting in very few face-to-face applicants. Including the mail registration form in the VESID application packet seemed to be the most sensible way to offer the opportunity to register to vote. This is also a good example of how one program will not necessarily fit neatly into 14 different agencies. VESID is also using the coded mail registration forms that are tracked by county boards. While we are unable to attribute these forms specifically to VESID, they can be attributed to the NVRA agency-based program.

(Page 15)

- The first paragraph on this page leads one to believe that OMRDD is the only agency identifying state-funded programs when, in fact, all disability agencies have done so.

Issues to be Addressed for NVRA Implementation (Page 16)

- Again, there is a uniform reporting procedure and mechanism in place through the FEC. Frankly, we feel that all current state by state comparisons are unreliable until this official report is issued. The FEC report requires states to follow very strict reporting criteria that will provide a much more accurate comparison of states' activities.

- Further, the FEC is one of two federal agencies responsible for this law and , to our knowledge, they were not contacted regarding New York's implementation efforts and how they compare to those of other states.

Do Adequate Program Evaluation and Reporting Systems Exist (Page 16)

- Same comment as above.

Does the State Law Provide for Effective Monitoring and Enforcement (Page 17)

- While the state does not have specific penalties for non-compliance, the federal legislation does provide for severe penalties, including the imposition of attorney's fees. The statute also allows the U.S. Department of Justice to bring suit against states that are not in compliance.

- Since June of 1995, we have made it very clear to agencies that they are mainly responsible for monitoring their compliance based on the reports we provide to them on a monthly basis.

- While it is true there are no monitoring provisions in the state law, it should also be pointed out that the issue of monitoring is not addressed in the federal law either.

Conclusion (Page 18)

- We believe the intent of Congress was to monitor compliance and effectiveness through the FEC reports and enforce the statute through the Department of Justice and the civil and criminal penalties provided in federal statute.

NEW YORK STATE OFFICE FOR THE AGING
2 Empire State Plaza, Albany, NY 12223-1251

George E. Pataki
Governor
Walter G. Hoefer
Director

February 9, 1996

David Flanagan
State Board of Elections
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Dear Mr. Flanagan:

Thank you for sharing with me the draft of the Comptroller's "Staff Study on New York State's Implementation of, and Compliance with, the National Voter Registration Act of 1993, Report 95-D-42." I wish to respond to one section on page 14 which describes this Office.

This Office takes strong exception the Report's implication that the Office for the Aging's commitment to implementing the NVRA is limited. This Office has developed policies and procedures, issued program instructions and conducted training for Area Agency staff. To date, our efforts have resulted in 11842 contacts with potential registrants and 632 new registrants, which, as the report reflects, places this Office fourth out of fourteen state agencies.

This Office realizes that there is room for improvement and we are continuing to work with Area Agencies to achieve full implementation of NVRA. The Report, however, is critical of efforts of the Office for the Aging while praising the efforts of Office of Mental Retardation and Developmental Disabilities which it believes is making good efforts to comply with the law. The efforts by the Office of Mental Retardation and Developmental Disabilities are not different from the efforts of the Office for the Aging. The Office for the Aging, furthermore, appears to have registration contacts and new registrations significantly higher than those of OMRDD.

The Report also states that one official from the Office for the Aging does not believe that they should be part of NVRA. I represented this Office at the session held with the Comptroller's Office staff and do not recall that such a statement was made. I believe that this Office's efforts demonstrate a strong and ongoing commitment to comply with the NVRA.

Thank you for your attention to our concerns in your final comments to the Comptroller's Office. We look forward to continuing to work with you.

Sincerely yours,

Robert F. O'Connell
Deputy Director
Local Program Operations

NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

BRIAN J. WING
Acting Commissioner

February 8, 1996

Dave Flanagan
State Board of Elections
Swan Street Building, Core 1
Empire State Plaza
Albany, NY 12223-0002

Dear Mr. Flanagan:

Thank you for the opportunity to review and comment on the formal draft copy of the Comptroller's report on NVRA. Our comments are as follows:

Page 6

We are not in agreement with the implications of the last paragraph on this page. DSS is not in the process of supplying the State Board of Elections with the list of offices that must comply with NVRA. Rather, we have been asked to and are in the process of providing a list of private non-profit organizations in each district that provide assistance in completing applications for PA, FS and MA. Additionally, we are not supplying information on nursing homes, clinics, doctors offices and others as stated in this paragraph.

You will recall from previous discussions on this matter that we are very concerned about the apparent interpretation of NVRA requirements that the Comptroller's Office is using. We do not believe the legislation requires that every Medicaid provider is required to provide clients the opportunity to register to vote every time they are provided a service.

