

August 7, 2014

Robert Kando
Executive Director
RI Board of Elections
50 Branch Avenue
Providence, RI 02904

BY FAX AND MAIL

Dear Mr. Kando:

Last week, John Marion from Common Cause requested from your office a copy of the Board's 2014 pollworker training manual, which was kindly provided him. With the imminent statewide implementation of new photo identification requirements at the polls next month, and with the knowledge of numerous problems that occurred in the 2012 election when the state's less stringent voter ID mandate took effect, we read with great anticipation the Board's manual on this very important issue.

In light of the issues that arose at the polls in 2012, we believe it is essential that the training manual be as clear and explicit as possible in describing the implementation of the voter ID law. Having reviewed the very short section in the manual that addresses voter ID, however, we have concerns about it and urge that it be revised and clarified.

After listing the relevant forms of acceptable photo ID as provided by the statute, the manual devotes only two more sentences to the subject, both of which we believe are incomplete and, though unintentional, potentially misleading. Specifically, on page 12, the manual states:

If the voter does not present valid and current photo identification, they may only vote using a provisional ballot, which is handled by the Clerk.

After voting the provisional ballot, the voter has until 4 p.m. the day after the election to contact the Board of Canvassers and provide information which could help qualify their ballot.

As for the first sentence, it is true that those without proper ID may only vote using a provisional ballot. However, what strikes us as most important in terms of training poll workers is that they be fully aware that such voters are **entitled to vote** by provisional ballot. To state that they "may only vote" using a provisional ballot does not necessarily mean they have a right to vote that way. This is an important distinction because we know that in 2012 some voters without proper ID were not given provisional ballots.

In order to avoid any such occurrences this year, the instructions to pollworkers should be as clear as possible and specify that voters be advised that they have the right to vote by provisional ballot. (Compare, for example, this language with that contained in the manual for voters who dispute their registered party affiliation for the primary: "If a voter disputes their registered party affiliation, send them to the Clerk to vote a provisional ballot." Page 9.)

We believe that the second sentence is also inadvertently misleading and somewhat confusing. As you know, an otherwise qualified voter who fails to present proper ID need do nothing more than cast their vote by provisional ballot. The signature on the ballot will be checked with that on file at the Board of Canvassers and, if they appear to match, the ballot will be counted. Yet the statement in the manual suggests that voters must (or, at the very least, should) do something more if they want to ensure their ballot is counted: get in touch with the Board of Canvassers themselves to provide unspecified additional information.

It is true that if voters go back to their Board of Canvassers by the next day and present an accepted form of photo identification, their provisional ballot will be treated as a regular ballot. But in addition to our questioning the utility of making that the takeaway message voters receive from pollworkers, we note that the statement in the manual doesn't even make that process clear.

In fact, in 2012 some of us received complaints (perhaps due to similar language in that year's manual) that voters without proper ID were erroneously told they had to contact the Board of Canvassers to make sure their vote would be counted. The instructions in this year's manual may perpetuate those errors. Just as importantly, we fear that some of these voters, upon being told there is more they must do to have their provisional ballot counted, may end up not bothering to vote at all.

In raising concerns about the guidance provided in the manual, we want to emphasize that these are not issues of mere semantics. Rather, the ambiguous instructions in the manual could lead to the inappropriate disenfranchisement of individuals who are entitled to vote and to have their vote counted.

Since we know that this is not the Board's intent, we therefore urge you to take immediate steps to revise the manual in order to clarify and amplify these two sentences. If the manuals have already been printed, we recommend the inclusion of a clarifying insert, or else pasting revised language over the two sentences contained in the current version. In conjunction with this action, we believe it is also critical that sufficient time be spent at the in-person trainings so that all pollworkers are fully aware that voters who fail to show proper ID are entitled, without question, to a provisional ballot.

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We look forward to your prompt attention to this request and to hearing back from you about it as soon as possible. Thank you.

Sincerely,

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cc: Board of Elections
Robert Rapoza