



**VACIR**  
Virginia Coalition  
for Immigrant Rights



LAWYERS' COMMITTEE FOR  
**CIVIL RIGHTS**  
U N D E R L A W

October 3, 2024

The Honorable Susan Beals  
Commissioner of Elections  
Washington Building  
1100 Bank Street, First Floor  
Richmond, VA 23219

Virginia Department of Elections  
Washington Building  
1100 Bank Street, First Floor  
Richmond, VA 23219

Cc:

Attorney General Jason Miyares  
Office of the Attorney General

**Re: Notice of Violation of National Voter Registration Act and Demand for Remediation  
and Documents**

***VIA E-MAIL AND CERTIFIED MAIL***

Dear Commissioner Beals and Virginia Department of Elections:

The undersigned write pursuant to 52 U.S.C. § 20510(b)(2) to inform you that Virginia’s voter purge program mandated by Executive Order 35, relying on Virginia Code § 24.2-427, (“the Program”) violates the National Voter Registration Act (“NVRA”).

This NVRA notice letter follows a request from the Virginia Coalition for Immigrant Rights (“VACIR”) to your office and to the Department of Motor Vehicles, the Office of the Attorney General, and the Office of the Governor, for copies of all records relating to the removal from the voter registration rolls of Virginia registered voters on the basis that they have been identified as a potential “non-citizen.” The records were requested on August 20, 2024, pursuant to the Virginia Freedom of Information Act (“VFOIA”), Va. Code § 2.2-3700 *et seq.*, and the Public Disclosure of Voter Registration Activities provision of the NVRA, 52 U.S.C. § 20507(i). As of today, your office has made only a limited initial production of responsive records, despite a September 9 meeting with your staff and numerous emails discussing the specific records responsive to the request. At the September 9 meeting, your staff further informed VACIR that your office is refusing to provide the list of voters who have been removed on the basis that they were identified as a potential “non-citizen” until 90 days after submission of the request for records, or November 18, despite your office having these records in its possession and having no legal basis to withhold these records.

On August 7, 2024, Governor Youngkin signed Executive Order 35 (“E.O. 35”), providing instructions for a voter purge program of alleged noncitizens, relying on Va. Code § 24.2-427.<sup>1</sup> E.O. 35 requires the Commissioner of the Department of Elections to certify to the governor that it has procedures in place to make daily updates to the statewide voter registration list to “[r]emove individuals who are unable to verify that they are [U.S.] citizens to the Department of Motor Vehicles[.]” E.O. 35 at 3-4; *see also* Va. Code § 24.2-427(B)-(C). The Department of Elections (“ELECT”) is further required to make those daily updates to the voter rolls by comparing “the list of individuals who have been identified as noncitizens to the list of existing registered voters[.]” E.O. 35 at 3-4. Once ELECT has identified these individuals, “registrars notify any matches of their pending cancellation unless they affirm their citizenship within 14 days[.]” and cancel the voter’s registration if the registrar’s office does not receive this affirmation within 14 days of sending the notice. *Id.*; *see also* Va. Code § 24.2-427(B)-(C). Accordingly, E.O. 35 affirmatively directs state agencies to identify and purge voters on a systematic and ongoing basis—including during the immediate lead up to the 2024 General Election—in direct violation of the 90-day quiet period mandated by the NVRA. *See id.*; 52 U.S.C. § 20507(c)(2)(A).

E.O. 35 further demands the expedition of interagency data sharing between the Department of Motor Vehicles (DMV) and ELECT via a daily file of all alleged “non-citizens

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<sup>1</sup> E.O. 35 claims to order the implementation of Va. Code § 24.2-429, *see* E.O. 35 at 4; however, the process described in E.O. 35 more closely aligns with Va. Code § 24.2-427, which we presume E.O. 35 intended to cite. Either way, the Program violates the NVRA for the reasons stated herein.

transactions, including addresses and document numbers.” E.O. 35 at 4. Lastly, E.O. 35 directs the registrars to “immediately notify the Commonwealth’s Attorney for their jurisdiction of this alleged unlawful conduct.” *Id.*

E.O. 35 has resulted and will continue to result in naturalized citizens who are eligible voters being removed from Virginia’s voter rolls. The DMV data E.O. 35 directs ELECT to rely on is often faulty and outdated, risking eligible voters who are U.S. citizens being identified as non-citizens and be improperly and erroneously removed from Virginia’s voter rolls. Indeed, Virginia drivers’ licenses are available to residents who are not U.S. citizens and can remain valid for up to eight years, meaning that an individual could obtain a driver’s license as a non-U.S. citizen and subsequently become a U.S. citizen and lawfully register to vote—for example by using a paper voter registration form at their naturalization ceremony—without updating their driver’s license. *See* Va. Code §§ 46.2-328.1(A), 330(A). Under these circumstances, the DMV’s records would still indicate that an eligible voter was not a U.S. citizen at the time they obtained their driver’s license, thereby improperly and erroneously triggering the removal process. Notably, the DMV does not require people to show additional proof of citizenship or lawful residence when they renew their driver’s licenses (so long as they showed such proof since 2004).<sup>2</sup> Additionally, it is our understanding that eligible voters often mistakenly check the wrong box during electronic transactions with the DMV in a way that indicates they are not a citizen despite having already confirmed their citizenship while registering to vote, thereby improperly and erroneously triggering the removal process.

The voter purges mandated by E.O. 35 and Va. Code § 24.2-427 violate the NVRA because: (1) they constitute systematic voter list maintenance within 90 days preceding a federal election; (2) they disproportionately and discriminatorily target naturalized citizens for removal and are not being carried out uniformly across local jurisdictions; and (3) they require voters to provide additional proof of U.S. citizenship not required by the National Mail Voter Registration Application or voter registration applications at the DMV and public assistance agencies in order to remain registered. *See* 52 U.S.C. §§ 20504(c), 20505(a), 20506(a), 20507(b).

As detailed below, we demand that your office and all other implementing state and local entities in Virginia immediately cease purging voters on the basis of citizenship data provided by the DMV. We further demand, pursuant to the NVRA, that ELECT immediately produce documents related to E.O. 35 and any voters purged on the basis of alleged non-U.S. citizenship. If these violations are not remedied by October 6, 2024, you could be subject to federal civil liability. *See* 52 U.S.C. § 20510(b).<sup>3</sup>

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<sup>2</sup> Virginia’s Legal Presence Law, Virginia Department of Motor Vehicles, available at <https://www.dmv.virginia.gov/licenses-ids/id-cards/legal-presence> (last accessed Oct. 3, 2024)

<sup>3</sup> Violations of the NVRA that occur within 30 days before a federal election may be subject to immediate civil actions by private parties. 52 U.S.C. § 20510(b).

## **I. Virginia’s Voter Purge Program Violates the NVRA.**

### **a. Virginia May Not Systematically Remove Voters from the Rolls Within 90 Days of an Election**

Section 8(c)(2)(A) of the NVRA (the “90-Day Provision”) prohibits states from carrying out “any program . . . to systematically remove the names of ineligible voters from the official lists of eligible voters” within 90 days preceding an election for federal office. 52 U.S.C. § 20507(c)(2)(A). Virginia may not take any steps to implement any program to systematically remove voters within this 90-day “quiet period.”

The systematic purges E.O. 35 set into action undoubtedly fall within the “quiet period.”<sup>4</sup> Governor Youngkin announced the Program on August 7, 2024—exactly 90 days before the 2024 General Election on November 5, and 45 days before the start of early in-person voting. E.O. 35 directs daily updates to purge individuals identified as potential non-U.S. citizens based on faulty and outdated data from another state agency without a meaningful and individualized inquiry into its accuracy. *See* E.O. 35 at 3-4. A single notice that must be answered within 14 days to avoid removal, sent to voters identified from DMV lists on the basis that they at some point had a “noncitizens transaction” with the DMV—without any further attempt either by ELECT or local officials to investigate or confirm the current accuracy of this information—does not constitute the type of “individual correspondence or rigorous individualized inquiry” necessary to permit lawful removal during the 90-Day period. *See Arcia v. Florida Sec’y of State*, 772 F.3d 1335, 1346 (11th Cir. 2014).

Although the NVRA provides a narrow set of exceptions under which a state may use a systematic program to remove a voter from the rolls during the quiet period, potential citizenship status and the fact that an individual has been identified at some point in time as a potential noncitizen in a DMV database are not among the enumerated exceptions. *See* 52 U.S.C. § 20507(c)(2)(B); *Arcia*, 772 F.3d at 1345 (“Congress expressly allowed for a number of exceptions to the 90 Day Provision, and an exception for removals of non-citizens is not one of them.”). Indeed, the Eleventh Circuit ruled that a nearly identical effort by Florida to remove purported noncitizens from its voter rolls during the quiet period violated the NVRA. *See Arcia*, 772 F.3d at 1348. In *Arcia*, Florida had initiated programs to systematically identify and remove purported noncitizens from the voter rolls. *Id.* at 1339. These programs were systematic because they “did not rely upon individualized information or investigation to determine which names from the voter registry to remove.” *Id.* at 1344; *see also N.C. State Conf. of NAACP v. Bipartisan Bd. of Elections & Ethics Enf’t*, No. 1:16-CV-1274, 2018 WL 3748172, at \*9 (M.D.N.C. Aug. 7, 2018) (where

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<sup>4</sup> Ex. A, Certification of Election Security Procedures Letter from Commissioner Beals to Governor Youngkin, (Sept. 19, 2024); Ex. B, Arlington County Electoral Board Minutes (Sept. 10, 2024); Ex. C, Fairfax County Policy for Referral of Individuals Removed from Voter Rolls (Sept. 16, 2024); Ex. D, Fairfax County Electoral Board Minutes (Aug. 15, 2024); Ex. E, Loudoun County Electoral Board Agenda Packet (Sept. 12, 2024); Ex. F, Memorandum of Understanding between VADMV and ELECT (Sept. 3, 2024).

cancellation of “374 voters’ registrations” based on a single source of information “lacked the individualized inquiry necessary to survive the NVRA’s prohibition on systematic removals within 90 days of a federal general election.”). Consequently, these programs violated the NVRA’s clear statutory language that bars a state from using “any program” to “systematically remove the names of ineligible voters.” 52 U.S.C. § 20507(c)(2)(A).