Page 8

The chart on page 8 and subsequent narrative sections of the report indicate that there are a total of 214 DSS sites statewide of which 31 have no activity. These figures are derived from an inaccurate list of sites that we have been working with the Board to correct. Additionally, it does not take into account the fact that in some social services districts, voter registration data is being consolidated and transmitted from a single site. This is particularly true of MA applications in HRA. As I indicated the Department has been working with the State Board of Elections to correct the list and the auditors were made aware of this fact at the time they visited this Department.

Page 9

The second paragraph indicates that the Department as well as other agencies coordinators have expressed a variety of concerns. We believe these concerns to be legitimate and in previous correspondence have addressed additional concerns such as the possibilities of fraudulent registration.

The first paragraph under the section Participating Agencies on page 9 indicates "that the Department of Social Services has implemented NVRA at most of its sites". This is a understatement in the sense DSS has the largest number of sites by far and the number of sites with no activities as previously mentioned is overstated.

Page 10

Again, the second paragraph states the same figure with regards to sites and sites with no activities which we have indicated is inaccurate. The same paragraph indicates "some upstate site coordinators expressed negative feelings about NVRA which could negatively effect its implementation". We do not agree with this conclusion. We considered the comments by these coordinators valid and feel they should be construed as constructive criticism on how to improve implementation of NVRA.

If you have any questions with regard to any of the comments please given me a call.

Sincerely,

Michael McNaughton
Director
Local District Policy Communications

cc: Brian Wing
Dan Hogan
Greg Petschke - OSC

STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

MICHAEL E. STAFFORD
COUNSEL TO
SECRETARY OF STATE

MEMORANDUM

TO: Dave Flanagan

FROM: Jason A. Kippen
Legislative Liaison

SUBJECT: National Voter Registration Act (NVRA)

DATE: February 9, 1996

In response to your memorandum dated January 25, 1996, the Department of State has no comment in regard to the Comptroller's study of our NVRA program.

Thank you for the opportunity to review and comment.

JAK:ub

cc: Sam Messina
file

Fax Transmittal

STATE OF NEW YORK - WORKERS' COMPENSATION BOARD

OFFICE OF EXECUTIVE DIRECTOR

INTEROFFICE MEMORANDUM

To: David Flanagan

Date: February 12, 1996

From: Anthony Rudmann (a)

Subject: OSC Study on NVRA

Thank you for your memorandum of February 2, 1996 requesting comment from the Workers' Compensation Board (WCB) regarding the Comptroller's study of NVRA in New York State. Having reviewed the study, we submit the following concerns, observations and comments in response. In short, we do not believe that the study accurately or fairly represents the current status of NVRA implementation at the WCB.

Comments of Board Officials: This statement in the study should be expanded to note the receipt and inclusion of comments from the underlying agencies that were the subject of the study and review.

Scope, Objectives and Methodology of Study: The scope of the study notes that it covered the period of January 1, 1995 through December 31, 1995, and further states that it "assessed the efforts by the (Election) Board and each of the participating agencies in implementing (NVRA)". It also explains that it was seeking to "determine the current overall status of NVRA program implementation". However, for the Workers' Compensation Board, the study fails to acknowledge and reflect the extensive and formal agency-approved procedures for the implementation of NVRA (WCB Subject No. 815) that was provided Ms. Lupul at OSC on December 27, 1995. Furthermore, the discussion of the methodology of the study suggests that OSC conducted site visits only at DMV, DSS and DOH. Here again the study fails to acknowledge the fact that OSC staff included two on-site visits to WCB in Albany (11/20/95) and Rochester (12/19/95) in their review of the agency.

Status of NVRA Implementation: At page seven of this discussion, the study states that:

> In attempting to ascertain the status of participating agency implementation and compliance...[it] assessed the agency's overall commitment to implement NVRA...determined the extent of efforts made to establish program policies and procedures, to train staff, and to monitor program operations...[and] reviewed [Election] Board records and/or made site visits to assess program activity and results.

If this is, in fact, the process undertaken by OSC, then the summary description of WCB on page

13 of the study is inaccurate, inadequate and without substantiation based on the materials provided OSC by WCB.

Participating Agencies With Limited NVRA Activity: On page 12 the study acknowledges a stated, although late (January 19, 1996) change in attitude and position by the Department of Labor. Having accepted additional information about an agency that late after the study period concluded, OSC should certainly be cognizant of materials and information provided it by agencies during the study period (ie. WCB Subject No. 815, provided 12/27/95).

Also on page 12 the study concludes that at nine agencies "there has been limited commitment and effort..." WCB strongly disagrees with that conclusion if it was intended to relate to WCB. While the prior administration may have provided less guidance or commitment to the agency's NVRA implementation, the current administration has undertaken an aggressive and comprehensive program to ensure NVRA opportunities to the fullest extent possibly at WCB hearing locations.

