

EXHIBIT B

SETTLEMENT AGREEMENT

I. Introduction

Plaintiffs New England Area Conference of the National Association for the Advancement of Colored People (“NAACP-NEAC”) and New England United for Justice (“NEU4J”) (collectively “Plaintiffs”)¹ brought this Action alleging violations of Section 7 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20506 (formerly 42 U.S.C. § 1973gg-5), by William F. Galvin, in his official capacity as Secretary of the Commonwealth of Massachusetts (“SOC”); Marylou Sudders (as successor to John Polanowicz), in her official capacity as Secretary of the Executive Office of Health and Human Services (“EOHHS”); Jeff McCue (as successor to Stacey Monahan), in his official capacity as Acting Commissioner of the Department of Transitional Assistance (“DTA”); and Daniel Tsai (as successor to Kristin Thorn), in his official capacity as Director of the Office of Medicaid (“MassHealth”) (collectively “Defendants”). The Complaint was filed on May 15, 2012 against the SOC, DTA, and EOHHS. An Amended Complaint, adding MassHealth as a Defendant, was filed with the Court’s approval on March 17, 2014 (Dkt. Nos. 138 and 143). Plaintiffs allege widespread past and ongoing violations of Section 7 of the NVRA by Defendants and are seeking declaratory and injunctive relief. Defendants, for their part, deny the allegations and any violation of law.

On March 18, 2015, Plaintiffs and DTA entered into a settlement agreement (Dkt. No. 213-1) (“DTA Settlement Agreement”) and jointly moved the Court to enter an order of final judgment dismissing Plaintiffs’ claims as to DTA only. The Court entered an order of dismissal as to DTA only on March 20, 2015 (Dkt. No. 215).

Plaintiffs and the SOC now desire to resolve and settle this Action without further litigation and expense. Plaintiffs and the SOC agree to the following terms in full and final resolution and settlement, and dismissal with prejudice, of Plaintiffs’ claims against the SOC in this Action, as defined in Section IV. By entering into this settlement agreement (“Agreement”), the SOC does not admit any liability or any violation of the NVRA or any other law, and this Agreement shall not constitute evidence of any wrongdoing or violation of law. This Agreement does not resolve or settle Plaintiffs’ claims under Section 7 of the NVRA brought against Defendants EOHHS and MassHealth.

II. Definitions

- A. “Action” means this action, *New England Area Conference of the National Association for the Advancement of Colored People, et al. v. Galvin, et al.*, Civil Action No. 1:12-cv-10872-DJC (D. Mass).
- B. “Agency Code” means a code on a Voter Registration Application that identifies the Voter Registration Agency that distributed the Voter Registration Application.

¹ Bethzaida Delgado, originally a plaintiff in this Action, was voluntarily dismissed on March 14, 2014 (Dkt. No. 138).

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- C. “Agency Voter Registration Application” means a Voter Registration Application prepared by the SOC and intended for use during In-Person Transactions at Voter Registration Agencies. The Agency Voter Registration Application contains a space to insert an Agency Code.
- D. “Central Registry of Voters” means the statewide database of registered voters in Massachusetts maintained by the SOC pursuant to G. L. c. 51, § 47C, also known as the Voter Registration Information System (“VRIS”).
- E. “Client” means any individual who is applying for Public Assistance Benefits, including an individual who has authorized one or more representatives to act on his or her behalf, or any individual who is receiving Public Assistance Benefits.
- F. “Covered Transaction” means a transaction in which a Client applies for Public Assistance Benefits, renews or recertifies the Client’s eligibility for Public Assistance Benefits, or submits a change of address related to the receipt of Public Assistance Benefits, whether in-person at a Public Assistance Agency (*i.e.*, an In-Person Transaction), or through remote methods, including without limitation, the telephone, facsimile, mail, electronic means, or the Internet (*i.e.*, a Remote Transaction).
- G. “DTA” means the Massachusetts Department of Transitional Assistance and includes, without limitation, its offices, agents and employees.
- H. “Duplicate Voter Registration” means any Voter Registration Application that identically matches an existing voter registration record contained in VRIS, including all of the following: first name, last name, date of birth, party affiliation, residential address, and mailing address.
- I. “Effective Date” means the date on which this Agreement shall become effective, that is, the date on which the [Proposed] Order of Final Judgment, in the form attached hereto as Exhibit A, is entered by the Court.
- J. “EOHHS” means the Executive Office of Health and Human Services and includes, without limitation, its offices, agents and employees.
- K. “Execution Date” means the last date on which this Agreement is signed by all Plaintiffs and the SOC.
- L. “In-Person Transaction” means a Covered Transaction that is performed by a Client who is physically present at a Public Assistance Agency.
- M. “Local Election Official” (or “LEO”) means any “registrar[.]” or “registrar[.] of voters,” as defined in G. L. c. 50, § 1.

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- N. “Mail-in Voter Registration Application” means a Voter Registration Application prepared by the SOC and intended for use by any individual to register to vote by mail. The Mail-in Voter Registration Applications for use by DTA and MassHealth are precoded with DTA’s and MassHealth’s Agency Code, respectively.
- O. “MassHealth” means the state Office of Medicaid within EOHHS and includes, without limitation, its offices, agents and employees.
- P. “New Voter Registration” means the voter registration of a citizen of Massachusetts who has not previously registered to vote in Massachusetts, as recorded in VRIS.
- Q. “NVRA” means the National Voter Registration Act of 1993, 52 U.S.C. § 20501 *et seq.* (formerly 42 U.S.C. § 1973gg *et seq.*).
- R. “Public Assistance Agency,” solely for purposes of this Agreement, means DTA and MassHealth.
- S. “Public Assistance Agency NVRA Coordinator” means the employee(s) designated by each Public Assistance Agency as the individual(s) responsible for coordinating, implementing and overseeing the Agency’s voter registration responsibilities under Section 7 of the NVRA and this Agreement.
- T. “Public Assistance Benefits,” solely for the purposes of this Agreement, means those benefits available under programs administered by DTA and MassHealth, including, without limitation, the Supplemental Nutrition Assistance Program (“SNAP”) (formerly known as “Food Stamps”), Emergency Aid to the Elderly, Disabled and Children (“EAEDC”), Transitional Aid to Families with Dependent Children (“TAFDC”), and MassHealth (Medicaid) benefits.
- U. “Rejected Voter Registration” means any Voter Registration Application submitted to but not processed by an LEO for any reason, including, without limitation, because the Application is incomplete, missing a signature, or contains an invalid address, as recorded in VRIS.
- V. “Remote Transaction” means a Covered Transaction that is performed by methods other than by an In-Person Transaction including, without limitation, those performed by telephone, facsimile, mail, electronic means, or the Internet.
- W. “SOC” means the Office of the Secretary of the Commonwealth of Massachusetts and includes, without limitation, the Secretary of the Commonwealth and the Secretary’s offices, agents, and employees.