This Program by your office systematically identifies and removes voters from Virginia’s voter rolls within the 90-day quiet period and is therefore a clear violation of the NVRA.

**b. E.O. 35’s List Maintenance Procedures Are Discriminatory and Their Application Is Not Uniform Across Jurisdictions.**

The Program also violates NVRA Section 8(b)’s requirement that list maintenance programs be “uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.” 52 U.S.C. § 20507(b)(1). The NVRA reflects the view of Congress that the right to vote “is a fundamental right,” that government has a duty to “promote the exercise of that right,” and that discriminatory and unfair registration laws can have a “direct and damaging effect on voter participation” and “disproportionately harm voter participation by various groups, including racial minorities.” *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 334 (4th Cir. 2012); 52 U.S.C. § 20501(a).

Virginia’s voter purge program threatens to improperly remove eligible voters who are disproportionately naturalized U.S. citizens from the voter rolls because the stale data it relies upon is significantly more likely to erroneously identify naturalized U.S. citizens as non-U.S. citizens than individuals who were born U.S. citizens. As explained above, the DMV’s citizenship data on driver’s license holders is not necessarily updated when an individual’s citizenship status changes, meaning that it might improperly identify a naturalized U.S. citizen as a non-U.S. citizen for up to eight years, or more, after naturalization. *See* Va. Code §§ 46.2-328.1(A), 330(A). This is not the case for individuals born U.S. citizens, who, absent their own error in checking the wrong box on a form, are never identified as a non-U.S. citizen in their DMV file, unless they are identified in error. Consequently, E.O. 35 will disproportionately remove naturalized U.S. citizens from Virginia’s voter rolls compared to their counterparts who were born U.S. citizens.

Federal courts have looked unfavorably on similar programs which target and disproportionately burden naturalized citizens. For example, in *United States v. Florida*, 870 F. Supp. 2d 1346 (N.D. Fla. 2012), a district court explained that a similar program likely violated Section 8(b). *Id.* at 1350. There, Florida’s Secretary of State compiled a list that included all registered voters who had disclosed that they were noncitizens at the time they applied for a driver’s license, had subsequently naturalized and registered to vote, and had not updated their citizenship status with the state agency responsible for driver’s licenses. *Id.* at 1347-48. The Florida Secretary of State ultimately abandoned this program—perhaps recognizing its fundamental unlawfulness—before the court issued a ruling. *Id.* at 1351. Nevertheless, the court explained that the program had likely violated Section 8(b) because its approach to identifying suspected

noncitizens swept in a large number of naturalized citizens. *Id.* at 1350. As the court explained, this “methodology made it likely that the properly registered citizens who would be required to respond and provide documentation [of their citizenship] would be primarily newly naturalized citizens.” *Id.* Accordingly, the “burdensome” program “was likely to have a discriminatory impact” on this group of eligible voters in violation of Section 8(b).<sup>5</sup> Virginia’s Program is nearly identical to the unlawful program at issue in *United States v. Florida*.

Employing similar logic, the District of Arizona recently held that a state statutory provision that “requires county recorders to search” the SAVE database “only for naturalized voters who county recorders suspect are not U.S. citizens” was unlawful because it “subject[ed] only naturalized citizens to database checks.” *Mi Familia Vota v. Fontes*, No. CV-22-00509-PHX-SRB, 2024 WL 862406, at \*38 (D. Ariz. Feb. 29, 2024), judgment entered, No. CV-22-00509-PHX-SRB, 2024 WL 2244338 (D. Ariz. 2024) (emphasis in original). As the court explained, using the SAVE database means that only “[n]aturalized citizens will always be at risk” of removal from this process, in violation of the requirement that state officials refrain from applying discriminatory practices in determining who is qualified to vote. *Id.*; see also 52 U.S.C. § 10101(a)(2)(A).

Thus, “[a] state cannot properly impose burdensome demands in a discriminatory manner” regarding voter registration, *Florida*, 870 F. Supp. 2d at 1350, including by imposing those demands disproportionately on naturalized voters. The same is true here.

E.O. 35 and its directives targeting noncitizens will disproportionately harm naturalized U.S. citizens who are eligible to vote in Virginia. *Cf. Mi Familia Vota*, 2024 WL 862406 at \*22 (because state motor vehicle division “does not issue foreign-type credentials to native born citizens, only naturalized citizens will ever be misidentified as non-citizens”). As such, this list maintenance program is not “uniform” and “nondiscriminatory,” as required by the NVRA. 52 U.S.C. § 20507(b)(1). The Program implemented by Virginia (with a history of mistakes in its voter removals), which disproportionately affects naturalized citizens through the use of data containing known errors, that knowingly places burdens exclusively on those citizens to find a way to prove their citizenship within two weeks, and that subsequently purges them en masse, is discriminatory and violates Section 8(b).<sup>6</sup>

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<sup>5</sup> The district court’s framing of its analysis as “probably” in violation of Section 8(b) was consistent with the procedural posture of this case, at the preliminary injunction stage, as well as the mootness of the issue due to voluntary cessation by the Florida Secretary of State. See *Florida*, 870 F. Supp. 2d at 1347, 1351. The *Florida* district court rejected a challenge to Florida’s program under the 90-Day Provision, on the basis that removing purported noncitizens is not the kind of removal contemplated by the 90-Day Provision. *Id.* at 1349-50. The Eleventh Circuit implicitly overruled this holding two years later in *Arcia*, which held that systematic removals targeting purported noncitizens are barred by the 90-Day Provision. 772 F.3d at 1346-48; see also *id.* at 1348-49 (Suhreheinrich, J., dissenting) (basing dissent in part on the reasoning of the district court in *Florida* regarding the 90-Day Provision).

<sup>6</sup> See Suzanne Gamboa, *Virginia removes 6,303 ‘noncitizens’ from voter rolls, fueling fraud allegations*, NBC News (Aug. 23, 2024), <https://www.nbcnews.com/news/latino/virginia-governor-youngkin-voter-purge-noncitizens-errors-election-rcna167925>.

The Program likewise violates the NVRA's requirement that the State "ensure that any eligible applicant is registered to vote in an election." 52 U.S.C. § 20507(a)(1). Virginia may not rely upon information that is demonstrably outdated and has not been individually confirmed to be accurate to remove voters whom federal law requires the State to "ensure" remain registered to vote.

**c. E.O. 35 Adds a Citizenship Requirement That Is Not Permitted for Voters Using the Federal Form or Registering at the DMV or a Voter Registration Agency.**

E.O. 35's requirement that targeted voters reaffirm their U.S. citizenship also violates the NVRA's limitation on proof of citizenship to an attestation under penalty of perjury that the registrant is a U.S. citizen. *See Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1 (2013) [hereinafter "*ITCA*"]; *Fish v. Kobach*, 840 F.3d 710, 723 (10th Cir. 2016); 52 U.S.C. §§ 20508(b)(2)(A)-(B), 20505(a)(1)-(2). The NVRA provides that a state voter registration form "may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process." 52 U.S.C. §§ 20508(b)(1), 20505(a)(1)-(2). Under the NVRA, a state voter registration form "shall include a statement that (A) specifies each eligibility requirement (including citizenship); (B) contains an attestation that the applicant meets each such requirement; and (C) requires the signature of the applicant, under penalty of perjury." *Id.* §§ 20508(b)(2), 20505(a)(1)-(2); *see also id.* § 20504(c) (imposing similar requirements on voter registration forms included as part of a driver's license application).

Further, Virginia must "accept and use" the National Mail Voter Registration Form ("Federal Form") provided by the U.S. Election Assistance Commission, which does not require documentary proof of citizenship. *See ITCA*, 570 U.S. at 4; *see also League of Women Voters of United States v. Harrington*, 560 F. Supp. 3d 177, 180, 185-86 (D.D.C. 2021) (vacating U.S. Election Assistance Commission approval of Alabama's request to include a documentary proof of citizenship requirement on its state-specific instructions for the federal voter registration form, because the Commission did not assess whether such changes were necessary for Alabama to assess voter eligibility and so failed to comply with the Administrative Procedure Act in its administration of the NVRA's requirement). Similarly, once a voter has completed a voter registration form at the DMV or at a public assistance agency, the NVRA prohibits a state from requiring additional documentation for them to successfully become registered. *Fish v. Kobach*, 309 F. Supp. 3d 1048, 1106 (D. Kan. 2018) (striking down Kansas law requiring registrants to present additional citizenship paperwork to successfully register to vote, on both NVRA and equal protection grounds).

By requiring certain voters to reaffirm their U.S. citizenship to remain registered, Virginia undermines the NVRA's command that voters need only complete a voter registration form to be

a registered voter in federal elections. *See ITCA*, 570 U.S. at 4; *Fish v. Kobach*, 840 F.3d at 723. E.O. 35’s attempt to insert an additional requirement that certain voters provide additional citizenship information about themselves as part of the State’s DMV data checks and motor voter forms violates the long-established principle that states cannot add unnecessary voter registration requirements at any stage of the registration process. *Fish v. Kobach*, 840 F.3d at 747; *Fish v. Schwab*, 957 F.3d 1105, 1142 (10th Cir. 2020). Simply put, if a state cannot “overcome the presumption that attestation [of citizenship on the voter registration form] constitutes the minimum amount of information necessary for a state to carry out its eligibility-assessment and registration duties[,]” it cannot add an additional proof of citizenship requirement to the voter registration process. *Fish v. Kobach*, 840 F.3d at 739.