Page 13 describes specifically the study's findings as related to WCB. We believe that this section is inaccurate in its explanation of the agency's policy and procedure for NVRA for the following reasons:

First, WCB did not indicate that it should not be required to participate. Rather, like the Office of the Advocate for Persons with Disabilities, WCB explained the uniqueness of its operation to OSC and noted the fact that the nature of WCB services involves no application/certification or recertification process as envisioned by NVRA. Thus, we concluded, the integration of NVRA into WCB processes did not appear appropriate. It was further noted that the only face-to-face contact between WCB staff and claimants was at or during the administrative hearing process. It was explained that WCB thought this to be the only opportunity at which WCB could seek to establish effective NVRA implementation. It was also explained that our numerous itinerant hearing sites presented further unique difficulties for WCB in that the facilities are neither within the control of WCB nor staffed full-time by WCB employees.

Contrary to the inaccurate statement in the study that there is "no agency-specific policies and procedures for program implementation, no monitoring efforts and no assurance that all staff have been trained...", WCB has adopted extensive policies and procedures as well as training programs as evidenced by the publication of Subject No. 815, the appointment of new district site coordinators to monitor NVRA at the local level, and the involvement of executive staff (including the Assistant Director of Operations and the General Counsel) in agency-wide implementation and monitoring .

Further, contrary to the categorization of the study, WCB is not "attempting" to emphasize NVRA but is in fact doing so through the policies and procedures enunciated. The success of our effort was evident during the on-site inspection at the Rochester district office on December 19, 1995 when OSC observers regarded the NVRA operation there as successfully fulfilling the obligation. Additional evidence of success is the observation within the study that

through November 1995, 9026 claimants of WCB participated in NVRA whereas through December 1995, 11,689 had done so. A one month increase of nearly 30% is an obvious indication that WCB had successfully undertaken to expand NVRA participation, yet no recognition of that effort and activity is afforded by the study.

Finally, the discussion of WCB is the only one in the study to set forth a number as to the extent that NVRA transactions resulted in actual registration applications. We question the relevance of this figure? The object of NVRA is to expand the opportunity for individuals to register to vote. Having offered that opportunity, the number of NVRA transactions that actually result in a registration application is beyond the control of WCB or any other participating agency. The implication of such a statement in the study is that the agency should be doing more to insist on voter register rather than merely providing the opportunity and means to do so. We do not believe that such insistence would be an appropriate action for WCB to undertake. Likewise, we do not believe the reference that "only 109 were registration applications" is a relevant observation or conclusion for what was presumably an impartial study of the issues.

We believe that the activity and effort undertaken by the current WCB warrants a more accurate description of the policy and procedure implemented. In particular, we believe that WCB is more on a par with the description provided for Office of Mental Retardation on page 15 of the study: "officials appear to be enthusiastic about NVRA. They have developed policies and procedures, and have trained staff." If the study insists on noting the past versus the present, it should do so in explicit terms so that the current implementation of NVRA by WCB through its Subject No. 815 and related activities is recognized and encouraged.

We appreciate your courtesy, Mr. Flanagan, in providing us a draft of the study and inviting us to offer comment and observation. Your cooperation in assuring that our views are made known to the drafters of the study is vital to ensure the accuracy of the discussion as it pertains to WCB and our efforts in compliance and implementation of NVRA. Thank you for your continued assistance.

NEW YORK STATE
OFFICE OF ALCOHOLISM
AND
SUBSTANCE ABUSE SERVICES
1450 Western Avenue
Albany, New York 12203-3526

Jean Somers Miller
Commissioner

Neil C. Grogin
Associate Commissioner

February 9, 1996

Mr. David Flanagan, Public Information Officer
New York State Board of Elections
Swan Street Building, Core 1
6 Empire State Plaza, Suite 201
Albany, New York 12223-1650

Re: Office of the State Comptroller's Draft Study Report (No. 95-D-42) *"Staff Study On New York State's Implementation Of, And Compliance With, The National Voter Registration Act of 1993"*

Dear Mr. Flanagan:

This responds to your February 2, 1996 transmittal of the above-referenced draft Study report to Henry Gonzalez of this Office, in which you offered this Agency the opportunity to provide comments to be appended to the State Board of Elections' (BoE) response to the Office of the State Comptroller.

In general, we take no exception to the draft report's findings relative to this Agency's activities concerning the implementation of the NVRA requirements. However, in terms of assuring a complete record of this Agency's activities and position with respect to NVRA implementation, we have two brief comments:

1) In regard to the first bullet on page 13 of the report, we believe this Agency, along with the Office of Mental Health, was also given the understanding, early on by BoE, that only patients of this Agency's State-Operated Alcoholism Treatment Centers were to be included in the *first stage* of NVRA implementation.

