



STATE OF INDIANA

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October 27, 2017

Mr. Douglas K. Briody, Election Board Attorney
Vanderburgh County Election Board
1 NW Martin Luther King Jr. Blvd.
Room 214
Evansville, IN 47708

Re: Informal Inquiry 17-INF-15: Confidential Voter Registration Information

Dear Mr. Briody:

This is in response to your informal inquiry regarding voter registration information and what information may be exempt from disclosure. Specifically, you asked whether Ind. Code § 3-7-26.4-8, when read in conjunction with Ind. Code § 5-14-3-6.5, also exempts a registered voter's date of birth and other identifying information as listed in § 3-7-26.4-8 from disclosure by local voter registration offices.

DISCUSSION

Computerized List

Ind. Code § 3-7-26.4-8(c) provides that "the election division shall not provide information under this section concerning any of the following information concerning a voter:

- (1) Date of birth.
- (2) Gender.
- (3) Telephone number or electronic mail address.
- (4) Voting history.
- (5) A voter identification number or another unique field established to identify a voter.
- (6) The date of registration of the voter.

Pursuant to Ind. Code § 3-7-26.4-1, this statute only applies to the Indiana Statewide Voter Registration System ("SVRS") computerized list. Subsequent sections in this chapter indicate that the chapter only applies to records requests submitted to the Indiana Election Division.

In my advisory opinion 15-FC-38, I opined that voting history is not disclosable by local registration offices because an individual's voting history is maintained in the SVRS, and if local voter registration offices would have to pull the voting history from the SVRS, then voting history

would be confidential. This is because Ind. Code § 5-14-3-6.5 provides that “[a] public agency that receives a confidential public record from another public agency shall maintain the confidentiality of the public record.”

However, after an examination of applicable statutes and consultation with the election division, it does not appear that a county voter registration office receives voter registration records from any other agency, including the election division. Instead, a county voter registration office as defined by Ind. Code § 3-5-2-16.2, which is a separate board of registration in Vanderburgh County, is legally responsible for supervising the registration of voters of the county. Ind. Code § 3-7-12-7.

And, while the SVRS was implemented and is maintained by the Secretary of State and the co-directors of the election division pursuant to Ind. Code § 3-7-26.3-3, the SVRS is formatted “so that only the county voter registration office of a county may change data in the file concerning the voters registered in that county” per Ind. Code § 3-7-26.3-8. A county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the SVRS at the time the information is provided to the county voter registration office (Ind. Code § 3-7-26.3-9) and only a county voter registration office may change the voter registration information for voters in that county.

Therefore, it is my opinion that a county registration office providing a copy of the computerized list to a requestor is obligated to act according to Ind. Code § 3-7-27-6(c) which provides as follows:

In accordance with IC 5-14-3-3(h) and notwithstanding any other statute, a county voter registration office shall, ***with regard to voter registration information concerning voters of the county on a computerized system***, act in accordance with a nondiscriminatory uniform policy adopted by the county election board. The policy must either permit a person to duplicate or obtain a duplicate copy of a computer disc or other similar record system ***that contains this voter registration information*** or not permit the person to duplicate or obtain a duplicate copy of the information. Notwithstanding IC 5-14-3-8, the county election board may adopt a nondiscriminatory uniform fee for the production of this electronic record. (emphasis added)

The emphasis added to the above cited statutory provision is intended to highlight that the policy established by a county election board must deal with “voter registration information concerning voters of the county” in the SVRS. This information would include name, address, date of birth, and voting history, among other information concerning a voter that is kept by the county voter registration office in the SVRS except for certain confidential information described below. The policy must specify whether this information is to be provided to a requester or not. However, whatever the policy, it must be a nondiscriminatory uniform policy and, if the policy provides for the provision of voter registration information from the SVRS, any fee established by the policy for this provision of this voter registration information must be a nondiscriminatory uniform fee.

In addition, if the registration information from the SVRS is provided pursuant to the county election board’s policy, the requester is required to provide the written statement described in Ind. Code 3-7-27-6(d) which the election division advises is state form VRG-24.

I am further advised by the election division that specific information that is declared confidential under state law for either paper or electronic voter registration records (see discussion below) is automatically redacted from any SVRS extract that may be provided to a requester of this information so the confidentiality of this information is protected.

Individual Paper Registration Forms

Ind. Code § 3-7-27-12 provides that “[e]xcept for information declared confidential under this article, the affidavits or forms must be available . . . for inspection, transcription, and duplication” pursuant to APRA. However, Ind. Code § 3-7-26.4-1 specifies that chapter 26.4 only applies to the computerized list. Therefore, it would not apply to individual paper registration forms.

After a review of Article 7 of the Indiana Election Code, it appears that the article designates the following as confidential on paper or electronic registration records: the identity of the voter registration agency through which an individual registered (e.g. the BMV), and if an applicant declined to register to vote at a registration agency. Ind. Code § 3-7-30. In addition, the voter registration records of participants in the attorney general’s confidentiality program for victims of domestic abuse are confidential. Ind. Code § 5-26.5-2-5; Ind. Code § 3-11-4-6(g). Finally, though current voter registration applications do not request a full social security number, to the extent a voter registration application or record contains a full social security number the number must be redacted except for the last four digits pursuant to IC 5-14-3-4(a)(12).

I consulted the response provided by the Marion County Board of Voter Registration to the complaint in 15-FC-38, and their response referenced a “source code” on the registration form that identified the location where the applicant registered to vote. If Vanderburgh County used such an identifier on voter registration forms, it would need to be redacted if an individual requested paper voter registration forms in lieu of the computerized list.

Otherwise, the Election Code does not appear to designate information such as a registrant’s birth date, phone number, or voter identification number as confidential as it applies to inspection and duplication of voter registration affidavits or forms.

Please do not hesitate to contact me with any questions.

Best regards,



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