Virginia’s attempt to add an additional citizenship verification requirement to its voter registration process through the back door creates a “substantial risk that citizens will be disenfranchised.” *See League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (holding that permitting Alabama to enforce this type of requirement for voting posed such a risk). Such a requirement undermines the very purpose of the NVRA, which is “increas[ing] the number of eligible citizens who register to vote in elections for Federal office.” 52 U.S.C. § 20501(b).

## **II. Demand to Cease Unlawful Action and for Production of Documents.**

For these reasons, we make the following demands on your office and any other state or local governmental entities acting to implement the Program:

1. Immediately cease the removal of voters from Virginia’s voter rolls on the basis of alleged non-U.S. citizenship pursuant to E.O. 35 and Va. Code § 24.2-427(B)-(C);
2. Re-register any individual removed from the voter rolls pursuant to the same program;
3. Issue a public statement that no person shall be removed from Virginia’s voter rolls pursuant to the same program;
4. Provide notice to any and all individuals contacted or noticed pursuant to the same program that they remain registered to vote in Virginia elections, including the November 2024 election, and that no further action on their part is needed.

Further, the NVRA requires that Virginia, upon request, produce “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). We therefore request that the following documents be produced promptly:



1. Individualized voter information<sup>7</sup> for each of the following voters and voter registration applicants:
  - (a) All 6,303 registered voters your office identified as potential noncitizens prior to the issuance of E.O. 35;
  - (b) All voters canceled, purged, or otherwise removed from the list of eligible voters pursuant on the basis of alleged non-U.S. citizenship from January 2022 to the present; and
  - (c) All voter registration applicants denied registration on the basis of alleged non-U.S. citizenship;
  - (d) All data supplied by the DMV to ELECT identifying potential noncitizens;
2. Any and all instructions provided to Boards of Registrars regarding implementation of E.O. 35, Va. Code § 24.2-427 or any other program intended to remove non-U.S. citizens from the voter rolls;
3. Any and all communications with the Virginia Attorney General and Commonwealth Attorneys regarding notifications or referrals of the removal of registered voters your office identified as potential noncitizens;
4. All documents relating to any notice provided to the registered voters your office identified as potential noncitizens;
5. All records supporting your contention that noncitizens “purposefully” or “accidentally” registered to vote;
6. All documents supporting your contention that the 6,303 registered voters or voters referred to in E.O. 35 were potentially noncitizens, including the source(s) of information for determining these registered voters purportedly had noncitizen transactions, including addresses and document numbers;
7. All documents regarding any steps taken by ELECT or other state or local agencies to determine prior to removal whether any of the registered voters identified as potential noncitizens since January 15, 2022 are, in fact, naturalized citizens;
8. All advisory or guidance documents, whether formal or informal, provided to ELECT, DMV, county Boards of Registrars, Probate Judges, and/or other county election administrators regarding the implementation of E.O. 35, Va. Code § 24.2-427 or any other program intended to remove non-U.S. citizens from the voter rolls;
9. All documents relating to the removal of any of registered voter identified as a potential non-U.S. citizen since January 15, 2022;

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<sup>7</sup> “Individualized voter information” as used in this request includes: first name; last name; middle name; suffix; address, including street number, apartment number, city, state, zip code, and county; mailing address, if different; phone number; precinct number; voter ID number assigned by an election official; date of birth; place of birth; date of voter registration; race; gender; reason purged from voter roll or denied registration; and date purged from voter roll or denied registration.

10. All communications regarding the development, implementation, or announcement of the Program, including but not limited to:

- a) internal communications of the Secretary of Commonwealth's office;
- b) internal communications of ELECT;
- c) communications between ELECT and other State agencies, including but not limited to the office of the Governor, the office of the Attorney General, and the office of the Secretary of Commonwealth;
- d) communications between the office of the Governor and any legislative branch officials or employees;
- e) communications between ELECT and any federal officeholder or agency;
- f) communications between ELECT or the Secretary of Commonwealth's office and any county officials, including but not limited to Boards of Registrars, Probate Judges, and other county election administrators;
- g) communications between ELECT or the Secretary of Commonwealth's office and any outside organizations, consultants, experts, or advisers;
- h) communications between the Secretary of Commonwealth's office and the media;
- i) communications between the Secretary of Commonwealth's office and members of the public; and
- j) any other communications related to E.O. 35.

We expect that any charge for these records will be a "reasonable cost," as required under the NVRA's Public Disclosure Provision. 52 U.S.C. § 20507(i)(1). Please inform us of the expected cost prior to delivery if it exceeds \$100.

We would prefer to receive all records in electronic format via email or other electronic method, if possible, to the email addresses provided in the signatures. If this is not possible, we are happy to confer about other ways we can meaningfully access these records. If any responsive documents or communications are in your possession or the possession of any employees of ELECT, the Secretary of Commonwealth on non-governmental computers, on electronic devices, or in paper copy, please include such documents and communications in your production.

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The program you announced on August 7, 2024, plainly violates the NVRA. As you know, the next election for federal offices will occur on November 5, 2024, which is less than 120 days away and will be less than 30 days away on October 6, 2024. If the violations identified above are not corrected by October 6, 2024, the undersigned may seek declaratory or injunctive relief to remedy these violations. *See* 52 U.S.C.A. § 20510 (“If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State . . . before bringing a civil action[.]”).

Sincerely,

/s/ Brent Ferguson

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# **EXHIBIT A**



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ELECTIONS

Susan J. Beals  
Commissioner

September 19, 2024

The Honorable Glenn Youngkin  
Governor of Virginia  
P.O. Box 1475  
Richmond, Virginia 23218

Dear Governor Youngkin,

Pursuant to Executive Order 35 (2024), I hereby certify that the following election security procedures and measures are in place, and requisite related training of registrars has been conducted, prior to the start of early voting in the 2024 General Election.

### **Certification of Election Security Procedures**

#### **Ballot security**

- Ballots are being tracked through every step of the process via the established chain of custody documentation procedures. Ballot chain of custody documents have been reviewed and specialized training was conducted at the annual Virginia Election Workshop for General Registrars and their staff members.
- Local election officials are required and prepared to reconcile the number of ballots cast against the number of voters checked into polling places and the number of ballots distributed to voters every day. Registrars and officers of election have been provided training and guidance to ensure that such reconciliation takes place and, in the event of a precinct being “out of balance,” to document an explanation for the discrepancy (e.g., a situation where a ballot is spoiled and a new ballot is issued to a voter).
- Before being mailed, every absentee ballot must first be requested by a registered voter. The guidance provided to registrars and the processes established for issuing ballots in VERIS require a completed absentee application for a ballot to be issued. The voter record of every Virginian who requests an absentee ballot will be marked when the absentee ballot request is made, when the ballot is sent, and when the ballot is received back by the voter.
- Returned absentee ballots are not counted until the last four digits of the voter’s Social Security Number and year of birth provided on the ballot envelope are matched to the voter’s record in VERIS. Since this is a relatively recent requirement stemming from a legislative change, it has been given emphasis in guidance, training, and advisories.

- Voters using the Same Day Registration process must complete a provisional ballot. The voter registration application to be completed by a voter using Same Day Registration is built into the provisional ballot envelope. Further, the training and guidance provided to electoral board members, general registrars, and officers of election make clear that voting via Same Day Registration is a provisional process.
- All ballots cast by voters in Virginia are on paper and retained by clerks of court for 24 months following the election. Registrars have been provided training and guidance related to ballot-issuing procedures, the post-election handling of election materials, and relevant document retention schedules.

### **Counting Machine Testing and Certification**

Localities have certified to the Department of Elections their completion of Logic and Accuracy testing all equipment including ballot scanners and electronic pollbooks to be used for early voting, starting on September 20.

### **Triple Check of Election Result Accuracy**

Specialized training on entering of election results was conducted at the annual Virginia Elections Workshop as well as the Annual Conference of the Voter Registrars Association of Virginia. Additionally, existing guidance documents from the Department of Elections (“ELECT”) confirm and reinforce these multi-layered checks.

### **Certification of Accuracy of Voter Lists**

#### **Daily Updates to the Voter List**

ELECT and registrars update the voter list daily based upon inputs received from various sources, including the DMV, the Virginia Department of Health, the Social Security Administration, data sharing agreements with other states, circuit courts, the Virginia State Police, the National Association for Public Health Statistics and Information Systems (“NAPHSIS”), and National Change of Address (“NCOA”) confirmation mailings. These updates include:

- Adding new eligible voters.
- Removing voters who have moved in accordance with federal and state law.
- Removing deceased voters.
- Removing voters convicted of a felony or adjudicated mentally incapacitated.
- Removing individuals who declare or provide documentation indicating non-citizenship status and who do not respond to an affirmation of citizenship notice.

To that end, DMV now shares non-citizen data daily with ELECT.

The annual List Maintenance Report details these efforts during the September-August timeframe each year and is due to the General Assembly on October 1.

#### **DMV Confirmation with Federal Sources**

The DMV is consistently confirming with the Social Security Administration the validity of Social Security Numbers of applicants for DMV credentials, such as driver’s licenses. Further, DMV is conducting verification, using the Department of Homeland Security’s Systematic Alien Verification for

Entitlements (SAVE) program, of applicants who present documents indicating legal presence (i.e., non-citizenship).