2) As to the *second stage* of NVRA implementation (i.e., participation by OASAS funded alcoholism/substance abuse providers), we would like to emphasize the importance of the report's reference (see third paragraph on the second page of the Executive Summary) to the notion that NVRA coverage, upon full implementation

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by participating agencies, would be duplicative, given the high percentage of the participating agencies' respective clientele already being processed by social service agencies for public assistance. Considering the substantial State resources impacted by the intended implementation of NVRA, in conjunction with the State's overall goals of downsizing and streamlining government operations, we believe this issue deserves more serious consideration, vis-a-vis the report's conclusions, to assure that the objectives of the NVRA are effectively achieved in the most efficient manner possible.

On a final minor note, reference in the draft Study report to the formal name of this Agency should be corrected to read Office of **Alcoholism** and Substance Abuse Services.

Thank you for this opportunity to provide comments on the draft Study report.

Sincerely,

Neil C. Grogin

Neil C. Grogin
Associate Commissioner
Standards and Quality Assurance

cc: Jean Somers Miller
Paul S. Puccio
Normand R. Caron
Addie Corradi
James P. O' Hanlon
Julie Rodak
Nicolas Colamaria
Frank Corgliano
Henry Gonzalez
Dick Hogle

OMRDD OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE • ALBANY, NY • 12229-0001
518•473•1997 518•474•3694 TDD

THOMAS A. MAUL
Commissioner

HAROLD F. HOPKINS
Executive Deputy Commissioner

February 9, 1996

Mr. David Flanagan
Public Information Officer
NYS Board of Elections
Swan Street Building, Core 1
Empire State Plaza
Albany, New York 12223-0002

Dear Mr. Flanagan:

As you requested, the Office of Mental Retardation and Developmental Disabilities (OMRDD) has reviewed the Office of the State Comptroller's (OSC) Study On New York State's Implementation Of, And Compliance With, The National Voter Registration Act Of 1993 (NVRA)."

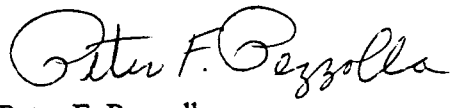
We were very pleased with the auditors' positive comments regarding OMRDD's efforts to implement the NVRA. However, their statement regarding "...43 of 70 sites reporting no activity" is somewhat misleading and should be explained. OMRDD has been addressing the voting rights for individuals receiving our services since the promulgation of Part 633 (Protection of Individuals Receiving Services in Facilities Operated and/or Certified by OMRDD) in 1987. Part 633, among other things, protected an individual's right to have the "...opportunity to register to vote and the opportunity to participate in activities that educated him or her in civic responsibilities." As a result, many of the individuals in our programs who are capable of participation have already been registered. Since most of the people we serve are not capable of exercising their voting rights, it is not uncommon or unusual for some sites to report no activity. There is also the possibility that reporting errors may have been made in some of those instances cited.

OMRDD is committed to the NVRA/Agency-Based Voter Registration Program (ABVR) and will continue to ensure that all new consumers are offered the opportunity to register. In addition, all individuals currently receiving services will be reviewed to determine if they are capable of

participation and have been provided with the opportunity to register. The OMRDD ABVR Program Coordinator will make periodic visits to ABVR sites to monitor progress on the aforementioned actions and further ensure that the mandates of the NVRA are being met.

I trust this information will be helpful to you in responding to OSC's report. Thank you for the opportunity to comment.

Sincerely,



Peter F. Pezzolla
Director of Management/Fiscal Audit

PFP/masp
cc: Ms. Baumann
Ms. Dell'Aira
Mr. Hopkins
Mr. Maul
Ms. O'Reilly
Mr. Wallace

NEW YORK STATE
OFFICE OF MENTAL HEALTH

Capital District Psychiatric Center - Unit R
75 New Scotland Ave., Albany, N.Y. 12208

JAMES L. STONE, MSW, Commissioner

February 9, 1996

Mr. Dave Flanagan
Public Information Officer
State Board of Elections
Swan Street Building, Core 1
6 Empire State Plaza, Suite 201
Albany, NY 12223-6220

Dear Mr. Flanagan:

Thank you for giving us the opportunity to respond to the Office of the State Comptroller's (OSC) draft study report (95-D-42) on the State's Implementation of, and Compliance With, the National Voter Registration Act of 1993.

As requested in your February 2, 1996 correspondence, the enclosed memorandum from Andrea Allen, the Office of Mental Health's (OMH) Coordinator for the National Voter Registration Act, represents OMH's response to OSC draft report 95-D-42.

If you have any questions concerning these comments, please contact me at 474-7653 (fax # 473-1819). Thank you for your cooperation and assistance regarding this matter.

