



STATE OF NEBRASKA

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SECRETARY OF STATE

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Adam Sipple
Legal Director
134 S. 13th St. #1010
Lincoln, NE 68508

Dear Mr. Sipple:

This letter is in response to your letter dated August 25, 2020 regarding concerns with felon voting notices and processes.

Representatives from my office met with you and Danielle Conrad, Executive Director of ACLU Nebraska, three times via telephone conference. As part of these conversations, our office agreed to review the records that ACLU identified as improper and correct the record if appropriate.

Following is a summary of the actions we have taken in response to your letter:

1. The word "successful" was removed from the online FAQ regarding voting rights for persons convicted of a felony.
2. Guidance was sent to the counties in the October Q&A indicating that an unsuccessful completion of probation did not impact voting rights.
3. Our office reviewed all 297 records provided by the ACLU and corrected 51 records that we identified should have been "active" voter registration records. These individuals have been sent voter registration confirmation cards stating that they are registered to vote.
4. Our office committed to reviewing the felon notice letter after the 2020 general election for possible changes to further explain the process.
5. Our office indicated that, after the 2020 election, we would consider providing additional guidance to counties regarding voting rights of convicted felons.
6. We are drafting changes to the online FAQ regarding voting rights of convicted felons.

With respect to the 297 notices the ACLU identified as improper, we reviewed all of the records and provided a breakdown to the ACLU over the phone regarding the results of our review. We identified 51 individuals whose record should be corrected and set to "active." We identified 246 records for which no further action was necessary for a variety of reasons. In some cases (46 individuals), the person had been registered subsequent to the notice and is currently an active registered voter. In some cases (105 individuals), it appeared the felon notice was generated in error as the individual had not attempted to register to vote. In some cases (36 individuals), the notice was generated in the voter registration system in error but was not sent. In some cases (59 individuals) the person was convicted under a different name, convicted out of state, was a duplicate record submission, or was otherwise not eligible to vote.

You have requested that we issue further communications either in the form of a press release or further communications to those who may have received the felon notice in error. Felon notices sent by local election officials contain the following (or similar) information:

This office has received information that you have been convicted of a felony and it has been less than two years since completion of sentence. Nebraska State Statutes § 32-313 in part states: "No person who has been convicted of a felony under the laws of this state or any other state is qualified to vote or to register to vote until two years after the sentence is completed, including any parole term." This letter is to inform you that your voter registration has been suspended, pursuant to these provisions.

If you find that our information is incorrect, please contact this office immediately at the phone number listed above.
(Emphasis added).

Our understanding is that the ACLU also sent letters to individuals who received the felon notice, indicating to them that they may be eligible to register to vote.¹ I respectfully request that you provide my office with a copy of this letter. The ACLU also issued a press release regarding the voting rights of persons convicted of a felony and your efforts with our office to correct inaccuracies related to voting rights of those convicted of a felony. In response to the press release, our office was contacted for comment and provided the following comments as widely reported by the Associated Press:

A spokeswoman for Secretary of State Bob Evnen said state election officials are reviewing the ACLU of Nebraska's findings and will correct any errors before the election. The ACLU of Nebraska obtained the names of those who had been disqualified through a public records request.

Cindi Allen, a spokeswoman for Evnen, said anyone whose name doesn't appear on the state voter registry can still cast a provisional ballot at their polling place. Election

¹ AP News indicated that the ACLU planned to mail 9,000 voting rights packets to county jails and the homes of residents who received disqualification notices from election officials. See <https://apnews.com/article/election-2020-omaha-voting-rights-general-elections-elections-1644674adb4a09c5ee439bd3e2a99c4a>

officials would determine later whether the person was eligible to vote and thus whether the ballot should be counted.

In light of the highlighted language in the felon notice letter sent by the counties, and the actions taken by our office and yours, as detailed above, no further action is necessary at this time.

While we do not believe our practices are in violation of the NVRA, we thank you for bringing these items to our attention. We will be in touch with you after the 2020 general election regarding the felon notice language and further guidance as previously discussed.

Sincerely,



Robert B. Evnen
Secretary of State