**Awareness Campaign for Election Security**

Consistent with Executive Order 35, ELECT has provided information regarding election-related offenses to all general registrars and state agencies that register individuals to vote. ELECT created posters available to download and print listing election-related offenses and their punishments. General registrars and state agencies were directed to post the information in a conspicuous place or provide it to applicants directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan J. Beals". The signature is fluid and cursive, with the first name "Susan" being more prominent than the last name "Beals".

Susan J. Beals  
Commissioner  
Virginia Department of Elections

Cc: The Honorable Lyn McDermid, Secretary of Administration



# **EXHIBIT B**



GRETCHEN REINEMEYER  
GENERAL REGISTRAR

**ARLINGTON COUNTY, VIRGINIA**  
**ELECTORAL BOARD**  
**OFFICE OF VOTER REGISTRATION**  
2100 CLARENDON BOULEVARD, SUITE 320  
ARLINGTON, VIRGINIA 22201  
(703) 228-3456 • FAX (703) 228-3659  
EMAIL: [voters@arlingtonva.us](mailto:voters@arlingtonva.us)  
[www.vote.arlingtonva.gov](http://www.vote.arlingtonva.gov)



RICHARD SAMP  
CHAIR  
DOMINICK SCHIRRIPIA  
VICE CHAIR  
KIMBERLY PHILLIP  
SECRETARY

**Arlington County Electoral Board Meeting Minutes**  
**September 10, 2024**

The Electoral Board of Arlington County met on September 10, 2024, at the Arlington County Office Building, 2100 Clarendon Blvd., Room 318. The meeting was called to order by Chair Richard Samp at 6:01 pm. Also present were Dominick Schirripa, Vice Chair, Kimberly Phillip, Secretary, Gretchen Reinemeyer, Director of Elections.

Mr. Samp made a motion to amend the agenda to add a closed session. Mr. Schirripa seconded. The motion was unanimously adopted.

Mr. Samp moved that the minutes from the meeting of the Board held August 13, 2024, be adopted. Mr. Schirripa seconded. The motion to accept the minutes was unanimously adopted.

The Board heard public comment.

- Constance Potter, League of Women Voters (The League): The League is encouraging people to check their voter registration and to mail ballots ten days before the deadline.
- Frank Lusby, Election Integrity Group: Thanked Board and staff for the election officer affiliation process. Noted a spike in UOCAVA applications for overseas voters.

Mr. Samp made a motion to approve 78 new Election Officers with a term ending February 28, 2025. Ms. Phillip seconded. Mr. Schirripa noted that there was a typo, and the actual number is 77. The motion passed unanimously with the corrected number of 77.

Almost 200 ballots were disqualified in the June 2024 election due to mail issues. Ballots must arrive at the office pursuant to VA Code § 24.2-709 (B): "Notwithstanding the provisions of subsection A, any absentee ballot (i) returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and (ii) postmarked on or before the date of the election shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. For purposes of this subsection, a postmark shall include any other official indicia of confirmation of mailing by the United States Postal Service or other postal or delivery service."

The Board discussed ineligible voters and requested an update. The list is still under investigation by the Commonwealth's Attorney's office. Mr. Samp made a motion to refer the list to the Attorney General's Office for further investigation. Mr. Schirripa seconded. The motion passed unanimously. The board would like to meet with the Commonwealth's Attorney at the October 1, 2024 meeting.

Ms. Reinemeyer gave an update on the November ballot. An additional presidential candidate was added. Virginia Department of Elections approved the ballot September 9, 2024. The ballot will be a 17-inch 2-sided ballot. Robert F. Kennedy is not on the ballot; he submitted a withdrawal form.

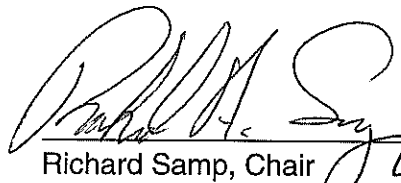
Pursuant to Va Administrative Code § 1VAC20-60-70, Logic and Accuracy Testing will be September 17. Notice will be sent to candidates and political parties.

Ms. Reinemeyer shared the office outreach calendar.

Pursuant to Va Code § 2.2-3711(D)(7), Mr. Samp made a motion to move into executive session for the purpose of discussing legal advice. Mr. Schirripa seconded. The motion passed unanimously. The Board went into closed session at 6:23 pm.

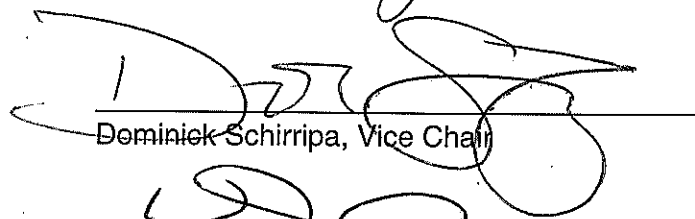
Pursuant to Va Code § 2.2-3711(D)(7), the board came out of executive session. Mr. Samp made the motion for the board to come out of closed session and certify that only public business matters lawfully exempt from open meeting requirements by Virginia Law and only such public business matters as were identified in the motion convening the closed session were heard, discussed, or considered. Mr. Schirripa seconded. The motion passed unanimously. The Board reconvened the public meeting at 6:47 pm.

There being no further business Mr. Schirripa moved that the meeting be adjourned. Mr. Samp seconded. The motion was unanimously adopted, and the Board adjourned at 6:48 pm.



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Richard Samp, Chair



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Dominick Schirripa, Vice Chair



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Kimberly Phillip, Secretary

# **EXHIBIT C**



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

**Electoral Board**

September 16, 2024

**Hon. Katherine K. Hanley**  
Chairman

**Jeffrey K. Shapiro**  
Vice Chairman

**Amb. (ret.)  
Christopher P. Henzel**  
Secretary

Mr. Steve T. Descano  
Fairfax County Commonwealth's Attorney  
4110 Chain Bridge Road  
Suite 114  
Fairfax, VA 22030

**Eric L. Spicer**  
General Registrar/  
Director of Elections

Mr. Jason Miyares  
Attorney General, Commonwealth of Virginia  
202 North Ninth Street  
Richmond, VA 23219

Dear Messrs. Descano and Miyares,

I am writing to refer the attached list of individuals to you for possible unlawful elections conduct in accordance with Va. Code § 24.2-1019. These individuals were removed from the voter rolls after being identified by the Virginia Department of Elections (ELECT) as non-citizens, in accordance with the procedures of Va. Code § 24.2-427. It appears that the individuals on this list may have violated Virginia elections law.

Please let me know if you have any questions or if you need any additional information concerning this referral.

Sincerely,

Eric Spicer  
General Registrar/Director of Elections

Voter Services  
Phone: 703-222-0776  
Fax: 703-324-2205  
TTY: 711 (Virginia Relay)  
Email: [voting@fairfaxcounty.gov](mailto:voting@fairfaxcounty.gov)

Election Administration  
Phone: 703-324-4735  
Fax: 703-324-4706  
TTY: 711 (Virginia Relay)  
Email: [elect@fairfaxcounty.gov](mailto:elect@fairfaxcounty.gov)

**Fairfax County Office of Elections**  
12000 Government Center Parkway  
Suite 323  
Fairfax, Virginia 22035  
[www.fairfaxcounty.gov/elections](http://www.fairfaxcounty.gov/elections)

## **Fairfax County Office of Elections – September 16, 2024**

### **Policy for Referring Individuals who were Removed from the Voter Rolls**

#### **Background:**

As required by Va. Code § 24.2-410.1, the DMV regularly provides the Virginia Department of Elections (ELECT) with lists of individuals who indicated a non-citizen status while completing transactions at the DMV. ELECT uses this information in addition to other sources including the Systematic Alien Verification for Entitlements Program (SAVE) to identify possible non-citizens who may have purposefully or accidentally registered to vote. Voters are given the opportunity to confirm their citizenship in case a mistake was made. According to data from ELECT, between January 2022 and July 2024, 6,303 individuals in Virginia had their voter registrations cancelled based on this information. This includes 985 individuals who were removed in Fairfax County.

ELECT regularly provides the names of individuals that they have identified as non-citizens to General Registrars through the non-citizen hopper in VERIS. General Registrars are responsible for printing and mailing Affirmation of Citizenship notices to these individuals. Voters whose citizenship has been challenged have 14 days from the date the notice is generated to sign and return the notice to the General Registrars. This includes the time that it takes to mail the notice to the voter, for the voter to complete the notice, then for it to transit the USPS system back to the General Registrar. As required by Va. Code § 24.2-427, any voter who fails to return the signed notice within 14 days is automatically removed from the voter rolls.

Under Va. Code § 24.2-1019, General Registrars have the authority to report unlawful elections conduct to the Commonwealth's Attorney. Making this referral does not require "evidence," but rather a good faith conclusion that unlawful conduct may have occurred. It is not unusual for individuals whose voter registration in Fairfax County was cancelled to later re-register and through the application affirm their citizenship.

It is possible that some voters who do not respond or re-register were not citizens when they were on the voter rolls and that they voted unlawfully. However, the General Registrar does not have the discretion to share voting history information with outside parties including the Commonwealth's Attorney and the Attorney General. Per ELECT guidance, only ELECT has the authority to share voting history information with outside parties. GREB Handbook, § 9.1.2.

#### **Policy:**

The General Registrar shall refer all individuals who were removed from the voter rolls pursuant to Va. Code § 24.2-427(C), after being identified by ELECT as non-citizens, to the Commonwealth's Attorney and the Attorney General to determine if they have violated Virginia elections law.