Sincerely,

Stanley P. Lockwood

Stanley P. Lockwood, CFE
Audit Manager

Enclosure
cc: J. Clay
A. Allen
L. Campbell
E. Davis Chambers
B. Donaldson
R. Harris

NEW YORK STATE
OFFICE OF MENTAL HEALTH
44 Holland Avenue, Albany, New York 12229

James L. Stone, MSW, Commissioner

MEMORANDUM

TO: Stanley Lockwood

FROM: Andrea L. Allen

DATE: February 8, 1996

SUBJECT: OMH Response to OSC Study of NVRA

The following is in response to the OSC "Staff Study on New York State's Implementation of, and Compliance with, the National Voter Registration Act of 1993":

Individuals seeking services in the mental health systems usually enter at a point when they are emotionally fragile. If staff believe that a person is too ill at the time of intake to receive the voter registration form, a copy of such form should be placed in the person's record to be offered at a time when the person is more stable. By putting the form in the record, staff will be reminded to offer it to the patient at a later date.

The number of individuals (700,000) OSC refers to in their report needs clarification. This number represents total enrollments for all local and state programs (Emergency, Inpatient, Outpatient and Community Support).

A majority of individuals served in outpatient and community support programs are served by multiple agencies (eg., Medicaid, Motor Vehicles, etc.).

Following internal discussions over the past few months, OMH has determined that the more appropriate sites for voter registration activities would be Housing and Intensive Case Management (ICM) programs. Individuals from these programs are less likely to come in contact with other service providers that provide voter registration; in addition, ICM programs are designed to assist mental health recipients in accessing and managing community services and resources. Therefore, participation of ICM programs in voter registration activities is a logical extension of their other functions.

Agency staff is working with State Board of Elections' staff to implement this start-up and looking into the development of program policies and procedures.

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State of New York **Department of Social Services**

MEMORANDUM
DSS-524EL

TO: Dave Flanagan **DATE:** February 5, 1996

FROM: Debbie Lomma **SUBJECT:** Comptroller's report on NVRA

I received the formal draft copy of the Comptroller's report on NVRA. I have several comments I would like to make about the report.

1. CBVH has addressed the requirements of NVRA in its policy regarding intake procedures. All CBVH counselors who provide intake services are provided a copy of this manual. All private agencies contracting with CBVH to provide intake services are also provided a copy of all intake procedures.

2. All CBVH staff and private agency site coordinators attended the training sessions sponsored by the State Board of Elections. These site coordinators then became responsible for training all staff who provide intake services. If the site coordinator changes, I am responsible for training the person designated as the new site coordinator.

3. No Executive Director at our contract agencies have refused to implement NVRA. One of our contract agencies experienced an interruption with all service provision when the executive director was arrested. When that happened, the board of directors assumed responsibility for the day-to-day operations of the agency. Since then, an executive director has been appointed and service provision has returned to normal.

4. In November, I started monitoring the NVRA by telephone calls to some of the site coordinators. I have not been able to contact all site coordinators: however, I have contacted the ones with the least amount of activity. I was able to determine the reasons for the limited activity and was able to resolve some of the situations.

If you need any additional information, please feel free to call me. I hope this information is helpful.

New York State
Office of
ADVOCATE FOR PERSONS WITH DISABILITIES
One Empire State Plaza, Suite 1001 Albany, NY 12223-1150

Richard Warrender
State Advocate
(518) 473-4129
(800) 522-4369 VOICE/TDD
(518) 473-6005 FAX

February 7, 1996

David C. Flanagan
Public Information Officer
NYS Board of Elections
Swan Street Building, Core 1
6 Empire State Plaza, Suite 201
Albany, NY 12223-1650

Dear Mr. Flanagan:

Thank you for providing me with a copy of the final draft of the Comptroller's report on the implementation of the National Voter Registration Act (NVRA) in New York State.

As the report correctly notes, there has been minimal activity at the NVRA sites under the jurisdiction of the Office of Advocate for Persons with Disabilities (OAPwD). When I met with the Comptroller's representative in December, I reviewed in detail the reasons for the low level of activity. I explained that OAPwD offered voter registration at 9 sites -- our Albany office in the Empire State Plaza and at the 8 Regional Technology Related Assistance for Individuals with Disabilities (TRAID) Centers funded by OAPwD. Activity has been minimal due to a variety of factors:

- Very few individuals actually come to the OAPwD Albany office for information or services -- probably less than 12/year. Most requests for assistance come through our toll-free information and referral line and there are no "application" forms or procedures used for either telephone or personal inquiries.

- Most Regional TRAID Centers are housed within organizations which participate in NVRA, including state facilities, independent living centers, etc. As such, individuals coming to the Regional TRAID Center may have already been offered the opportunity to register through the parent organization before they ever have any real contact with Regional TRAID Center staff.