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- X. “Updated Voter Registration” means any change to the voter registration record of a voter contained in VRIS including, without limitation, a change of name or address, which is not a New Voter Registration, Duplicate Voter Registration, or Rejected Voter Registration. Updated Voter Registration also includes any change pertaining to the voter registration record of an individual who has a voter registration record contained in VRIS but whose voter registration is marked as deleted in VRIS at the time that the individual submits a Voter Registration Application.
- Y. “Virtual Gateway” means the online portal operated by EOHHS that enables Clients to initiate applications for the Supplemental Nutrition Assistance Program through the Internet, or any online portal that replaces this system.
- Z. “Voter Preference Form” means the current document referred to by the SOC as the “declination form” or any document or portion of such document containing the language required by Section 7 of the NVRA, 52 U.S.C. § 20506(a)(6)(B).
- AA. “Voter Registration Agency” means an office designated pursuant to Section 7(a)(2) of the NVRA, 52 U.S.C. § 20506(a)(2).
- BB. “Voter Registration Application” means a Mail-in Voter Registration Application, Agency Voter Registration Application, or an online voter registration application when the online voter registration system in Massachusetts is implemented.
- CC. “Voter Registration Workbook for Agencies” is the workbook prepared by the SOC and distributed to Voter Registration Agencies regarding NVRA responsibilities.

III. Substantive Provisions

- A. The SOC acknowledges that, pursuant to 52 U.S.C. § 20509 (formerly 42 U.S.C. § 1973gg-8) and Massachusetts Session Law 1993 c. 475, § 57, the SOC is the “chief State election official” responsible for coordination of State responsibilities under the NVRA. The SOC agrees that the SOC’s responsibilities include, among other things, overseeing, monitoring, assisting and advising Public Assistance Agencies and Local Election Officials regarding compliance with the NVRA and implementing related federal and Massachusetts regulations. For purposes of this Agreement only, the parties agree that “overseeing” shall not be construed to include guaranteeing or compelling compliance by Public Assistance Agencies.

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B. **Staffing.** The SOC shall designate an SOC NVRA Coordinator who shall oversee performance of the SOC's duties and responsibilities under Section 7 of the NVRA, related Massachusetts and federal regulations, and this Agreement. The duties and responsibilities of the SOC NVRA Coordinator shall include, without limitation, training, data collection and review, and providing general support and guidance to Public Assistance Agencies regarding the requirements of the NVRA. In the event that the SOC NVRA Coordinator position becomes vacant during the term of this Agreement, the SOC shall replace the SOC NVRA Coordinator as soon as practicable but, in any event, no later than thirty (30) calendar days after the vacancy occurs.

C. **Materials**

1. **Voter Registration Applications.** The SOC shall provide to Public Assistance Agencies both Agency Voter Registration Applications and Mail-in Voter Registration Applications. All such Applications shall be made available in at least English, Spanish and Chinese.

(a) The Agency Voter Registration Applications provided by the SOC to DTA and MassHealth shall have a space to insert an Agency Code or shall be precoded with an Agency Code for DTA and MassHealth, respectively.

(b) The Mail-in Voter Registration Applications provided by the SOC to DTA and MassHealth shall be precoded with an Agency Code for DTA and MassHealth, respectively.

(c) The SOC, at the SOC's discretion, may provide precoded Mail-in Voter Registration Applications containing an Agency Code specific to Voter Registration Agencies in addition to DTA and MassHealth.

(d) The SOC shall provide PDF versions (or other downloadable electronic formats) of precoded Mail-in Voter Registration Applications to DTA and MassHealth, and a precoded DTA Mail-in Voter Registration Application to EOHHS for use in the Virtual Gateway system, subject to such limitations on distribution as the SOC deems appropriate to prevent disclosure of the Voter Registration Agency through which a voter has registered.

(e) The SOC, at the SOC's discretion, may provide PDF versions (or other downloadable electronic formats) of precoded Mail-in Voter Registration Applications to Voter Registration Agencies in addition to DTA and MassHealth, subject to the limitation on distribution in Section III.C.1(d).

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2. **Voter Preference Form.** The SOC shall provide to Public Assistance Agencies the Voter Preference Form attached hereto as Exhibit B as an option for use in connection with Remote Transactions and/or In-Person Transactions.

D. Training and Policy Review

1. **Voter Registration Workbook for Agencies**

- (a) Within fifteen (15) business days of the Effective Date, the SOC shall modify the Voter Registration Workbook for Agencies to incorporate the terms of this Agreement. The SOC shall provide a draft of the modified Workbook to Plaintiffs' Counsel for review and comment. Plaintiffs' Counsel shall have no less than ten (10) business days to offer comments to the SOC before the Workbook is finalized by the SOC. The SOC shall distribute any modified Voter Registration Workbook for Agencies to Public Assistance Agencies promptly (but in any event within thirty (30) calendar days) after the deadline for comment by Plaintiffs' Counsel.
- (b) The SOC shall modify the Voter Registration Workbook for Agencies whenever there is a change in applicable voter registration laws, regulations, policies, or practices. During the term of this Agreement, the SOC shall notify Plaintiffs' Counsel of any modifications the SOC plans to make to the Workbook, and shall provide a draft of the modified Workbook to Plaintiffs' Counsel for review and comment no less than ten (10) business days before it is finalized by the SOC. The SOC need not notify or provide a draft of the modified Workbook to Plaintiffs' Counsel if the changes are non-substantive such as to formatting, or are mere changes of dates, names of personnel, contact information, political parties, or agency names. For changes that the SOC deems "non-substantive" other than those specifically enumerated above, the SOC shall notify Plaintiffs' Counsel of all such changes, but need not provide a draft of the modified Workbook for comment unless requested by Plaintiffs' Counsel. The SOC shall distribute any modified Voter Registration Workbook for Agencies to Public Assistance Agencies promptly (but in any event within thirty (30) calendar days) after the deadline for comment by Plaintiffs' Counsel.