# **EXHIBIT D**

MINUTES  
Fairfax County Electoral Board  
August 15, 2024

The Fairfax County Electoral Board (Board) met on Thursday, August 15, 2024, in Conference Room 315 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Chairman Hon. Katherine K. Hanley; Vice Chairman Jeffrey K. Shapiro; Secretary Amb. (ret.) Christopher P. Henzel; General Registrar Eric L. Spicer; Deputy Director Cheryl Jones; and Clerk to the Electoral Board Beth Dixon Methfessel were present.

Election Manager Ravi Udeshi; Deputy Registrar for Voter Registration Bushra Ardalan; Deputy Registrar for Absentee Voting Sean Stewart; Voting Equipment and Logistics Manager Tyrone Allen; Training and Operations Manager Sean Rogers; Election Officer Manager Gretchen Coleman; Supply Manager Kay Garrison; IT Business Analyst George Panagakos; Bill Turley ((Office of Elections (Office) staff); Christine Brim (Fairfax County Republican Committee (FCRC) Election Integrity Task Force); Patricia O'Brien and Barbara Palmer-Tengs (members FCRC); Judith Helein and Maggi Luca (League of Women Voters (LWV) – Fairfax); and Laurel May (Fairfax County election officer and/or resident of Fairfax County).

The following individuals participated using the Zoom videoconferencing platform: Human Resources Manager Yoon Choi-Lee; Deputy Registrar for Voter Satellite Offices Florence Brown; Financial Specialist Teresa Maza; Office staff and/or rovers Nazila Arefi, Steve Barch, Judy Clardy, Ann Hines, Lisa Hogle, B. Gissell Jimenez, Gary Klinger, Abigale Peters, Todd Strelow, Jerald Taylor, Jean Thoensen, and Fily Vilasanta; Maria Vorel (FCDC Precinct Operations); Megan Challender (FCDC Election Law and Voter Protection); Arina van Breda (Director, Voter Registration and Voter Information LWV - Fairfax); and Mark Beale, Phyllisa Goldenberg, and Claudia Stallings (Fairfax County election officers and/or residents of Fairfax County or neighboring jurisdictions).

Ms. Hanley called the meeting to order at 4:00 p.m. and introduced the Board. Mr. Shapiro moved approval of the agenda, and the motion passed by a vote of 3-0.

Mr. Henzel moved to adopt the Draft Minutes of the Board meetings held on June 10, 2024, and June 19, 2024. By a vote of 3-0, the Minutes of the Board meetings held on June 10, 2024, and June 19, 2024, were adopted.

Mr. Shapiro made a motion to appoint 377 election officers (EO) (150 Democrats, 96 Republicans, and 131 Unaffiliated) for a term ending February 28, 2025. The motion passed by a vote of 3-0.

Under the General Registrar's (GR) report dated August 13, 2024 (attached and made a part of this record), Ms. Jones presented the General Registrar's report and updated the voter registration numbers since the last Electoral Board meeting:



## Voter Registration

Registered Voters	As of 6/1	As of 7/31	Change from 5/31
Active Registered Voters	736,461	723,604	-12,857
Inactive Registered Voters	64,426	81,087	+16,661
<b>Total</b>	<b>800,887</b>	<b>804,691</b>	<b>+3,804</b>

Active Voter Registration Subtractions (Cancellations and Transfers Out)	6/1 – 7/31	Year-to-Date 2024 (1/1 to 7/31)
Deceased (multiple sources) <sup>1</sup>	1,086	3,111
Out-of-State (multiple sources) <sup>2</sup>	2,613	4,029
Declared Non-Citizen (from ELECT)	46	182
Declared Mentally Incapacitated (from Court)	12	35
Felony Conviction (from ELECT)	9	104
Voter Request (paper form from voter)	81	223
Transfer Out to Another Jurisdiction in VA	3,738	10,835
Other Subtractions (administrative error, other)	12	37
<b>Total Cancellations and Transfers</b>	<b>7,597</b>	<b>18,556</b>

Active Voter Registration Additions	6/1 – 7/31	Year-to-Date 2024 (1/1 to 7/31)
New Voter Registrations (multiple sources)	7,663	23,740
Transfer In from Another Jurisdiction in VA	3,695	9,535
Other Additions (reactivated, reinstated, other)	1,680	3,780
<b>Total</b>	<b>13,038</b>	<b>37,055</b>

Voter Registration Transactions <sup>3</sup> (includes transactions that result in additions, subtractions, and no change)	6/1 – 7/31	Year-to-Date 2024 (1/1 to 7/31)
Online DMV (from ELECT)	43,213	123,159
Online Citizen Portal (from ELECT)	8,852	17,981
Online Third-Party DMV Verified (from ELECT)	660	1,297

Va. Paper Form Third Party (delivered to the office)	437	3,439
Va. Paper Form In-Person (office walk-ins, new citizen ceremonies, at polling locations)	339	1,092
Va. Paper Form by Mail (delivered to the office)	604	1,965
Federal Post Card Application (multiple sources)	1,007	1,725
National (EAC) Paper Form (delivered to the office)	174	436
Same Day Registration (office or voting locations)	229	1,301

<sup>1</sup> Deceased (multiple sources) includes: Bureau of Vital Statistics through ELECT, Report of Death information provided by relative, Death Certificate provided, and General Registrar Report of Death created based on an obituary

<sup>2</sup> Out-of-State (multiple sources) includes: DMV, State mail, NCOA, and other voter registration update forms

<sup>3</sup> All categories include: new voter registrations, change of address, change of name, voter cancellations (including out-of-state), and duplicates (no change of data)

Ms. Ardalan confirmed for Ms. Hanley that the same day registrations from the June primary elections are included in the current voter registration numbers. Ms. Ardalan indicated that 174 applications were submitted from federal agencies and 604 from state agencies in response to Mr. Henzel’s query as to the number of voter registration applications received outside of DMV. Mr. Henzel expressed concern over the ease of acquiring an FCPA and suggested that any spikes in the number of these registrations should be monitored. Mr. Shapiro agreed and commented that the breakdown of the sources of voter registrations is more useful and user-friendly.

The Department of Elections (ELECT) sent a National Confirmation of Address (NCOA) mailing to 23,281 Fairfax County voters on June 10, 2024. As of August 12, the Office received a total of 6,501 pieces of mail from the confirmation mailing, including 3,293 pieces returned undeliverable and 3,208 responses from voters that required action. A total of 16,231 voters were changed to an “Inactive” status because their confirmation mailing was returned undeliverable, or they did not respond within 30 days. The NCOA mailing not only affects registration, but also the permanent absentee list. Voters on the permanent absentee (PAB) list who did not respond within the 30-day requirement were removed. Based on this legal requirement, staff manually cancelled 912 permanent absentee applications. If a forwarding address was available, staff sent an additional address confirmation request to the voter.

As of August 12, 68,137 absentee ballot applications have been approved for the November 2024 General and Special Elections (November General Election). This includes 59,482 permanent applications, 3,144 applications from overseas and military voters, and 5,511 one-time applications. Ms. Jones confirmed for Mr. Shapiro that voters either request to be on the permanent absentee ballot list when they register to vote or they have responded to one of the two mailings sent by the Office confirming their continued inclusion on the list. If a voter moves out of Fairfax County, their permanent absentee status is removed.

Ms. Hanley observed that many Inactive voters will cast a ballot in November because they only come to the polls for the presidential election. Mr. Udeshi explained that Inactive voters are required to sign an Affirmation of Eligibility declaring that they still reside at the address shown in the pollbook. They will be added to the pollbook by the EO and permitted to vote.

Mr. Shapiro asked for clarification on the statement (pg. 4, para 4) "...ELECT reminded all general registrars that individuals on the list of registered voters may not be challenged because they moved out of a jurisdiction or out of the state." Mr. Henzel explained that ELECT follows a legal process for cancelling the registration of voters who move out of the jurisdiction or out of the state and it does not include the option for registered voters to challenge their eligibility based on relocation.

The following precinct and polling places changes were approved by the Board of Supervisors on June 25, 2024:

- The name of Woodson #1 and Woodson #2 precinct's polling place changed from W. T. Woodson High School to Carter G. Woodson High School.
- The name of Huntley precinct's polling place changed from St. John Mark's Episcopal Church to St. Martin de Porres Episcopal Church.
- The name of Island Pond precinct's polling place changed from Oak Marr Recreation Center to Oakmont Recreation Center.
- Relocation of the polling place for Greenspring precinct from Village Square to the Conference Center.\*
- Consolidation of the Hummer and Woodburn precincts.\*
- Removal of the Gerry Hyland Governmental Center as a voter satellite office.\*

\*The Request for Certification of No Objection for the relocation of the Greenspring polling place, the consolidation of the Hummer and Woodburn precincts, and the removal of the Gerry Hyland Governmental Center as a voter satellite office was submitted to the Attorney General on July 12. Approval is expected by late August.

Ms. Hanley corrected the name of the church for Huntley precinct from St. John's to St. Mark's Episcopal Church. She also explained that the public hearing scheduled for July 30, 2024, to correct the address of the polling place for Clifton Town precinct, and to change the name of the Providence Community Center to the Jim Scott Community Center, was cancelled due to an advertising error. This public hearing will be held in December.

The satellite hours of operation for the November General Election remain consistent with past elections:

**Fairfax County Government Center**

Monday – Friday	8 a.m. to 4:30 p.m.
Saturdays (9/21, 10/19, 10/26, 11/2)	9 a.m. to 5 p.m.
Sunday (10/27)	1 p.m. to 5 p.m.

### **Mount Vernon and North County Governmental Centers**

Monday – Friday	1 p.m. to 7 p.m.
Saturdays (9/21, 10/19, 10/26, 11/2)	9 a.m. to 5 p.m.
Sunday (10/27)	1 p.m. to 5 p.m.