- Most Regional TRAID Center services are offered to groups on and off-site, or to individuals via telephone. Again, there are no uniform application forms for services and intake procedures vary from center to center.

- At both the OAPwD Albany office and the Regional TRAID Centers, NVRA procedures submitted to the Board last Fall provide that voter registration will be

offered when there is a one-on-one contact between an individual and a staff member. As noted above, such contacts are the exception rather than the rule.

For all of these reasons, voter registration opportunities are minimal. At the same time, OAPwD has been an active and responsive participant in NVRA activities, and will continue to do so.

On January 17, 1996, OAPwD submitted a revised list of NVRA site coordinators to the Board. OAPwD is currently negotiating contracts with entities to serve as regional TRAID centers in 13 of 15 regions of the State. Contracts will be awarded in the remaining 2 regions in March. As soon as those negotiations are finalized, we will be forwarding to the Board a list of the additional sites and coordinators. Six of the eight TRAID centers identified to the Board last year will continue to operate as part of the new TRAID network. One project will not be continued; another will be continued only if it is awarded the TRAID contract for that region, a determination which will be made in March.

NVRA training will be provided to the new site coordinators as part of their orientation to the TRAID Project, and compliance with NVRA requirements will be evaluated in the course of periodic site visits conducted by OAPwD TRAID Project staff.

Again, I appreciate having been afforded an opportunity to review this report, and the Advocate's Office looks forward to continuing to work with the Board in assuring increased opportunities for New Yorkers with disabilities to exercise their right -- and responsibility -- to register and vote.

Sincerely,

Robert J. Boehlert
Deputy Advocate and Counsel
NVRA Program Coordinator

/lp
cc: Richard Warrender

NEW YORK
THE STATE OF LEARNING

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

February 9, 1996

Mr. Thomas R. Wilkey
Executive Director
State Board of Elections
Swan Street Building, CORE 1
6 Empire State Plaza, Suite 201
Albany, New York 12223-1650

Dear Mr. Wilkey:

On behalf of Lawrence Gloeckler, Deputy Commissioner for the Office of Vocational and Educational Services for Individuals with Disabilities (VESID), I am responding to the draft of the Office of the State Comptroller's "Staff Study on New York State's Implementation Of, and Compliance With, the National Voter Registration Act of 1993" (NVRA).

We are concerned that the report does not accurately describe VESID's effort to implement the NVRA. The summary of VESID activity on page 13 is based on a misunderstanding of the acting coordinator's comments as they relate to the application process.

Several years ago in an attempt to improve its outreach and simplify the application process, VESID developed an application packet which is mailed to prospective consumers at their request. The intent of the packet is to provide timely information about VESID and its services. The packet application allows VESID to reach as many people as possible with maximum efficiency. The voter registration application is included in the packet and thus extends the registration opportunity to more people than actually apply for services. Staff always inform potential applicants that we are available to assist with the voter registration application if they need our assistance. As noted in the Comptroller's study, the fact that the mail-in application forms are not coded with our agency number means that the number of individuals who register as a result of our efforts cannot be determined.

We believe that this report incorrectly states that there is no monitoring of the voter registration sites. VESID relies on the monthly summary reports supplied by the NYS Board of Elections for the data to use in monitoring compliance. The reports are provided to the District Offices so that the local office liaison can coordinate counselors' efforts in compliance with NVRA. The reports have been used to improve the process and will continue to be used for this purpose. For example, using the reports we discovered that nearly 2,000 applications provided to individuals in Manhattan had not been reported to the Board of Elections. The coordinators communicate regularly with field staff to ensure compliance with the NVRA and to identify any reporting errors. VESID is currently reviewing its procedures for compliance to determine if further changes could improve the process without adding additional burdens on the counselors.

We believe a significant effort is being made to provide VESID consumers with an opportunity to register to vote. District Offices provided more than 19,750 voter registration applications to individuals since the program began in 1995. VESID believes it is making a good faith effort to comply with the National Voter Registration Act of 1993 and that the system VESID has in place supports our position.

Sincerely,

Ronald G. Calhoun

Ronald G. Calhoun
Coordinator of VR Services
and Administration

W-2-518
Rev. 2/95

HUMAN RESOURCES ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL AFFAIRS
250 CHURCH STREET, NEW YORK, N.Y. 10013
(212) 274-2686 FAX: (212) 274-2663

MARVA LIVINGSTON HAMMONS
Administrator/Commissioner

CARMEN L. AMBERT
Executive Deputy Administrator

February 9, 1996

Mr. Dave Flanagan
State of New York
State Board of Elections
Swan Street Building, Core 1
6 Empire State Plaza, Suite 201
Albany, New York 12223

Re: NYS Comptroller's Formal Draft Copy: Staff Study On New York State's Implementation Of, And Compliance With, The National Voter Registration Act of 1993

Dear Mr. Flanagan:

We are in receipt of the formal draft copy of the New York State Comptroller's Office report on the above referenced study. The Human Resources Administration (HRA) is strongly committed to the NVRA program, and staff members throughout the agency have put a great deal of energy into insuring that our efforts regarding the implementation of the NVRA program are fruitful. Our comments on the study follow.