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- (c) Within thirty (30) calendar days after finalizing the modifications to the Voter Registration Workbook for Agencies under Section III.D.1(a), the SOC shall also make the modified Workbook available on its website. The SOC shall similarly update its website within thirty (30) calendar days after any future modifications of the Workbook under Section III.D.1(b). The SOC shall also include in the annual communications referenced in Section III.D.2 a notification that the Workbook is available on the SOC website.

2. Public Assistance Agencies

- (a) At least once each calendar year during the term of this Agreement, the SOC shall, in writing, remind each Public Assistance Agency of the requirement to provide voter registration services in compliance with Section 7 of the NVRA and the need to provide training regarding such services. In each such communication, the SOC shall:
 - (i) Include a link to the Voter Registration Workbook for Agencies and/or an electronic copy of the Workbook, and request that the Agency distribute the Workbook to its employees and employees of contractors who have voter registration responsibilities;
 - (ii) Request that the Agency provide the SOC with notice of planned voter registration trainings and offer to participate in voter registration trainings conducted by the Agency;
 - (iii) Request that the Agency provide the date(s) on which the Agency held voter registration trainings during the preceding calendar year, and a description of each such training;
 - (iv) Request that the Agency provide the SOC with copies of its voter registration policies and procedures and training materials (including, for example, operations memoranda, job aids, training materials, and voter registration information or mailings provided to Clients) for SOC review and comment;
 - (v) Request that the Agency provide the SOC with copies of any proposed modifications to its voter registration policies and procedures and training materials (including, for example, operations memoranda, job aids, training materials, and voter registration information or mailings provided to Clients) before changes are made for SOC review and comment; and

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- (vi) Provide a telephone number for the Agency to contact the SOC and/or the SOC NVRA Coordinator throughout the year with questions regarding the NVRA and provision of voter registration services.
- (b) The SOC shall retain all responses that it receives from Public Assistance Agencies following the communications described in Section III.D.2(a). If a Public Assistance Agency either does not respond to the SOC's communications within ten (10) business days, or responds that it has not held any voter registration trainings in the preceding calendar year, the SOC shall remind such Agency of the voter registration requirements of the NVRA. If the Agency responds that it has not held any trainings in the preceding calendar year, the SOC shall follow up with such Agency on a monthly basis until the SOC is notified that voter registration training is scheduled. The SOC shall confirm with the Agency that such training has taken place by calling or emailing with the Public Assistance Agency NVRA Coordinator promptly after the date upon which the training was scheduled.
- (c) The SOC shall review and offer written comments on all voter registration policies and procedures and training materials provided by Public Assistance Agencies as described in Section III.D.2(a).
- (d) The SOC shall retain a copy of all voter registration policies and procedures and training materials provided by Public Assistance Agencies to the SOC for review as described in Section III.D.2(a), as well as any written comments offered by the SOC to such Agencies, for no less than three (3) calendar years after they are provided or offered.
- (e) Upon request by a Public Assistance Agency, the SOC shall assist with trainings regarding the voter registration requirements of the NVRA. For example, the SOC shall comment on training materials prepared by such Agencies, and shall participate in training programs upon request and which are scheduled at mutually convenient times. The SOC shall use its best efforts to participate in any training programs that it is requested to participate in, subject to the SOC's schedule and availability.
- (f) At least once each calendar year during the term of this Agreement, the SOC shall host a meeting of Public Assistance Agency NVRA Coordinators to train them regarding Agency responsibilities under Section 7 of the NVRA and to respond to any questions or issues regarding voter registration raised by the Coordinators.

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- (g) During the term of this Agreement, the SOC shall continue to make available its current email address and telephone number for use by any individual, including any employee of a Public Assistance Agency or member of the public, to raise questions or issues regarding Section 7 of the NVRA.
- (h) The SOC, at the SOC's discretion, may include Voter Registration Agencies, in addition to DTA and MassHealth, in the activities described in Section III.D.2.

3. Local Election Officials

- (a) On or about April 14 and 24, 2015, the SOC provided Plaintiffs' Counsel with materials for training of LEOs. Within ten (10) business days after the Effective Date, Plaintiffs' Counsel shall provide the SOC with comments on such materials. If Plaintiffs' Counsel identifies any issues that the SOC determines should result in changes to such materials, the SOC shall distribute updated materials to LEOs as soon as possible but, in any event, no later than within thirty (30) days of any such changes.
- (b) The SOC shall continue to train LEOs regarding the manner in which Agency Voter Registration Applications and Mail-in Voter Registration Applications containing an Agency Code should be entered into VRIS. After the online voter registration system with separate URLs for each Public Assistance Agency has been implemented as described in Section III.F.1, the SOC shall incorporate into LEO training the manner in which such voter registrations shall be entered into VRIS. If any changes are made to VRIS during the term of this Agreement that affect the entry of data relating to Agency Voter Registration Applications, Mail-in Voter Registration Applications, or online voter registration applications originating from Public Assistance Agencies, the SOC shall provide training to LEOs on the manner in which such data should be entered into VRIS, including, by way of example only, step-by-step instructions and any other types of trainings or materials regarding such changes.
- (c) The SOC shall continue to maintain a "Help Desk" to answer any technical questions or issues raised by LEOs regarding voter registration data collection, entry or reporting.