### **13 additional locations**

Monday – Friday	1 p.m. to 7 p.m.
Saturdays (10/19, 10/26, 11/2)	9 a.m. to 5 p.m.
Sunday (10/27)	1 p.m. to 5 p.m.

Under the Resource Allocation for the November General Election, each precinct will receive ballots for at least 80% of active voters. Ballots for 85% to 100% of active voters for the precincts that had the highest in-person turnout in past presidential elections will be ordered as well as ballots for 85% of active voters for new precincts created because of redistricting. Each precinct will receive three to six Poll Pads, two ExpressVote ballot marking devices, and two DS200 ballot scanners. Each precinct will be assigned 9 to 17 election officers, including two Provisional Specialist officers. They will help the Chief and Assistant Chief by performing administrative duties related to provisional and SDR voters, including verifying each provisional envelope is completed completely and accurately and properly logged.

Ms. Hanley expressed concern about the accuracy of the current resource allocation. She explained that the last two presidential elections were held in different circumstances. In 2020, voters were fearful of coming to the polls because of the pandemic. In 2016, the rules for early voting did not include no-excuse absentee. Redistricting required significant changes to precinct lines so the number of voters per precinct now may not be consistent for predicting the number of voters in the precincts. She noted that in the past when a precinct ran low in ballots, the ballot could be replenished from another precinct if the style was identical. Now results must be reported by precinct, therefore, each precinct has its own distinct style, and the ballots cannot be “shared.” Same-day registration is now available so people not counted in today's registration numbers may come to the precinct to register and vote and will need a ballot. This is likely in precincts with substantial change in residential units, for example areas along the Dulles Corridor and in Tysons, or precincts with new retirement communities, like Woodleigh Chase in Braddock District. She also expressed concern that the University precinct may run low on ballots. George Mason is now the largest university in Virginia, and it will be hard to predict how many students might register and vote on Election Day.

Ms. Hanley moved that staff 1) follow spikes in voter registration including same day registration during early voting at any precinct to ascertain if a ballot order adjustment is warranted; and 2) prepare procedures, including security measures, to send the ballot on demand equipment to any precinct on Election Day that may require additional ballots. If any dramatic change in voter registration numbers occurs by October 15, adjustments to the resource allocation should be made. After discussion, the motion passed by vote of 3-0.

The following is the Logic and Accuracy testing schedule for the November General Election:

**Tuesday, September 10 (9:00 a.m.) to September 11** (Fairfax Government Center, 12000 Government Center Parkway, Fairfax, VA) – Testing and setup of Poll Pads for early voting satellite sites.

**Thursday, September 12 (9:00 a.m.) to September 16** (Morrisette Warehouse, 8600 Morrisette Drive, Springfield, VA) – Testing of voting equipment and Ballot on Demand systems for three 45-day early voting satellite sites.

**Tuesday, September 24 (9:00 a.m.) to October 11** (Morrisette Warehouse, 8600 Morrisette Drive, Springfield, VA) – Testing of voting equipment and Ballot on Demand systems for the remaining 13 early voting satellite sites and all Election Day polling places.

**Wednesday, October 9 (9:00 a.m.) to October 10** (Fairfax Government Center, 12000 Government Center Parkway, Fairfax, VA, Suite 339) – Testing of voting equipment that will be used to count mail ballots.

**Sunday, November 3 (9:00 a.m.)** (Fairfax Government Center, 12000 Government Center Parkway, Fairfax, VA, Suite 251) – Testing and setup of all Poll Pads for Election Day.

Approximately 3,700 election officers will be assigned to serve in the precincts for the November General Election. Mr. Henzel asked Mr. Udeshi for his estimation on assignment parity between the two parties. Mr. Udeshi replied that in 2020 the percentage of assigned EOs from the Democratic Party was 55% and the Republican Party 25%. He hopes to improve upon these percentages for this election due to improved availability of EOs from both parties.

Sarah Prowitt resigned as Communications Division Chief effective August 2 to take a position with the federal government in Health and Human Services. Teresa Maza is resigning from her position as Financial Specialist II effective August 23 to accept a promotional opportunity with the county's HR Department. After 13 years, Patricia Ferguson will retire on September 6 from her position as VFOIA Manager. The Board thanked these talented individuals for their dedicated service.

Outreach efforts will include the palm card which advertises important deadlines, as well as satellite voting locations, dates, and times. This resource will be provided at the public libraries, Board of Supervisors' offices, League of Women Voters, etc. The sample ballot mailer is in production with an anticipated distribution date prior to the September 20 start of early voting. This mailing will go out Return Receipt Requested. Any returned mailers with a forwarding address will receive the Office's follow-up address confirmation letter to allow for more prompt action if the voter responds that they no longer reside in Fairfax County.

There were no Electoral Board reports.

Under New Business, Ms. Hanley reported that there is a new legal requirement requiring Electoral Boards to certify that the polling places in their localities meet ADA requirements. In Fairfax County, the rovers completed an accessibility survey for each polling place at either the March Presidential Primary or the June Primaries. Follow-up inspections were conducted for any location not receiving a 100% satisfactory response.

Mr. Henzel made the following motion:

“I move to approve ELECT’s ADA Compliance Confirmation that states all polling places in Fairfax County have been assessed for accessibility using an Americans with Disabilities Act (ADA) checklist provided either by the Virginia Department of Elections (ELECT) or by the U.S. Department of Justice (DOJ). The ADA checklist for each polling place has been filed and will be maintained within the records of the local electoral board in accordance with the Virginia Freedom of Information Act (§2.2-3700 et. seq.). Pursuant to §24.2-310(C), all polling places in Fairfax County are currently compliant with the requirements of the ADA (§42 USC 12132), the Voting Accessibility for the Elderly and Handicapped Act (§52 USC 20102), and the Virginians with Disabilities Act (§51.5-1 et seq.).

The motion passed by a vote of 3-0.

Under New Business, Claims of Non-Citizens Voting, Mr. Henzel said that he had learned that the FCRC Election Integrity Task Force, using publicly available information, had compiled a list of 66 registered voters who had voted, and later were identified by ELECT as likely non-citizens through routine list maintenance. He noted that ELECT says it identifies such voters based on information it receives from sources that include DMV and the federal SAVE (Systematic Alien Verification for Entitlements) program. Local election offices receive instructions from ELECT to send a form to the last known address of these voters to give them an opportunity to affirm their citizenship. If no response is received within 14 days, the voter is removed from the rolls. Mr. Henzel asked staff if this information is accurate, and staff confirmed that all these individuals had voting records. Mr. Henzel commented that his understanding was that many of these individuals are citizens who inadvertently checked the wrong box or did not check any box for the citizenship question on the DMV website. Although the local election offices have “no way of knowing” how the individual answered the DMV citizenship question, he believes ELECT might have more information. He stated that he is uncomfortable assuming that it is “all innocent” and was concerned that it is not clear who has responsibility for investigating to determine whether someone had broken the law. In the light of the Governor’s Executive Order (attached and made a part of this record), he urged the General Registrar to send a communication to the Attorney General of the Commonwealth noting that these cases were flagged and encouraging the Attorney General to use its authority and investigative resources to review them.

Mr. Spicer responded that of the 66 individuals, 17 confirmed their citizenship and re-registered within the 14-day requirement. The remaining 49, however, did not and were removed from the rolls. After consulting with the County Attorney’s Office, Mr. Spicer stated he has a duty to refer non-citizens who have voted and proposed referring the names of these 49 individuals who appear to be non-citizens who voted to the Commonwealth’s Attorney, the Attorney General of Virginia, and to ELECT. To further ensure the integrity of the voter rolls, he proposed developing procedures that would refer Fairfax County’s list on apparent non-citizens who had voted to these three offices monthly. Mr. Shapiro agreed and

commented that when staff receives information that suggests a non-citizen has voted, “we have an obligation to do something other than just take them off the list.” He added that the procedures developed should treat everyone equally who meets the criteria for inclusion on the ‘apparent non-citizen voter’ list. Ms. Hanley remarked that “the law does seem clear that the registrar should refer these 49 to the Commonwealth’s Attorney.”

Mr. Shapiro moved that the General Registrar draft a policy for referral of potentially false claims of citizenship where people have voted, to be presented at the next board meeting. The motion passed by a vote of 3-0.

Mr. Shapiro moved that in conjunction with ELECT, the General Registrar review the Governor’s Executive Order 35 (2024) to draft a plan that includes developing a notice regarding election-related offenses and determining where it can legally be distributed. Mr. Spicer was also to consult with ELECT to learn whether they are developing a uniform approach for all counties, in which case it would not be necessary for Fairfax County to develop its own notice. This draft will be reviewed at the next Board meeting. The motion passed by a vote of 3-0.

Under Public Comments, Ms. Hanley reminded the public that comments are limited to three minutes. The Board may provide the information; however, if more research is required, the Board may defer an answer. The Board may also request a written submission of the comment or inquiry.

Ms. Brim requested that in the Voter Registration section of the General Registrar’s Report, separate categories be created for the NVRA data accounting of the number of voter registrations by discretionary state-designated agencies and third-party voter registration drives. Ms. Brim also requested that going forward, the General Registrar report, based on research, include the number of self-declared non-citizens who have voted. The Board will consider this request after the reviewing the draft policies presented at the next meeting.

Mr. Brandon commented on the higher state-wide rejection rate of returned absentee ballots due to failure to provide the last four digits of the social security number or the year of birth. He hopes there will be more education on how to properly complete an absentee ballot to reduce the number of rejections. Ms. Jones replied that each absentee ballot is sent with a comprehensive set of instructions that includes a screen shot of a properly completed envelope. There is also a cure process for voters to submit any missing information. Mr. Shapiro commented that the Office has an incentive to educate voters because it creates more work on the backend to follow-up on returned absentee ballots with missing information. Ms. Jones added that a video on how to properly complete an absentee ballot will be available on the Office’s website and on Fairfax Votes.

