



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

April 8, 2008

The Honorable Dianne Feinstein  
Chairman  
Committee on Rules and Administration  
United States Senate  
Washington, DC 20510

Dear Madam Chairman:

This is in response to your most recent letter concerning Department of Veterans Affairs (VA) policy on assisting veterans in VA facilities to register and vote. Your letter references your previous inquiry on this same topic. I regret that you did not receive VA's April 23, 2007 response. A copy of the correspondence is enclosed.

Longstanding VA policy reflects a commitment to assist patients in exercising their right to vote. You are correct that these policies have been the subject of recent litigation in both the 9<sup>th</sup> Circuit and the Federal Circuit; however, neither Court has decided that voter registration groups are not allowed to register veterans. Rather, the Federal Circuit Court of Appeals found that VA's restriction on partisan political activities in VA facilities, 38 CFR 1.218(a)(14), does not on its face violate the First Amendment. *Preminger v. Sec'y of VA*, No.2007-7008, 2008 U.S. App. LEXIS 4017 (Fed. Cir. Feb. 25, 2008). These restrictions were deemed reasonable and neutral in light of VA's mission of caring for veterans and the agency's need to maintain places for healing and rehabilitation. *Id.* Further, the Northern District of California concluded that the plaintiff did not have standing to bring an "as-applied" challenge to this regulation. *Preminger v. Nicholson*, No. C 04-2012 JF, 2008 U.S. Dist. LEXIS 9207 at 14 (D. Cal. Jan. 28, 2008).

Given the importance of this issue, VA is establishing additional guidance that will clearly assign responsibility for voter assistance and promote a uniform approach to this important function while maintaining a non-partisan environment. VA remains opposed to becoming a voter registration agency pursuant to the National Voter Registration Act, as this designation would divert substantial resources from our primary mission.

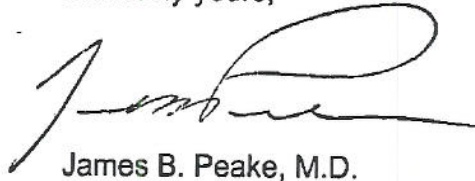
In November 2007, the plaintiff in the above-mentioned litigation requested that VA initiate formal rulemaking to define how veterans who reside on VA campuses will receive assistance in registering and voting. We are still considering this option.

2.

The Honorable Dianne Feinstein

VA shares your commitment to assisting veterans in exercising their Constitutional right to vote. Thank you for the opportunity to address this important issue. A similar response is being sent to Senator Kerry.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James B. Peake". The signature is fluid and cursive, with a large loop at the end.

James B. Peake, M.D.

Enclosures