California Secretary of State  
Proposed Regulatory Action:  
Access to Voter Registration Information  
Proposed Regulation Text  
Addendum to the Initial Statement of Reasons

The factual basis and rationale of the following sections of the proposed regulations are modified as follows:

These comments address updates to the Proposed Regulation Text, which was originally submitted for a 45-day public comment on November 27, 2021, and for which a public hearing was held on January 11, 2021. Changes to the Proposed Regulation Text were made based upon comments received during the 45-day public comment period. Those changes to the Proposed Regulation Text were issued for an additional comment period from March 5, 2021, through March 22, 2021. Additional changes to the Proposed Regulation Text have been made based upon the 15-day public comment period that ended on March 22, 2021.

19003. Permissible Uses.

Subdivisions (a)(1) and (4). These subdivisions were modified for clarity. The changes to the proposed text are not substantive, and were made for clarity and consistency with other sections of this Article.

Subdivision (a)(6). This subdivision was modified to create clarity regarding an applicant requesting voter registration information that is not specific to one of those categories listed in Elections Code section 2194(a)(3). The original text referred to the category of “investigation,” which can be seen as a narrow category. The term “investigation” can be viewed as limiting the use of the voter registration information to those conducting an official investigation (such as law enforcement). The change to “record review” is intended to allow the use of voter registration information for an official investigation and to applicants who will review the voter registration information for accuracy and compliance with applicable laws. The applicants for the latter are not necessarily “investigators,” and therefore the purpose of the change is to ensure that a request under this category is not specific to an “investigator.”

While the category “record review” is not specified in Elections Code section 2194(a)(3), the Secretary of State has determined that an applicant can request voter registration information for an investigation or record review for election, scholarly, journalistic, political, or governmental purposes. When a record review is being done for a purpose specified in Elections Code section 2914(a)(3), it is a permissible use. This category is stated here separately to clarify to requesters and the public that this is a permissible use and to make application processing by a source agency more straightforward since the source agency will be able to clearly identify this use type.
19004. Impermissible Uses.

Subdivision (c). This subdivision (c) has been modified to ensure that an application that prima facie without any other qualification under one of the permissible categories in Section 19003 could still be denied by the source agency using an ascertainable standard. The previous proposed text provided source agencies with the ability to deny an application for voter registration information based upon a reasonable belief and determination that the applicant may utilize the requested data for unlawful, false, or fraudulent purpose, to promote or conduct an illegitimate object or purpose, or is being requested or submitted in bad faith or for the purpose of harassing or defrauding a person or entity.

This revision to the proposed text was made because it is incumbent upon a source agency to ensure that any determination it makes is done so on a reasonable belief that the information is being requested is not contrary to the language of Elections Code section 10. Elections Code section 10 exists independent of this regulatory action, and its reference in these regulations clarifies that it applies to requests for voter registration information.

Section 10 specifies the duties and powers of the Secretary of State as the chief elections officer of the state. Some of these duties are as follows:

1. Promote voter registration to eligible voters.
2. Encourage eligible voters to vote.
3. Promote preregistration to eligible citizens.
4. Prioritize communities that have been historically underrepresented in voter registration or voting

In promulgating these regulations that reference this provision, the Secretary of State is ensuring that any request for voter registration information (whether received by the Secretary of State or another elections official) is consistent with these duties. If a source agency determines based on the face of the application itself or the information available in the public domain or obtained through reasonable inquiry by our office demonstrate that the requested information would be used or the use of which would discourage voter registration or preregistration of eligible voters, discourage eligible voters to vote or adversely impact the voter registration or voting among historically underrepresented communities, then we would have the authority to reject that application.

Finally, this subdivision (c) makes it clear that the source agency must provide a reason for rejection, and that the rejection does not prohibit the applicant from submitting a new application for voter registration information.
19008. Application.

Subdivision (a)(7)(C). This subdivision was modified to address a situation in which an applicant is requesting voter registration information from a source agency for journalistic purpose, but the does not have a formal press pass or media credential. It is possible for an applicant to be considered a journalist even if they do not have a formal press pass or media credential. When the original regulations were drafted decades ago, there were really no other avenues for individuals to be considered a journalist. Now, there are online bloggers, vloggers, and other online news outlets that provide journalistic content, but those individuals do not necessarily have ties to a traditional news outlet or a television or radio station. This modification is to make it clear that these types of individuals can be considered journalists and that they are not required to have a press pass or media credential.

The addendum to this subdivision requires the applicant to submit other evidence showing that they are in fact a journalist, and provides the source agency with the authority to determine whether or not the submitted evidence establishes that the applicant is eligible to receive the requested voter registration information under the journalistic category.

19009. Application Submission and Processing.

Subdivision (a). The modifications to Subdivision (a) were made for clarity purposes. These modification are not substantive.

Subdivision (b). The modifications to Subdivision (b) were made primarily for clarity purposes, and has been rearranged for clarity. In addition, the text has been updated to require all source agencies to follow the same processes. It is important that all source agencies follow the same procedures to ensure that an applicant who may submit an application to a county elections official will be subject to the same processes if that person submits an application to the Secretary of State’s office.