Mr. Brandon mentioned the challenges affecting mail delivery at the Richmond Post Office. Mr. Stewart explained that the postmaster in Fairfax goes above and beyond to ensure that election mail coming through Merrifield is handled efficiently. The Fairfax post office also makes additional trips to the Government Center to ensure the timely delivery of election mail. Additionally, as the November General Election approaches, Office staff will make trips to the post office to pick up election mail.

Mr. Brandon asked about the ease of voting for returning military personnel. Ms. Jones explained that if they received an absentee ballot, they will be marked as an absentee voter. If they return the ballot, they can vote routinely. If not, they can vote provisionally. Ms. Hanley confirmed for Mr. Brandon that although Veteran's Day falls on Monday, the time for certifying the election has been extended three days and is now the second Friday after the election.

Mr. Henzel moved to adjourn. The motion carried, and without objection, the meeting was adjourned at 5:37 p.m.

#### Attachments

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Hon. Katherine K. Hanley, Chairman

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Jeffrey K. Shapiro, Vice Chairman

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Amb. (ret.) Christopher P. Henzel, Secretary



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# **EXHIBIT E**

**Chairman**  
Shelley Oberlander

**Vice-Chairman**  
Kaysi Sanden

**Secretary**  
Ellen Heald



## **Loudoun County, Virginia**

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### **Office of Elections and Voter Registration – Electoral Board**

750 Miller Drive SE, Suite 150, Leesburg, VA 20175

703/777-0380 V/TDD ~ FAX 703/777-0622

Electoral Board  
Meeting Agenda  
Office of Elections Training Room  
Thursday, September 12, 2024  
1:00 P.M.

- I. Call to Order –Chair Oberlander
- II. Approval of Meeting Agenda
  - a. Requests for Additions/Deletions
- III. Approval of Previous Meeting Minutes
- IV. Public Comment
- V. Director’s Report
  - a. Non-U.S. Citizen Voting Update
  - b. Signage Update per Executive Order #35
  - c. ADA Compliance Update
  - d. Ballot Order Update
- VI. Deputy Director’s Report
  - a. L&A Testing Update
  - b. Emergency Preparedness Update
  - c. Election Officer Training Update
- VII. Information Items
  - a. List Maintenance Update
  - b. November Risk-Limiting Audit Update
- VIII. Action Items
  - a. Election Officer Appointments
  - b. Authority to Assign Non-Partisan Election Officers
- IX. Board Comments & Disclosures
- X. Schedule Next Meeting – (October 10, 2024 – 1:00 p.m.)
- XI. Closed Session
  - a. Security Matters
  - b. Emergency Preparedness
- XII. Adjourn

**Chairman**

**Vice-Chairman**  
Shelley Oberlander

**Secretary**  
Ellen Heald



## **Loudoun County, Virginia**

### **Office of Elections and Voter Registration – Electoral Board**

750 Miller Drive SE, Suite 150, Leesburg, VA 20175

703/777-0380 V/TDD ~ FAX 703/777-0622

Electoral Board  
Meeting Agenda  
Office of Elections Training Room  
Thursday, August 15, 2024  
1:00 P.M.

- I. Call to Order – Vice-Chair Oberlander
  - a. Vice-Chair Oberlander called the meeting to order at 1:07 p.m. on August 15, 2024.
- II. Organization of Electoral Board
  - a. Motion: Vice-Chair Oberlander appoints herself Chair and Kaysei Sanden Vice-Chair.  
The motion was approved 2-0-0.
- III. Approval of Meeting Agenda
  - a. Motion: Chair Oberlander moved to move public comment after action items. The motion was approved 2-0-0.
  - b. Chair Oberlander moved to make edits on the agenda of meeting. The motion was approved 2-0-0.
- IV. Approval of Previous Meeting Minutes
  - a. Motion: Chairman Oberlander moved to approve the meeting minutes of the July 11, 2024 meeting with edits. The motion was approved 2-0-0.
- V. Staff Reports
  - a. Director Judy Brown
  - b. Deputy Director Richard Keech
- VI. Information Items
  - a. List Maintenance Update
    - i. Chair Oberlander motioned to turn over non-citizens with voter history for investigation
    - ii. Vice-Chair Sanden moves to table motion for adequate time to research process/gather information
    - iii. Chair Oberlander motioned to turn over non-citizens with voter history for investigation

**Chairman**

**Vice-Chairman**  
Shelley Oberlander

**Secretary**  
Ellen Heald



## **Loudoun County, Virginia**

### **Office of Elections and Voter Registration – Electoral Board**

750 Miller Drive SE, Suite 150, Leesburg, VA 20175

703/777-0380 V/TDD ~ FAX 703/777-0622

1. Chair Oberlander requested a full report from Registrar for next meeting on non-citizens on the voter rolls with voting history.

- b. November General Election Update

#### **VII. Action Items**

- a. November Risk-Limiting Audit

- i. Chair Oberlander motions the Loudoun County Electoral Board authorize Chair, Shelley Oberlander, to send communication to the State Board of Elections and the Commissioner of Elections, Susan Beals on behalf of the Electoral Board, requesting they consider using the Batch-Comparison Method for the 2024 Statewide risk limiting audit and for the audit to be conducted using the November 5, 2024 Presidential race. The motion was approved 3-0-0.

- b. Early Voting Schedule for November General Election

- i. Chair Oberlander motioned that the Electoral Board of Loudoun County approve the early voting schedule for the November 2024 General Election as presented in this item. The motion was approved 2-1-0. Chair Oberlander and Vice-Chair Sanden- Aye, Secretary Heald- Nay.

- c. November Election Ballot Order

- i. Chair Oberlander motioned that the Electoral Board of Loudoun County approve the ordering of ballots equal to a turnout of approximately 80% for the Presidential Election to be held on November 5, 2024. The motion was approved 3-0-0.

- d. Election Officer Appointments

- i. Chair Oberlander motioned that the Loudoun County Electoral Board appoint the 236 Election Officer applicants on the list provided as Election Officers to a term to expire on February 28, 2025. The motion was approved 3-0-0.

- e. ADA Compliance Confirmation

- i. Chair Oberlander motioned move the Loudoun County Electoral Board approve the Annual ADA Compliance Confirmation form. The motion was approved 3-0-0.

**Chairman**

**Vice-Chairman**  
Shelley Oberlander

**Secretary**  
Ellen Heald



## **Loudoun County, Virginia**

### **Office of Elections and Voter Registration – Electoral Board**

750 Miller Drive SE, Suite 150, Leesburg, VA 20175

703/777-0380 V/TDD ~ FAX 703/777-0622

- ii. Chair Oberlander motioned move the Loudoun County Electoral Board Secretary sign the Annual ADA Compliance Confirmation form and provide it to the General Registrar for submission no later than Thursday, August 29, 2024. The motion was approved 3-0-0.
- iii. Chair Oberlander requested that the Office of Elections adds information about service dogs in Election Officer Training.
- f. Non-U.S. Citizen Voting
  - i. Vice-Chair Sanden motioned to table this discussion until more information was received from the state. The motion was approved 3-0-0.
  - ii. Chair Oberlander motioned to retroactively evaluate the voter roll. Vice-Chair Sanden motioned to table discussion until more information. Chair Oberlander amend the motion to table discussion and to send a letter to Commissioner Beals. The motion was approved 3-0-0.

#### **VIII. Public Comments**

- a. Herschel Kanter-Election Calendar
- b. Patti Maslinoff- Early Voting
- c. Beverly Ricci – Early Voting
- d. Thomas Price– Early Voting
- e. Alicia Slook – Transparency
- f. Lara Larson – Early Voting
- g. Amy Richards- Election Officer Appointments
- h. Brenda Bengtson– Early Voting
- i. Marcy Hemminger- Non- Citizen Voting
- j. Jim Buttolph- Non- Citizen Voting
- k. Richard Ryan- Contingency Plans
- l. Thomas Kasperek - List Maintenance
- m. Buta Biberaj – Early Voting
- n. Donna Stowe— Early Voting
- o. John Logalbo— Early Voting
- p. Gail Pean- Election Calendar

**Chairman**

**Vice-Chairman**  
Shelley Oberlander

**Secretary**  
Ellen Heald



## **Loudoun County, Virginia**

### **Office of Elections and Voter Registration – Electoral Board**

750 Miller Drive SE, Suite 150, Leesburg, VA 20175  
703/777-0380 V/TDD ~ FAX 703/777-0622

- q. Jo-Ann Chase- Non- Citizen Voting
- IX. Board Comments & Disclosures
  - a. Chairman Oberlander praises the team at the Office of Elections.
  - b. Secretary Heald welcomes Vice-Chair Sanden to the board.
- X. Schedule Next Meeting
  - a. Chairman Oberlander moved that the next monthly meeting of the Loudoun County Electoral Board be September 12th, 2024, at 1:00 p.m.
- XI. Adjourn
  - a. The meeting was adjourned at 2:33 p.m.

Date of Meeting: September 12, 2024

**I-a**

**ELECTORAL BOARD  
COUNTY OF LOUDOUN  
INFORMATION ITEM**

**SUBJECT:** List Maintenance

**PURPOSE:** Update on list maintenance

**STAFF:** Judith Brown, Director of Elections

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**BACKGROUND:** Va. Code 24.2 requires certain list maintenance activities occur on a regular ongoing basis including the following:

- Confirmation Mailings (Annually – July)
- Felon Records (Monthly)
- Mentally Incapacitated Adjudications (Monthly)
- Non-Citizen Records (Monthly) Note: Records Populating Daily
- Death Records - (Weekly as of July 1, 2022)
- DMV License Surrender – (Monthly as of October 2023)

In accordance with Va. Code, information for list maintenance activities is provided to the Virginia Department of Elections (ELECT) and that data is then transmitted to local registrars to be processed, including removal of names from the voter rolls for those who are deemed to be a match with the data being provided and the data on the voter rolls. The attached chart provides a breakdown of the number of individuals removed from the voter rolls during the month of August 2024.