Our main concern with the report is that it is mostly vague and ambiguous. There are no distinctions drawn among the social service agencies; the presentation of statistics is framed in general terms; and the study's assertions are not substantiated with supporting facts.

It is impossible for us to explicitly respond to findings in the report, as references to the Department of Social Services (DSS), the Human Resources Administration (HRA), and the general term "agencies" are used interchangeably. Because of the lack of clarity among these terms, we were unable to distinguish which references were specifically being made to HRA.

The ambiguous manner in which the study's statistics are presented makes it difficult for us to respond to the report. The one statistic that is specific to HRA's program is inaccurate. The text of the study declares: "While Board records show that the Department of Social Services accounts for the second highest level of NVRA activity in the State, 31 out of 214 local delivery sites are reporting no activity." Yet the study does not identify how many of these sites are HRA sites. Then on page 8 of the report, the chart of the State Board of Elections Summary of NVRA Activity as of December 31, 1995 lists DSS-HRA as having 214 sites and a total registered number of 94,611, yet HRA has 108 sites and the total number of people that HRA registered during the time period which the chart covers is 92,012. Consequently, because our numbers and the numbers on the chart do not match, we have serious questions as to the validity of the statistics on which the report is based.

Another issue that we found troubling because of its ambiguity was the way in which the success of implementation was measured, as outlined on page 7: "First, we assessed the agency's overall commitment to implement NVRA. Second, we determined the extent of efforts made to establish program policies and procedures, to train staff, and to monitor program operations. Third, we reviewed Board records and/or made site visits to assess program activity and results." Our problem with the fact that the study did not delineate any specific guidelines on how HRA's efforts and activities were evaluated relates to the broader problem that the study is vague and ambiguous. Nonetheless, we are dedicated to following the mandate and expanding the program. In order to do this, our Director of the NVRA Program maintains regular contact with all the HRA Task Force members. During these conversations, they discuss any difficulties which have arisen, they review the weekly and monthly statistics, and they examine ways and means to strengthen and improve the program.

Once again, there are no underlying facts provided which substantiate the assertion: "In addition, the HRA program coordinator did not appear knowledgeable of Board reports." The Director of HRA's NVRA Program as well as all of the principals involved in the program's implementation are not only knowledgeable about the NVRA program, but are also committed to its proper execution and continued growth. Although the study does not identify which Board reports the comment refers to, the Director and all principals continually review all of our reports and statistics, and speak to each other frequently.

Although scheduled training sessions were canceled, the study mistakenly and disingenuously characterizes the cancellations as the lack of HRA's commitment to the NVRA program. As we had previously explained to staff members of the NYS Comptroller's Office, the August training session was canceled because a large number of HRA staff members were on vacation and in order to insure adequate attendance, we felt that rescheduling the training would be more efficient. As we related in our January 24, 1996 response to the preliminary draft report, the second cancellation was due to our efforts to accommodate the staff of the NYS Comptroller's Office and was approved by the State Board of Elections. As noted in that response, a training is scheduled for February. These postponements reflect our interest in insuring a well attended training session as well as our desire to work with the NYS Comptroller's Office, so we find it impossible to understand how the cancellations are cited without any inclusion of our reasons. (A copy of our January 26, 1996 response to the preliminary draft report is attached and incorporated by reference.)

Thank you for the opportunity to respond to this study. We share the concerns about the implementation of the NVRA program and are dedicated to its proper execution.

Sincerely,

Carmen L. Ambert

cc: Joan Westmeyer, HRA Office of Policy & Financial Management
Greg Petschke, Office of the New York State Comptroller

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES
COUNSEL'S OFFICE
MEMORANDUM

To: Dave Flanagan

From: William J. Florence, Jr.

Date: February 9, 1996

Re: Final Draft of Comptroller's Study of NVRA in New York State

Thank you for the opportunity to review the draft report of OSC Motor Voter study. We have the following comments.

On page 2, the last sentence of the first full paragraph states that ". . . agency policy requires staff to ask the customer to indicate a "yes" or "no" to the voter registration form if no choice was indicated." Actually, DMV policy is to ask the customer if they wish to apply to register to vote. As mandated by the Motor Voter Law, the application states that if the individual does not check either box, it is considered to be a negative response. This statutory language clearly gives the applicant the option of not checking the box and, therefore, we do not request that the customer indicate "yes" or "no." Please see the page from our Motor Voter Program Training Manual, attached to this memorandum.