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E. Formalization of New Procedures

1. The SOC agrees to modify Massachusetts regulations regarding voter registration, including without limitation current regulations 950 C.M.R. 57.05(2)(c), 950 C.M.R. 57.05(2)(d), 950 C.M.R. 57.05(2)(g), and 950 C.M.R. 58.03(1)(b), to incorporate the terms of this Agreement, as well as any other changes that the SOC determines to be appropriate to conform with current voter registration policies and procedures, subject to and in accordance with G. L. c. 30A.
2. During the term of this Agreement, the SOC agrees to maintain the changes made to VRIS to enable separate tracking of Agency Voter Registration Applications and Mail-in Voter Registration Applications containing an Agency Code. Once the SOC has enabled separate URLs for online voter registration originating from Public Assistance Agencies, the SOC shall modify VRIS (and maintain such changes) to enable separate tracking of online voter registration applications originating from Public Assistance Agencies.

F. Electronic Voter Registration

1. Within one-hundred and twenty (120) calendar days of the statutory deadline under Massachusetts Session Law 2014, c. 111 (August 1, 2015) for implementation of an online voter registration system in Massachusetts, the SOC shall enable a separate URL for each Public Assistance Agency to provide “trackable” online voter registration applications for each Agency. In the event of unforeseen delays caused by problems in the functionalities of the online voter registration system, with prior written notice to Plaintiffs’ Counsel, the SOC may extend this deadline for a period of no more than thirty (30) calendar days.
2. The SOC shall provide an URL to each Public Assistance Agency for incorporation into such Agency’s online systems.
3. Within one-hundred and twenty (120) calendar days of the statutory deadline under Massachusetts Session Law 2014, c. 111 (August 1, 2015) for implementation of an online voter registration system in Massachusetts, the SOC shall modify VRIS to enable tracking of online voter registration applications that are submitted through the URL assigned to each Public Assistance Agency. In the event of unforeseen delays caused by problems in the functionalities of the online voter registration system, with prior written notice to Plaintiffs’ Counsel, the SOC may extend this deadline for a period of no more than thirty (30) calendar days.

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G. Data Collection and EAC Reporting

1. Each month during the term of this Agreement, the SOC NVRA Coordinator shall collect Public Assistance Agency data from VRIS. Such data shall record any modifications to voter files made during the previous calendar month reflecting the data described in Sections III.G.1(a) through III.G.1(e).² Such data shall be aggregated for each Public Assistance Agency and reported as follows:
 - (a) The total number of Voter Registration Applications attributable to each Agency, categorized by: (i) Agency Voter Registration Applications; (ii) Mail-in Voter Registration Applications; and (iii) online voter registration applications originating from the Agency URL when such tracking becomes available as described in Section III.F.3;
 - (b) Of the number of Voter Registration Applications described in Section III.G.1(a), the total number of New Voter Registrations attributable to each Agency, categorized as described in Section III.G.1(a);
 - (c) Of the number of Voter Registration Applications described in Section III.G.1(a), the total number of Updated Voter Registrations attributable to each Agency, categorized as described in Section III.G.1(a);
 - (d) Of the number of Voter Registration Applications described in Section III.G.1(a), the total number of Rejected Voter Registrations attributable to each Agency, categorized as described in Section III.G.1(a); and
 - (e) Of the number of Voter Registration Applications described in Section III.G.1(a), the total number of Duplicate Voter Registrations attributable to each Agency, categorized as described in Section III.G.1(a).

² The SOC has represented to Plaintiffs' Counsel that VRIS is a "live" database that "overwrites" certain fields upon entry of new data by LEOs. For purposes of this Agreement only, Plaintiffs and the SOC agree that all data from VRIS described in this Agreement shall be compiled from monthly "snapshots" of the relevant fields in the database as of the last day of each month, unless VRIS is modified to enable the retrieval of historical data entered into the relevant fields.

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2. The SOC shall include, in the total number of “public assistance agency” voter registration applications reported to the U.S. Election Administration Commission (“EAC”), the number of Agency Voter Registration Applications, Mail-in Voter Registration Applications containing an Agency Code, and online voter applications attributable to any URL that is assigned to an agency designated under 52 U.S.C. § 20506(a)(2)(A). The total number of “public assistance agency” voter registration applications reported to the EAC for any biennial period shall equal the sum of the totals reflected in all “snapshots” of relevant fields taken from VRIS at the end of each calendar month during the relevant biennial period, and shall not be a single “snapshot” of VRIS data taken before the report is submitted to the EAC. For any partial calendar month during the biennial reporting period, the SOC shall only report to the EAC the data relevant to the portion of the month that falls within the reporting period.

3. For each calendar month during the term of this Agreement, the SOC shall request that DTA and MassHealth, respectively, provide the following monthly data to the SOC:³
 - (a) For In-Person Transactions:
 - (i) From DTA, the total number of In-Person Transactions; and
 - (ii) From MassHealth, the total number of In-Person Transactions.

 - (b) For Remote Transactions:
 - (i) From DTA, the total number of Remote Transactions; and
 - (ii) From MassHealth, the total number of Remote Transactions.

 - (c) If the data requested by the SOC pursuant to Sections III.G.3(a) and III.G.3(b) is not provided to the SOC, the SOC shall notify the relevant Agency’s legal counsel and/or the Governor’s Legal Counsel. If no response or an inadequate response is received, the SOC shall notify Plaintiffs’ Counsel. In such circumstances, if Plaintiffs’ Counsel has the data, Plaintiffs’ Counsel shall provide the data to the SOC.

³ For the calendar months from the Execution Date through September 2015, MassHealth may provide the information in Sections III.G.3(a)(ii) and III.G.3(b)(ii) to the SOC in October 2015. For the calendar months of October 2015 through December 2015, MassHealth may provide such information to the SOC in January 2016.