DMV noncitizen data is transmitted to ELECT in accordance with Va. Code §24.2-410.1 and §24.2-427(c). This information is sent by ELECT to general registrars in VERIS hopsers. The general registrar reviews those records. The following notice is sent to the registered voter.

*NOTICE OF INTENT TO CANCEL*

*We have received information that you indicated on a recent DMV application that you are not a citizen of the United States. If the information provided was correct, you are not eligible to register to vote. If the information is incorrect and you are a citizen of the United States, please complete the Affirmation of Citizenship form and return it using the enclosed envelope. If you do not respond within 14 days, you will be removed from the list of registered voters.*

*If you believe this notice has been issued in error or have any questions about this notification, please call the Office of General Registrar.*



If the voter provides the affirmation of citizenship form, the voter remains registered. If the voter does not affirm citizenship, their registration is cancelled, and a notice of cancellation is sent.

**ISSUES:** Under NVRA, we are not permitted to remove someone simply because mail is returned as undeliverable. We will mark them for “confirmation notice”. They will be sent a notice and if they don’t respond, they will be changed to inactive. This is an automated process in the voter registration system. The voter will remain on the voter rolls as inactive for two federal elections before being removed. If, however, they appear to vote their record will become active. A voter who is inactive or marked for confirmation must complete the Affirmation of Eligibility form before being permitted to vote. By completing and signing the Affirmation of Eligibility form, the individual is stating they do still reside at the address on file.

Cancellations	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Yearly Total Cancelled
Deceased	158	148	100	153	122	112	171	109	163					1078
Felony	2	5	17	10	8	11	2	18	14					85
Non-Citizen	8	13	9	7	11	7	4	3	8					62
Mentally Incapacitated	0	0	1	0	4	0	2	2	1					10
Out of State/Other	70	112	87	87	70	306	240	960	368					2230
Inactive Purge														0
Total Records Cancelled Monthly	238	278	214	257	215	436	419	1092						2911
Registered Voters														
Active Registered Voters	274,385	275,275	275,828	277,697	278,627	279,331	278,974	273,558	276,356					
Inactive Registered Voters	21,563	21,375	21,284	21,007	20,864	20,708	20,607	27,081	26,300					
Total Registered Voters	295,948	296,650	297,112	298,704	299,491	300,039	299,581	300,639	302,656					
Net Increase/Decrease Total Registered Voters	971	702	462	1,592	787	548	-458	1,058	2,017					6708
New Voters	919	959	542	1,691	971	885	344	1,988	2,137					9517

**Date of Meeting:** September 12, 2024

**I-b**

**ELECTORAL BOARD  
COUNTY OF LOUDOUN  
INFORMATION ITEM**

**SUBJECT:** November Risk-Limiting Audit

**PURPOSE:** Update on November Risk-Limiting Audit

**STAFF:** Shelley Oberlander, Chair

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**BACKGROUND:** The Loudoun County Electoral Board voted to request the State Board of Elections consider the use of the Batch Comparison Method Audit and to consider an audit of the United States Senate race following the November 2024 election.

The State Board of Elections met on Tuesday, September 3, 2024 to determine the type of audit to be used when auditing the statutorily required United States House of Representatives race following the November election and to decide if they want to conduct a state-wide audit of the United States Senate race and if so, the audit method to used.

The State Board of Elections voted to use the Batch Comparison Method for the audit of the United States House of Representatives. All 11 congressional districts are eligible this year for audit, provided that the margin of the contest does not fall below 1%. One contest will be chosen at random during the November 18 State Board of Elections meeting.

The State Board of Elections voted to conduct a statewide audit of the United States Senate race using the Ballot Polling Method. The last statewide RLA was conducted in 2021 of the U.S. Senate and Presidential contests.

[Insert Item Number and Title of Item]

[Insert Name of Meeting]

[Month XX, XXXX]

Page 2

**A-a**

**ELECTORAL BOARD  
COUNTY OF LOUDOUN  
ACTION ITEM**

**SUBJECT:** Appointment of Election Officers

**CRITICAL ACTION DATE:** None

**PURPOSE:** Seek Electoral Board Approval of Additional Election Officers

**STAFF:** Judith Brown, Director of Elections

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**BACKGROUND:** Each month staff presents names of citizens that have applied to become election officers for Loudoun County. Those wishing to represent a party are sent to the respective party for approval. By approving election officers now, they will have an opportunity to sign up for a training session that better fits their schedule

The October Electoral Board meeting will be the last opportunity for approving election officers to serve in the November 2024 election.

All election officers currently in our database will continue to serve until their term expires on February 28, 2025. In January 2025 both parties will submit the names of election officers they wish to have appointed or reappointed to a new term by the Electoral Board.

**ISSUES:** None.

**DRAFT MOTIONS:**

1. I move that the Loudoun County Electoral Board appoint the XXX Election Officer applicants on the list provided as Election Officers to a term to expire on February 28, 2025.

OR

2. I move an alternate motion.

**ATTACHMENTS:**

1. List of Election Officer applicants

	First Name	Last Name	Home Precinct	Party
1	Matthew	Adjei	119	D - Democratic
2	Anaum	Ahmad	822	D - Democratic
3	Adnan	Al Ghazzouli	120	D - Democratic
4	Elizabeth	Alfsen	710	D - Democratic
5	Ranveer	Ambati	313	D - Democratic
6	Tyler	Andress	505	D - Democratic
7	Tine	Beam	501	D - Democratic
8	Anne	Bowen	210	D - Democratic
9	Jill	Bran	319	D - Democratic
10	Joanne	Brooks	Fairfax Co.	D - Democratic
11	Brandon	Brown	823	D - Democratic
12	Aaron	Brown	823	D - Democratic
13	Laura	Brumsey	701	D - Democratic
14	William	Carter	221	D - Democratic
15	Victoria	Chevalier	630	D - Democratic
16	Sherry	Cupac	621	D - Democratic
17	Elizabeth	Dears	512	D - Democratic
18	Wilton	Dickerson	501	D - Democratic
19	Mariam	Ebrahimi	512	D - Democratic
20	John	Eubanks	220	D - Democratic
21	Christine	Favreaux	820	D - Democratic
22	Rose	Fernandez Eubanks	220	D - Democratic
23	Jan	Fruiterman	512	D - Democratic
24	Edwin	Gallahan	504	D - Democratic
25	Kayla	Giuliani	309	D - Democratic
26	Gregory	Goin	321	D - Democratic
27	Chloe	Goldbach	209	D - Democratic
28	David	Goldberg	210	D - Democratic
29	Sarah	Goodwin	622	D - Democratic
30	Karen	Grant	121	D - Democratic
31	Jessica	Haas	207	D - Democratic
32	Allen	Hamblin	427	D - Democratic
33	Michael	Hardey	425	D - Democratic
34	Roynda	Hartsfield-Nack	214	D - Democratic
35	Gerald	Harvey Jr	512	D - Democratic
36	Stephen	Heinz	326	D - Democratic
37	Erin	Henning	321	D - Democratic
38	Shirley	Heying	219	D - Democratic
39	Mary	Homer	622	D - Democratic
40	Shani	Hosten	217	D - Democratic
41	Cuong	Huynh	220	D - Democratic
42	Nancy	Iarossi	402	D - Democratic
43	Frank	Iarossi	402	D - Democratic

44	Alice	Jacobson	328	D - Democratic
45	Danielle	Johnson	126	D - Democratic
46	Tammy	Jones	112	D - Democratic
47	Julia	Kasdorf	402	D - Democratic
48	Sandra	Kereluk	215	D - Democratic
49	Lauren	Lang	402	D - Democratic
50	Brian	Lewis	714	D - Democratic
51	Kaitlin	Lozinski	411	D - Democratic
52	Ita	Mandel	702	D - Democratic
53	Gloria	Martin	622	D - Democratic
54	Sandra	McBride	416	D - Democratic
55	Janet	Mccormick	815	D - Democratic
56	Camilla	MGhee	325	D - Democratic
57	Mbonisi	Mzamo	713	D - Democratic
58	Terrica	Neal-Smith	326	D - Democratic
59	Wendi	Owens	208	D - Democratic
60	Jonathan	Owens	208	D - Democratic
61	Rutherford	Poats	426	D - Democratic
62	Bobbie	Price II	701	D - Democratic
63	Mia	Puccio	819	D - Democratic
64	Tony	Radfar	808	D - Democratic
65	Bishara	Rahman	409	D - Democratic
66	Paola (Noemi)	Reyes Cruz	215	D - Democratic
67	Vanessa	Richardson	627	D - Democratic
68	Gail	Robinson	210	D - Democratic
69	Robert	Roncace	621	D - Democratic
70	Elizabeth	Ross	319	D - Democratic
71	Andrew	Ross	119	D - Democratic
72	Ann	Rutland	508	D - Democratic
73	Venkateswara	Sattiraju	107	D - Democratic
74	Janice	Saylor	627	D - Democratic
75	Robin	Shear	325	D - Democratic
76	Liane	Simpson	615	D - Democratic
77	Prisha	Singh	124	D - Democratic
78	Susan	Spence	209	D - Democratic
79	Susan	Spruill	216	D - Democratic
80	Usha	Srivatsan	814	D - