

## NEVADA REPUBLICAN PARTY

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October 20, 2008

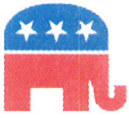
The Honorable Ross Miller  
Secretary of State  
Nevada State Capitol Building  
101 North Carson Street, Suite 3  
Carson City, NV 89701

Dear Secretary Miller:

We are concerned by reports that several county registrar offices may be implementing a policy that allows persons to cast regular ballots at early voting sites even though they may not be registered in accordance with Nevada law. Specifically, we believe that the registrars for Clark, Washoe, and possibly other counties are allowing persons who failed to correctly complete their registration applications before the October 14, 2008 deadline—and so do not appear in the Statewide Registered Voter Database (“Statewide Database”) as properly registered voters—to supplement their applications and cast regular ballots on voting machines in early voting sites. We believe that these actions may be in violation of state and federal law, and ask you to direct all county registrars to require any such questionable registrants (referred to by several county registrars as “fatal pends”) to cast provisional ballots.

It appears that several individuals who presented themselves to vote at early voting polling places throughout the State were informed by local election officials that they did not appear in the database of registered voters. In some of these cases, the local election official then contacted the county registrar’s office, where an employee confirmed that the individual at issue was not listed as a registered or active voter in the Statewide Database, but instead had been included in the county database as a “fatal pend”—a person whose voter registration application was incomplete or erroneous. The county-office employee, through the local election official, then asked the individual to supply the information on his voter registration application that was missing or incorrect or, in many cases, to complete a new voter registration. Upon receiving the missing or corrected information, the county employee then created a new voter registration record in the Statewide Database for the individual, who then was permitted to vote on a voting machine (rather than a provisional ballot).

Nevada law expressly states that voter registration closes at 9 p.m. on the third Tuesday preceding a general election—*i.e.*, October 14, 2008. *See Nev. Rev. Stat. § 293.560(1)*. Nevada law further makes clear that a person may not be registered as a voter unless and until his application is “complet[ed]” and signed.



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Nev. Rev. Stat. Ann. §§ 293.517(2), (5) (if a person applies in person); *id.* §§ 293.5325(3), (11) (if a person applies by mail). Indeed, Nevada law emphasizes that an in-person applicant may not be registered unless he gives “true and satisfactory answers to *all* questions relevant to his identity and right to vote,” *id.* § 293.517(1)(a) (emphasis added), and a mail-in applicant “shall not [be] register[ed] . . . unless [he] has provided *all of the information* required by the application,” *id.* § 293.5235(11) (emphasis added). Furthermore, the only omission on a voter registration application that Nevada law expressly permits a person to correct at a polling place relates to the question about U.S. citizenship. *See id.* § 293.5235(11).

Based on these statutes, we believe that the persons who submitted the registrations at issue here may be ineligible to vote in this election and should not be voting by regular ballots, either during the early voting period or on Election Day. We understand that some counties may be relying on Nev. Rev. Stat. § 293.5235(6), which provides that a county clerk shall notify a person who attempts to register by mail if his application is incomplete, and give the person 15 days to complete the application. That provision, however, cannot extend the general deadline for voter registration expressly set by section 293.560(1). Furthermore, even if section 293.5235(6) could vary that deadline, it would only apply in cases of applications submitted by mail, as opposed to those made in person (which includes applications submitted through third parties). In addition, the procedure for in-person applications that the county clerk believes to be incomplete or ineligible, set forth in Nev. Rev. Stat. § 293.517(7), does not provide for a correction period.

Accordingly, we hereby respectfully request that you take immediate action to ensure that each county clerk and registrar requires any person who is not included in the Statewide Database as a registered voter and attempts to vote (either during early voting or on Election Day) to cast a provisional ballot, and that all poll workers throughout the state are instructed accordingly. Thank you very much for your kind consideration and attention to this critical matter.

Sincerely,

Sue Lowden

Chairman, Nevada Republican Party