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H. Data Review and Follow-Up Activities

1. Complaints Regarding Voter Registration Services

- (a) If the SOC receives any complaint regarding a potential issue of noncompliance with Section 7 of the NVRA by a Public Assistance Agency, the SOC shall promptly inform the relevant Agency that is the subject of the complaint.
- (b) Steps the SOC shall take in response to each such complaint include, without limitation:
 - (i) Conducting a telephone conference or arranging a meeting with the Public Assistance Agency NVRA Coordinator;
 - (ii) Providing information to the Agency regarding the deficiencies in the voter registration process or procedures alleged in the complaint, and informing the Public Assistance Agency NVRA Coordinator of the pertinent requirements of the NVRA;
 - (iii) Requesting that the Agency take steps to investigate the deficiencies alleged in the complaint, to identify any potential issues with voter registration policies or procedures that may have caused such alleged deficiencies, and to address and correct any identified deficiencies by taking remedial measures such as revising policies or procedures or conducting additional training of staff; and
 - (iv) Requesting that the Agency inform the SOC of any steps taken to investigate, identify, verify and/or address the deficiencies alleged in the complaint, including any remedial measures taken.
- (c) If the Public Assistance Agency NVRA Coordinator fails to respond to the SOC's requests described in Section III.H.1(b), the SOC shall contact the head of the Agency or the Agency's legal counsel and/or the Governor's Legal Counsel, and take any additional actions within the SOC's authority that the SOC deems appropriate to have the Agency address the deficiencies alleged in the complaint.
- (d) The SOC shall record its efforts to contact the Agency or other authorities to obtain information, and shall record any additional actions taken, as described in this Section III.H.1.

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2. **Data Review and Comparisons**

- (a) **Total Voter Registration Applications.** For each calendar quarter during the term of this Agreement, the SOC NVRA Coordinator shall review, for DTA and MassHealth separately, the monthly totals of Voter Registration Applications attributable to Public Assistance Agencies described in Section III.G.1(a). The SOC NVRA Coordinator shall compare the month-to-month changes in the totals during that calendar quarter, and during all prior calendar quarters during the term of this Agreement. The comparisons shall be recorded in a spreadsheet and/or chart(s) showing the monthly totals for each Agency.

- (b) **Covered Transactions at DTA and MassHealth.** For each calendar quarter during the term of this Agreement, if the requested data from DTA and MassHealth described in Section III.G.3 is received, the SOC shall compute the following:
 - (i) **In-Person Transactions.** For DTA and MassHealth separately, the monthly ratio of Agency Voter Registration Applications (as described in Section III.G.1(a)), to the total number of In-Person Transactions (as described in Section III.G.3(a)), expressed as a percentage. Each month's computed ratio shall be compared to the computed ratios from all prior months during each calendar quarter, and to the computed monthly ratios from all prior calendar quarters during the term of this Agreement, and shall be recorded in a spreadsheet and/or chart(s) showing the monthly computed ratios for each Agency.

 - (ii) **Remote Transactions.** For DTA and MassHealth separately, the monthly ratio of the sum of the number of Mail-in Voter Registration Applications containing an Agency Code and the number of online voter registrations (as described in Section III.G.1(a)), to the total number of Remote Transactions (as described in Section III.G.3(b)), expressed as a percentage. For any time period in which the number of online voter registrations is not available, only the number of Mail-in Voter Registration Applications containing an Agency Code shall be used for this computation. Each month's ratio shall be compared to the computed monthly ratios during each calendar quarter, and to the computed monthly ratios from all prior calendar quarters during the term of this Agreement, and shall be recorded in a spreadsheet and/or chart(s) showing the monthly computed ratios for each Agency.

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- (c) **New Voter Registrations, Updated Voter Registrations, Rejected Voter Registrations, and Duplicate Voter Registrations.** For each calendar quarter during the term of this Agreement, the SOC NVRA Coordinator shall review, for DTA and MassHealth separately, the monthly totals of New Voter Registrations, Updated Voter Registrations, Rejected Voter Registrations, and Duplicate Voter Registrations attributable to Public Assistance Agencies (as described in Sections III.G.1(b) to III.G.1(e)), and compare the month-to-month changes in these totals during that calendar quarter, and during all prior calendar quarters during the term of this Agreement. The comparisons shall be recorded in a spreadsheet and/or chart(s) showing the monthly totals of each category in this Section for each Agency.
- (d) **Distribution of Data to Public Assistance Agencies.** For each calendar quarter during the term of this Agreement, the SOC shall distribute the data comparisons described in Sections III.H.2(a) to III.H.2(b) to the relevant Public Assistance Agency.

3. **Follow-Up Activities**

- (a) **Identification of Anomalies**
 - (i) Based on the quarterly review of data described in Section III.H.2, the SOC NVRA Coordinator shall identify any “anomalies” (as described below), if any exist, for purposes of conducting the follow-up activities described in Section III.H.3(b). “Anomalies” shall be defined as follows:
 - (1) Unusually low rates of Voter Registration Applications attributable to a Public Assistance Agency as compared to previous months’ data for that Agency and as reflected in the review described in Section III.H.2(a), but taking into account historical decreases in voter registration following a major election and/or decreases in the total number of Covered Transactions, which could result in lower rates of voter registration;
 - (2) Unusually high rates of Rejected Voter Registrations or Duplicate Voter Registrations attributable to a Public Assistance Agency as compared to previous months’ data for that Agency and as reflected in the comparisons described in Section III.H.2(c), but taking into account omissions or errors made by individual voters without any Agency involvement;

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- (3) Unusual decreases in the ratios of Voter Registration Applications attributable to a Public Assistance Agency as a percentage of Covered Transactions as compared to previous months' ratios for that Agency and as reflected in the computations described in Section III.H.2(b), but taking into account historical decreases in voter registration following a major election; and
 - (4) Any other irregularities in voter registration data as determined by SOC.
- (ii) The SOC NVRA Coordinator shall conduct the follow-up activities described in Section III.H.3(b) if any Public Assistance Agency NVRA Coordinator informs the SOC of potential issues in the provision of voter registration services during the relevant calendar quarter.
 - (iii) The SOC NVRA Coordinator shall conduct the follow-up activities described in Section III.H.3(b) if the SOC is informed in writing (including electronic mail) by Plaintiffs' Counsel regarding any irregularities in voter registration data that Plaintiffs' Counsel believes would qualify as an "anomaly" (as defined in Section III.H.3(a)(i)). Plaintiffs' Counsel may inform the SOC, and the SOC NVRA Coordinator shall conduct the follow-up activities described in Section III.H.3(b), regarding no more than six (6) "anomalies" in any calendar year during the term of this Agreement.

