



October 27, 2021

The Honorable Shirley N. Weber
California Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814

Via email

C/o Robbie Anderson and Raj Batha

Re: Proposed Regulations

Dear Secretary Weber:

On behalf of the American Civil Liberties Union of Northern California (ACLU), we thank you for the opportunity to review the proposal to readopt the emergency regulations regarding signature verification, ballot counting, and ballot processing. Please accept the following comments and proposed modifications to the proposed emergency regulations. At this time, our comments and suggested modifications are limited to California Code of Regulations, Title 2, Division 7, Chapter 8.3, Article 9, section 20993. However, as described below, these comments are also relevant to sections 19055, 19079, and 20050 of the Code of Regulations.

As your office is aware, ACLU, along with our partners, supported the November 2020 passage of Proposition 17 and since then has been actively involved in advocacy to ensure its robust statewide implementation. As part of this advocacy, ACLU has previously requested that relevant sections of the California Code of Regulations be immediately updated to reflect the revised voter eligibility criteria created as a result of Proposition 17.¹ Ensuring that these regulations accurately reflect that otherwise-eligible Californians on parole have the right to vote can significantly affect whether voters impacted by the criminal legal system are impeded or empowered when they attempt to exercise that right. Too often, confusion about the voting rights of people with convictions leads eligible individuals to mistakenly believe that they are prohibited from participating in their own democracy.²

¹ See, e.g., Letter from ACLU et. al to Secretary Weber, Mar. 3, 2021; Email from ACLU to Deputy Secretary of State Tamara Rasberry, Aug. 23, 2021.

² See, e.g., THE GREENLINING INSTITUTE, COMMUNITY VOICES: BARRIERS TO VOTING FOR CALIFORNIA'S FORMERLY INCARCERATED (January 2015), available at [greenlining.org/wp-content/uploads/2015/01/Community-Voices-Barriers-to-Voting-for-Californias-Formerly-Incarcerated-spreads.pdf](https://www.greenlining.org/wp-content/uploads/2015/01/Community-Voices-Barriers-to-Voting-for-Californias-Formerly-Incarcerated-spreads.pdf) ("More than 60 percent of our participants said they have been confused at some point about their eligibility to vote due to a criminal conviction."); THE SENTENCING PROJECT, STUDIES

If California Code of Regulations section 20993 is readopted in the unrevised form in which it was initially adopted in 2020, before Proposition 17 took effect, it will continue to inaccurately state that a voter in this state is ineligible to vote because they are currently on parole. Codifying such an error would perpetuate misinformation about the voting rights of people impacted by the criminal legal system and likely lead to the *de facto* disenfranchisement of some Californians in coming elections. Therefore, we take this opportunity to again request that your office update section 20993, as well as sections 19055, 19079, and 20050, of the Code of Regulations to reflect current voter eligibility criteria.

Section 20993 can be corrected simply by striking the entirety of clause (c)(1)(A)(i), which currently reads:

Information recently provided by the California Department of Corrections and Rehabilitation or a county superior court that clearly and convincingly states that the voter is ineligible to vote because they are currently on parole due to a felony conviction.

We appreciate your office's urgent attention to correcting the inaccurate voter eligibility information in section 20993, as well as in the other relevant sections of the California Code of Regulations. Please feel free to contact us if you have any questions about these comments and proposed modifications.

Sincerely,



Brittany Stonesifer
Staff Attorney, Democracy and Civic Engagement Program
ACLU of Northern California

OF VOTING BEHAVIOR AND FELONY DISENFRANCHISEMENT AMONG INDIVIDUALS IN THE CRIMINAL JUSTICE SYSTEM IN NEW YORK, CONNECTICUT, AND OHIO (2005), available at prisonpolicy.org/scans/sp/fd_studiesvotingbehavior.pdf.