On page 8, the chart indicates that we have sent 307,242 applications to the Boards of Election. Our records indicate that we have sent 319,062 applications during the stated period.

We believe that the last paragraph on page 9 creates a misleading impression of the law's requirements. The first sentence recites that this agency has indicated that it has fully implemented NVRA. The next sentence begins with "However," but doesn't present an exception or reservation about this agency's full implementation of NVRA. While it is true that not all licensed drivers are being reached annually, this does not in any way violate either the letter or intent of the NRVA or its State counterpart. Both of those laws provide that the voter registration inquiry must

in New York City can be provided with the New York City Board of Election 1-800-VOTE-NYC number.

- License customers should be given the English MV-44 unless they request a Chinese or Spanish MV-44. All versions of the form should be available for the customers use.
- Customers will then follow normal office procedure to obtain their license or ID document.

CUSTOMER SERVICE REPRESENTATIVE OR FLOOR AIDE

- Customer assistance will be provided by the Customer Service Representative or Floor Aide both for general information pertaining to Motor Vehicle transactions and voter registration.
- When reviewing paperwork for completeness also check the voter registration sections. If the application is incomplete and the customer has not indicated they are declining, help the customer with completing the form.
- If a customer needs help in another language, first determine if the customer needs Spanish or Chinese and if so provide them with the Spanish or Chinese version of the MV-44. If not, determine if there is anyone available in the office to help the customer. If not, follow your office procedure for using Language Line to help the customer.

MOTOR VEHICLE REPRESENTATIVE

- Ask each customer "If you are not registered at your current address would you like to register to vote here today?" If you see the customer has checked the yes box and the form is complete, tell the customer "I see you've completed the voter registration application. Here's a State Board of Election handout that may answer any questions you may have."
- Offer the same level of assistance for the voter registration activity as you would the license activity.
- Answer customer questions. If you do not know the answer and cannot find it in the Employee Guide, refer the customer to the 1-800-For Vote number or 1-800-Vote NYC for residents of New York City.

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF VETERANS' AFFAIRS

John L. Behan
Director

February 9, 1996

Mr. Dave Flanagan
NYS Board of Elections
Swan Street Building-Core 1
6 Empire State Plaza, Suite 201
Albany, New York 12223-1650

Dear Mr. Flanagan:

I am in receipt of your Memorandum dated February 2, 1996. There are several of the Comptroller's comments regarding the New York State Division of Veterans' Affairs (Division) that I wish to address.

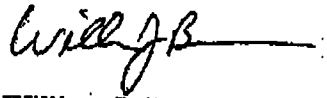
On page 14, paragraph three the Comptroller addresses the Division's implementation of the NVRA. The Comptroller's office states that Division "officials" told them that policies were not developed until November 30, 1995. This is absolutely untrue. Brenda Carver of the Comptroller's office met with myself and Ellen Smith, the Division's NVRA Coordinator on December 13, 1995. At that time, Ms. Carver was provided materials that included a policy memorandum dated November 30, 1995. She was clearly and unequilocally informed that this was **not** the beginning of a policy, but merely an attempt by the administration to improve NVRA implementation in light of recent developments.

A second point to be made is that, under the previous administration sites were listed that were not appropriate, or, in some cases do not exist. Accordingly, the Division is in the process of removing these "phantom" sites. The numbers are also misleading due to reporting problems. There was some confusion over what had to be reported and when reports were to be submitted.

The final issue that must be addressed is the Comptroller's comment that Division officials "have begun to take steps to comply with the law," subsequent to notice of a U.S. Department of Justice investigation. It was made very clear to Ms. Carver of the Comptroller's office that steps were initiated to fully implement the NVRA upon receipt of a letter from Mr. Thomas Wilke of the New York State Board of Elections. Additionally, Ms. Carver was expressly informed that the administration of the Division demanded full compliance with the NVRA, and, that this compliance would be insured by the implementation of an internal monitoring procedure. The Division is not "beginning" to take steps to comply - the Division is complying.

If you have any questions, please feel free to contact my office.

Sincerely,



William J. Brennan
Counsel

WJB/jms

STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

February 9, 1996

Mr. Dave Flanagan
State Board of Elections
Swan Street Building, Core 1
6 Empire State Plaza, Suite 201
Albany, NY 12223-1650

Dear Mr. Flanagan:

I am in receipt of the final draft copy of the Comptroller's report on the NVRA. The report has been reviewed by me and WIC Program staff. On behalf of the Department of Health, we have no comments.

If you have any questions, please call me at 474-4398.

Sincerely,

Kathryn A. Marcello
Labor Relations Assistant
Bureau of Employee Relations/Staff Development

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