

United States of America v. State of Louisiana, et al
Civil Action No. 11-470, Middle District of Louisiana
Resolution of NVRA Litigation

MEMORANDUM OF UNDERSTANDING AND SETTLEMENT AGREEMENT

The parties to this agreement are the United States of America, through the Civil Rights Division of the United States Department of Justice (United States), J. Thomas Schedler, in his official capacity as Secretary of State for the State of Louisiana (Secretary of State); the State of Louisiana, though Jeff Landry, in his official capacity as Attorney General of the State of Louisiana; the Louisiana Department of Health (LDH) and Dr. Rebekah Gee in her official capacity as Secretary of LDH (formerly DHH); and the Louisiana Department of Children and Family Services (DCFS) and Marketa Garner Walters in her official capacity as Secretary of DCFS.

Statement of the Parties

The Parties have a fundamental disagreement about the interpretation and application of certain provisions of the National Voter Registration Act of 1993 (NVRA) in Sections 4, 7, 9, 10, and related regulations of the Act, codified at 52 U.S.C. 20501, *et seq.* This Memorandum of Understanding is intended to settle and bring to an end the Parties' disputes in that regard, to conclude the suit entitled *United States v. State of Louisiana, et al*, Case No. 11-470 on the docket of the Middle District of Louisiana, and to dispose of all claims arising from or related to the referenced litigation. The parties agree that this Memorandum of Understanding includes all of the terms of their settlement.

I. Motion for Dismissal and Memorandum of Understanding

A. The parties shall within five (5) days of signing this Memorandum of Understanding file a notice of settlement and motion for dismissal pursuant to FRCP 41(a)(2) and LR 16(c) that includes a request to vacate and set aside the *Order and Ruling on the Motions to Dismiss Filed by Defendants and the Motions for Summary Judgment Filed by the Secretary of State and the United States of America*, Doc 456, Civil Action No. 11-470, Middle District of Louisiana entered on July 26, 2016 (“Order and Ruling”, hereinafter). The Parties acknowledge and agree that the settlement of the case is contingent upon vacating and recalling the Order and Ruling. If the Court declines to do so, this Memorandum of Understanding shall be rendered null and void.

B. The content of the agreement between the Parties and the Parties’ obligations thereunder shall be those set out and defined in this Memorandum of Understanding.

C. During a period of three years following the Parties’ execution of this Memorandum of Understanding, no Party will be permitted to file any action to enforce the Memorandum of Understanding or any provision thereof without first giving written notice to the other Parties specifically describing the particular alleged deficiency(ies) or violation(s) of the Memorandum of Understanding, law, or statute of concern to the complaining Party. The Parties agree to meet and confer in a good faith attempt to resolve any dispute(s) or complaint(s) within 60 days of notice of the complaint. If and only if the violation or deficiency complained of is not cured within 120 days after receipt of the written notice may the complaining Party bring an action with respect to the violation(s) or deficiency(ies) set out in the written notice. Any deficiency(ies) or violation(s), if isolated or non-systemic, will not ordinarily be the basis for judicial enforcement of the Memorandum of Understanding. Further, the Parties agree there

will be a “safe harbor” period for any deficiency(ies) or violation(s) of the Memorandum of Understanding that may occur during periods of natural or man-made disasters or similar emergencies. Any action to enforce this Memorandum of Understanding will be brought in the Court that heard the underlying case. As to any allegations of the NVRA that are not covered by this agreement, the United States agrees to provide the parties with specific notice of such violation and an opportunity to cure as provided in Executive Order 12988 dated February 5, 1996.

D. No rights as to any claims or issues presented in the litigation are reserved or left unresolved, and this Memorandum of Understanding will dispose of any and all claims that were brought or could have been brought under NVRA Sections 4, 7, 9, 10, and related regulations.

II. Content of this Agreement and the Parties’ Obligations Thereunder

Upon grant of the motion for dismissal and vacation of the Order and Ruling, the Parties agree that the following agreement will take effect.

A. Remote Transactions and Related Matters

1. The Louisiana Department of Health (LDH) and the Louisiana Department of Children and Family Services (DCFS) (collectively, the “Agencies”) and the programs they administer that currently offer and accept applications remotely (by mail, telephone, or electronic means) will continue their current practices with respect to such applications but will not be required to expand remote applications to any new agencies or programs.

2. The options for registering to vote through the Agencies contained in the current forms and agency practices shall be deemed sufficient so long as they do not provide solely for registration by a link to an external voter registration site

and provided that the application provides for a phone number or other means for seeking assistance in completing the application (including the voter registration application).

3. The Secretary of State will not direct or instruct any agency or office currently providing voter registration services by remote means to discontinue or alter such agency's or office's practices in that regard; nor will the Secretary of State direct, instruct, or train any agency or office to provide voter registration services by remote means (those by mail, telephone or electronic means).

4. The Secretary of State will continue to provide training and instructional materials to mandatory voter registration agencies on NVRA practices and procedures, under the statute.

5. The Secretary of State will continue to collect data in the current form of Quarterly Reports that will include total numbers reported by the Agencies for both their remote and their in person transactions. The Quarterly Reports will be provided to the United States as requested.

