

From: Fenumiai, Gail M (GOV)
Sent: Friday, October 22, 2010 4:31 PM
To: Kelly Walters
Subject: RE: Kelly Walters (concerned voter) re: write-in list

After a long consultation with a team of professional staff from the Department of Law, the division sent an official certified write-in candidate list to absentee voting locations as well as to all precinct chairpersons.

The division of elections is obligated by federal (42 USC §1973aa-6) and state law (AS 15.15.240) to provide assistance to voters in the polling place upon request. The list of write-in candidates is the best way for poll workers to provide consistent information and assistance to voters if requested, regarding write-in candidates.

The regulation cited by the ADP does not prohibit such assistance. The regulation cannot be read in isolation, and providing voter assistance on how to vote for a write-in candidate is not in violation of the regulation; indeed, it is explicitly required by statute. AS 15.15.240 mandates that when a voter requests assistance, "the election official shall assist the voter." 6 AAC 25.070(b) must also be read in conjunction with AS 15.15.170, which prohibits political persuasion in or near the polls. Thus, subsection (b) of the regulation is directed at campaigning rather than voter assistance. "Information" in the regulation means "persuasive information," and therefore the regulation only prohibits providing or exhibiting persuasive information. It does not prohibit the division from providing assistance to voters. In fact, the regulation in subsection (d) specifically acknowledges that voters can request assistance from poll workers for indicating a write-in choice. Thus, the list provides appropriate assistance to voters who request help, without violating 6 AAC 25.070(b)'s prohibition against persuasive information.

The official certified write-in list is not and was never intended to be given to voters. IF a voter requests assistance regarding write-in candidates, they are instructed to review the poster located in the voting booth. IF a voter requests assistance regarding who the write-in candidates are, the election official will show the voter the certified list. The write-in candidate list provides an objective and consistent means to provide that assistance and in our view will decrease or eliminate verbal discussion in the polling place regarding write-in candidates when assistance is sought.

Gail Fenumiai