(b) Follow-Up Activities

- (i) On a calendar quarterly basis during the term of this Agreement, for each Public Assistance Agency at which any "anomaly" in voter registration data is identified (as described in Section III.H.3(a)), the SOC NVRA Coordinator shall contact the subject Public Assistance Agency NVRA Coordinator to discuss: voter registration practices and procedures; possible causes of any "anomalies"; and ways to resolve any issues identified. Such follow-up may occur by email, telephone or in-person. The SOC NVRA Coordinator also shall undertake the response steps described in Sections III.H.1(b) and III.H.1(c).

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- (ii) The SOC shall record its efforts to contact the Agency or other authorities to obtain information regarding “anomalies” and to request follow-up activities as described in this Section III.H.3(b).

I. Reporting to Plaintiffs’ Counsel

1. **Monthly Reporting.** Beginning with the first month after the Effective Date, and continuing through and including data about the last month of the term of this Agreement, the SOC shall provide the VRIS data described in Section III.G.1 to Plaintiffs’ Counsel on the fifteenth day of the month succeeding the month to which the data relates (for instance, if data pertaining to June was collected on the last day of that month, the data shall be provided to Plaintiffs’ Counsel on July 15). If the Effective Date falls on a date after the middle of a month (*e.g.*, June 20, 2015), the first report shall include data beginning from the first day through last day of the following month (*e.g.*, July 1-31, 2015), and shall be sent on the 15th day of the month thereafter (*e.g.*, August 15, 2015).
2. **Quarterly Reporting**
 - (a) Beginning on the Effective Date and continuing through and including information and data about the last quarter during the term of this Agreement, on the fifteenth day of January, April, July, and October of each calendar year, the SOC shall report to Plaintiffs’ Counsel the following information relating to the calendar quarter ending on the last day of the prior month. If the Effective Date falls on a date after the middle of a month (*e.g.*, June 20, 2015), the first such report shall include information and data pertaining to the quarter (or portion thereof) following the end of that month (*e.g.*, July-September 2015), and shall be provided on the fifteenth day of the succeeding month (*e.g.*, October 15, 2015). The last such report provided to Plaintiffs’ Counsel shall cover the period up to and including the last month during the term of this Agreement, but not any period following such last month. The reports shall contain information and data regarding:
 - (i) Any modifications made by the SOC to the Voter Registration Workbook for Agencies or other training materials for Public Assistance Agencies or LEOs during the quarter;
 - (ii) Any activities relating to a change in the SOC’s NVRA regulations during the quarter;

SETTLEMENT AGREEMENT

- (iii) A copy of the SOC's annual communication described in Section III.D.2, together with general descriptions (but not necessarily a day-by-day log) of: responses received from Public Assistance Agencies; voter registration trainings conducted by Public Assistance Agencies as reported to the SOC (including the dates of such trainings); requests by Public Assistance Agencies for the SOC to participate in voter registration trainings (including the dates of any such trainings); voter registration trainings that the SOC participates in or conducts for Public Assistance Agencies (including the dates of any such trainings); and the comments offered by the SOC to Public Assistance Agencies regarding voter registration policies and procedures and training materials provided by each Agency for SOC review;
- (iv) The dates of any trainings for LEOs conducted by the SOC regarding the entry of data attributable to Voter Registration Agencies into VRIS, and a general description of the nature of each such training;
- (v) A status report on the implementation of the online voter registration system in Massachusetts, including whether and when Agency-specific URLs were provided to Public Assistance Agencies, and the manner in which VRIS was modified to enable tracking of online voter registrations;
- (vi) Copies of spreadsheets or charts showing the Data Review and Comparisons described in Section III.H.2; a list of any "anomalies" identified under Section III.H.3(a); and a summary (but not necessarily a day-by-day log) of any follow-up actions taken by the SOC under Section III.H.3(b), including any remedial actions taken by the subject Agency and reported to the SOC; and
- (vii) A general description of any other significant actions taken by the SOC relating to Section 7 of the NVRA during the relevant calendar quarter, such as responses to complaints that could suggest deficiencies in the voter registration procedures of Public Assistance Agencies, actions taken by the SOC (if any) to expand the Substantive Provisions of this Agreement described in Section III to Voter Registration Agencies in addition to MassHealth and DTA, and the issuance of any new guidance or other written materials for Public Assistance Agencies, LEOs, or the general public.

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- (b) The quarterly reporting described in Section III.I.2 may be combined with the monthly reporting described in Section III.I.1.

J. **Online Posting of NVRA Data.** Beginning with the first quarterly report provided to Plaintiffs' Counsel in Section III.I.2, the SOC shall publish on its website the following data on a quarterly basis:

1. All VRIS data described in Section III.G.1;
2. All Data Review and Comparisons described in Section III.H.2, including without limitation all data comparisons, data computations, spreadsheets and charts; and
3. Any other information that the SOC deems relevant to compliance with Section 7 of the NVRA by Public Assistance Agencies or Voter Registration Agencies.

K. The SOC, at the SOC's discretion, may include Voter Registration Agencies in addition to DTA and MassHealth in the reporting and activities described in Section III.

IV. Dismissal and Releases

- A. After the Execution Date, Plaintiffs and the SOC shall promptly file a joint motion requesting the Court to enter the [Proposed] Order of Final Judgment, in the form attached hereto as Exhibit A.
- B. Plaintiffs fully, finally and forever release, relinquish, discharge, and waive any and all claims against the SOC regarding the voter registration activities of DTA and MassHealth only that are asserted or could have been asserted in the Amended Complaint in this Action filed on March 17, 2014 (Dkt. No. 143), or that are based or could be based on Section 7 of the NVRA, from the beginning of time until the end of the term of this Agreement, including any and all claims for injunctive or declaratory relief.

V. Term

- A. This Agreement shall take effect on the Effective Date and shall remain in full force and effect until July 31, 2018.
- B. Without affecting the finality of the [Proposed] Order of Final Judgment, the Court shall retain jurisdiction, during the term of this Agreement, to adjudicate noncompliance motions and resolve disputes arising under this Agreement, all pursuant to the procedures described in Section VI.