6. To the extent Congress or a final decision or judgment of the United States Supreme Court or of the Court of Appeals for the Fifth Circuit should interpret whether or to what extent the NVRA is applicable to remote transactions, the Parties may conform their practices or rules to such legislative or judicial determinations, and any such conformations shall not be deemed to be a violation of this agreement.

B. Distribution, Placement and Completion of Voter Registration Application Forms

1. A declaration form and a voter registration application form shall be distributed with each Agency public assistance or disability benefit application, recertification, renewal, and change of address form to the individual completing the Agency's form. The agency may at its option, provide additional voter registration application form(s) upon the request of the person completing the agency form. Under this Agreement:

a. Distribution of a single voter registration application to an adult filling out a public assistance or disability benefits application on behalf of a minor or individual who is interdicted or otherwise lacks legal capacity is sufficient.

b. Distribution of a single voter registration application with each application for public assistance or disability benefits is sufficient.

c. The placement (i.e., physical location) of the voter registration declaration and voter registration application within the Agency application for public assistance or disability services is left to the discretion of the Agencies.

2. Within 60 days of entry of the order of dismissal, LDH and DCFS will review voter registration applications submitted to them in connection with a public assistance or disability service application. Agency review of such voter registration applications will include review of the following data elements: applicant's name, address, and original signature. The Agencies may develop policies and procedures for handling those voter registration applications that do

not contain these data elements. Completion of any remaining data requirements is agreed not to be the responsibility of the voter registration agencies or offices accepting the application.

C. Local Governing Entities (Human Services Districts and Human Services Authorities), Medicaid Application Centers, and Community Partners

1. As to Local Governing Entities or LGEs (which the Parties agree for these purposes to be the ten Human Services Districts or Human Services Authorities established by statute), for those services for which LDH contracts with the LGEs, the LDH will be responsible for NVRA training, oversight, and compliance for the LGEs pursuant to the provisions of LDH contracts with the LGEs. LGEs will continue to be designated and treated as voter registration agencies as long as they provide public assistance or state-funded disability services.

2. As to Medicaid Application Centers (MACs), LDH will be responsible for training, oversight, and compliance with the NVRA. Pursuant to this Agreement, the Secretary of State shall have no responsibility for MACs.

3. The Parties agree that Community Partners affiliated with the Department of Children and Family Services that do not accept applications are not voter registration agencies, as they currently operate.

D. Miscellaneous Provisions

1. The Parties may revise their policies and rules consistent with this agreement.

2. The violation of any rule promulgated by the Secretary of State regarding voter registration will not, ipso facto, be considered a violation of the NVRA.

3. LDH and DCFS agree to maintain their current practices for date stamping or dating the voter registration applications.


4. The designation of site/department/program coordinators will be left to the discretion of LDH, DCFS and Secretary of State, the parties acknowledging that the objective is to provide adequate supervision over voter registration agencies.

5. This Memorandum of Understanding is intended to settle disputed claims between the Parties. This agreement, and/or any term thereof shall not constitute nor be construed as a violation of the NVRA or any other election, voting rights, or civil rights law or statute. This is a settlement of disputed claims and does not constitute an admission of liability or acknowledgement of wrongdoing by any of the Parties hereto. Nor shall the litigation out of which this agreement arises be deemed to vindicate any claim or action for the enforcement of any voting rights, election, or civil rights statute or law. No party to this agreement shall be deemed a prevailing party in the litigation.

The undersigned agree to the terms of this Memorandum of Understanding.

For the United States of America

JOHN M. GORE
Acting Assistant Attorney General
Civil Rights Division



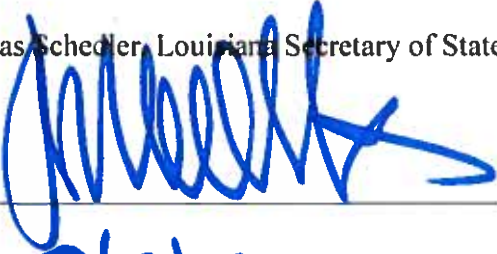
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J. Thomas Schedler, Louisiana Secretary of State



Date:

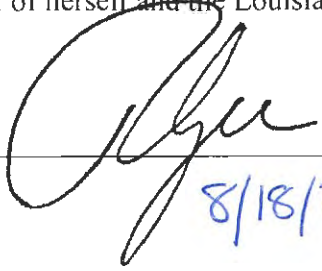
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on behalf of the State of Louisiana

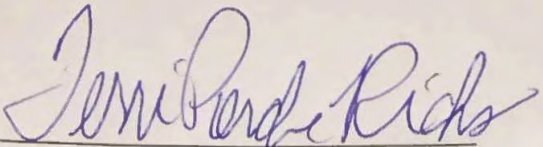


Date:

Dr. Rebekah Gee
on behalf of herself and the Louisiana Department of Health


Date: 8/18/2017

Terri Porche Ricks,
Deputy Secretary
On behalf of the Secretary of the Louisiana Department of Children and Family Services



Date: 8/18/2017