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VI. Dispute Resolution Procedures

- A. If, at any time during the term of this Agreement, Plaintiffs believe that the SOC is not in compliance with any one or more of its obligations under this Agreement, Plaintiffs and the SOC shall follow the dispute resolution procedures set forth in this Section VI.
- B. Plaintiffs shall notify the SOC in writing of any alleged noncompliance with this Agreement and shall request a meeting with the SOC for the purpose of attempting to remedy such alleged noncompliance. Plaintiffs and the SOC shall meet within thirty (30) calendar days of such notification of such alleged noncompliance.
- C. If Plaintiffs are not satisfied that such alleged noncompliance has been remedied, at any time after sixty (60) calendar days after Plaintiffs notified the SOC of such alleged noncompliance, Plaintiffs may file a motion with the Court seeking a judicial determination that the SOC is not substantially complying with this Agreement. Within thirty (30) calendar days of the filing of such motion, the SOC shall file its response to such motion. If the Court finds that the SOC has not substantially complied with this Agreement, it may enter an order consistent with equitable principles, but not an order of contempt, that is designed to achieve the SOC's compliance with this Agreement.
- D. If Plaintiffs believe that the SOC has not complied with an order entered pursuant to this Section VI, Plaintiffs may, after reasonable notice to the SOC, move for further relief from the Court to obtain compliance with the Court's prior order.
- E. Notwithstanding anything in this Section VI to the contrary, if Plaintiffs believe that the SOC is not substantially complying with any one or more of its obligations under this Agreement within ninety (90) calendar days before the expiration of the term of this Agreement, Plaintiffs may file a noncompliance motion with the Court without following the dispute resolution procedures set forth in this Section VI. Within fourteen (14) calendar days of the filing of such a motion, the SOC shall file its response to such motion. Such a motion may include a request for an interim order for the extension of the terms of the specific provisions of this Agreement that Plaintiffs believe that the SOC is not substantially complying with pending a ruling on such motion. If the Court finds that the SOC is not in substantial compliance, the Court may, even after the expiration of the term of this Agreement, extend the terms of those provisions of this Agreement as to which the SOC is not in substantial compliance for such time as is necessary for the SOC to obtain substantial compliance. Except as provided in this Section VI, the term of this Agreement and the Court's jurisdiction over this Agreement shall terminate as provided in Section V.
- F. This Agreement may be enforced only by Plaintiffs. Nothing contained in this Agreement is intended to confer any rights or remedies on any person other than the parties hereto.

SETTLEMENT AGREEMENT

VII. Attorneys' Fees and Litigation Expenses and Costs

- A. Except as provided in Section VII.C, the payment made by DTA pursuant to Section VII.A of the DTA Settlement Agreement shall constitute the full compromise and settlement of all claims for attorneys' fees and litigation expenses and costs related to this Action: (i) that Plaintiffs have, as of the Execution Date of this Agreement against the SOC; and (ii) that Plaintiffs might have made against the SOC for activities occurring after the Execution Date of this Agreement, including without limitation for activities to obtain the [Proposed] Order of Final Judgment [Exhibit A], or to monitor the implementation of, and the SOC's compliance with, this Agreement. This Agreement is not an admission or evidence that any Defendant is liable to Plaintiffs for the payment of attorneys' fees and litigation expenses or costs in, or related to, this Action, but rather represents only the compromise and settlement of a disputed claim.
- B. The compromise and settlement of Plaintiffs' claim for attorneys' fees and litigation expenses and costs against any Defendant shall not establish, or be evidence of: (1) a "reasonable" hourly rate for Plaintiffs' counsel or any other counsel; (2) the "reasonableness" of any legal services or activities performed by Plaintiffs' counsel in this or any other action; or (3) the "reasonableness" of any item of litigation expenses or costs in this or any other action.
- C. If Plaintiffs file a noncompliance motion following the dispute resolution procedures set forth in Section VI and prevail, Plaintiffs shall be entitled to request attorneys' fees and litigation expenses and costs related to litigating the claim of noncompliance. Plaintiffs shall only be considered to have prevailed for purposes of this Section VII if the Court makes a finding of substantial noncompliance under Section VI.C. If Plaintiffs seek attorneys' fees and litigation expenses and costs under this Section VII.C, they shall first submit their request to the SOC. If the SOC and Plaintiffs cannot agree on the amount to be paid within thirty (30) calendar days following the submission of the request, the dispute shall be submitted to the Court for formal resolution.

VIII. Additional Provisions

- A. *Entire Agreement:* This Agreement contains all the agreements, conditions, promises and covenants between Plaintiffs and the SOC, and their respective counsel, regarding matters set forth in this Agreement and supersedes all prior or contemporaneous agreements, drafts, representations or understandings, either written or oral, with respect to the subject matter of this Agreement.
- B. *Binding Effect:* Plaintiffs and the SOC represent and warrant that they have authority to enter into this Agreement and that this Agreement shall be binding upon, and inure to the benefit of, their successors and assigns. Each of the persons executing this Agreement on behalf of a Plaintiff or the SOC represents and warrants that he or she has the authority to do so.

SETTLEMENT AGREEMENT

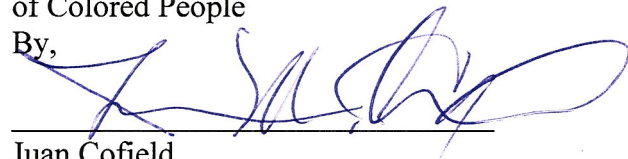
- C. *Written Modification:* Plaintiffs and the SOC may not modify any provision of this Agreement, except by written consent of Plaintiffs and the SOC. However, the deadlines for submitting data and reports to Plaintiffs' Counsel pursuant to Section III.I may be modified by written consent of Plaintiffs' Counsel and the SOC's counsel.
- D. *Interpretation:* Plaintiffs and the SOC have participated in the drafting of this Agreement and, accordingly, any claimed ambiguity shall not be presumptively construed for or against any Plaintiff or the SOC.
- E. *Force Majeure:* The SOC shall not be subject to any noncompliance motion for failure to perform under this Agreement, and any such failure shall not be considered a breach of or noncompliance with any provision of this Agreement, if such failure results directly from any act of God, riot, war, civil unrest, flood, or earthquake.
- F. *Waiver of Appeals:* Plaintiffs and the SOC waive any right to appeal or collaterally attack the [Proposed] Order of Final Judgment, if entered in the same form attached hereto as Exhibit A.
- G. *Execution:* This Agreement may be executed in counterparts, each of which shall constitute an original instrument and all of which together shall constitute one and the same Agreement. This Agreement shall have no legal effect, and shall not be enforceable, until it is executed by all parties to the Agreement and signature pages are exchanged.
- H. *No Consent Decree:* This Agreement shall not constitute, be construed as, or otherwise be incorporated into a consent decree or other order of the Court.
- I. *If No Entry of Proposed Order by Court:* If the Court does not enter the [Proposed] Order of Final Judgment in the form attached hereto as Exhibit A, either Plaintiffs or the SOC may determine, in their or the SOC's absolute judgment, that this Agreement is null and void and of no force or effect. Such a determination shall be effective only if conveyed in writing to the other parties within ten (10) business days of entry of the order of judgment. In that event, nothing herein shall be deemed to prejudice the position of any Plaintiff or the SOC with respect to this Action or otherwise, and neither the existence of this Agreement, nor any of its provisions, or any of the negotiations or proceedings leading to this Agreement, shall be admissible in evidence, referred to for any purpose in this Action or in any other litigation or proceeding, or construed as an admission, presumption or concession by any Plaintiff or the SOC of any liability or the truth of any of the allegations or defenses raised in this Action.

SETTLEMENT AGREEMENT

Plaintiff:

New England Area Conference of the
National Association for the Advancement
of Colored People

By,

A handwritten signature in blue ink, appearing to read 'Juan Cofield', is written over a horizontal line.

Juan Cofield
President

Dated: June 16, 2015

SETTLEMENT AGREEMENT

Plaintiff:

New England United for Justice

By,



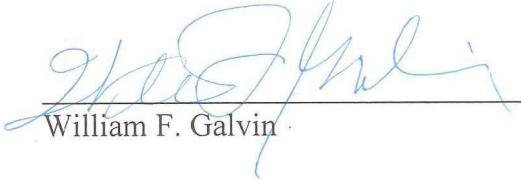
Noemi Ramos
Executive Director

Dated: June 16, 2015

SETTLEMENT AGREEMENT

Defendant:

William F. Galvin,
in his official capacity as
Secretary of the Commonwealth of Massachusetts



William F. Galvin

Dated: June 15, 2015

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

)	
NAACP-NEW ENGLAND AREA)	
CONFERENCE; and NEW ENGLAND)	
UNITED FOR JUSTICE,)	
)	
Plaintiffs,)	Civil Action No. 1:12-cv-10872-DJC
)	
v.)	
)	
WILLIAM F. GALVIN, in his official capacity)	
as Secretary of the Commonwealth;)	
MARYLOU SUDDERS, in her official capacity)	
as Secretary of the Executive Office of Health)	
and Human Services; and DANIEL TSAI, in his)	
official capacity as Director of the Office of)	
Medicaid,)	
)	
Defendants.)	
)	

[PROPOSED] ORDER OF FINAL JUDGMENT

Pursuant to Fed. R. Civ. P. 41(a)(2) and 58, and based on the Settlement Agreements by and between plaintiffs New England Area Conference of the National Association for the Advancement of Colored People and New England United for Justice (collectively “Plaintiffs”) and defendants Marylou Sudders (as successor to JudyAnn Bigby), in her official capacity as Secretary of the Executive Office of Health and Human Services (“EOHHS”), and Daniel Tsai (as successor to Kristen Thorn), in his official capacity as Director of the Office of Medicaid (“MassHealth”); and by and between Plaintiffs and defendant William F. Galvin, in his official capacity as Secretary of the Commonwealth (“SOC”) (collectively, with EOHHS and MassHealth, “Defendants”), the Court directs an entry of final judgment dismissing, with prejudice, this action and all claims asserted against all Defendants.

As provided in each of the Settlement Agreements referenced above, and the Settlement Agreement by and between Plaintiffs and former defendant Thomas G. Massimo (as successor to

Daniel Curley), in his official capacity as Acting Commissioner of the Department of Transitional Assistance (Doc. No. 213-1), and without affecting the finality of this Order of Final Judgment, this Court shall retain jurisdiction, during the term of each Settlement Agreement, to adjudicate noncompliance motions and resolve disputes arising under each Settlement Agreement, all under the procedures set forth in each such Agreement.

Pursuant to Fed. R. Civ. P. 58(b)(2), the Court hereby approves the form of this Order of Final Judgment and directs the Clerk to promptly enter it.

Denise J. Casper
United States District Judge

Dated: June ____, 2015

EXHIBIT B

IMPORTANT INFORMATION ABOUT VOTER REGISTRATION

Dear Applicant or Member:

The National Voter Registration Act of 1993 requires [identify agency] to give you the opportunity to register to vote. A voter registration application is enclosed. This letter itself is not a voter registration application. If you are not a U.S. citizen, you are not eligible to vote and you should not fill out a voter registration application.

To register to vote, fill out the enclosed Massachusetts voter registration application and send it to the local election official in your city or town, or bring it into a [identify agency] office.

If you have any questions about registering to vote, or if you need help filling out the voter registration application, call one of the telephone numbers listed below or speak with a [case manager or agency worker].

[INSERT
AGENCY
CONTACT
INFO HERE]

Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency. If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.

If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with: Secretary of the Commonwealth, Elections Division, One Ashburton Place, Room 1705, Boston, MA 02108, Tel: 617-727-2828 or 1-800-462-8683.

If you need additional voter registration applications, please contact one of the numbers above.

IN-OFFICE VOTER PREFERENCE FORM: This portion of the form is to be completed during in-office transactions only.

If you are not registered to vote where you live now, would you like to apply to register to vote here today?

Yes [] No []

Signature: _____ Date: _____

IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.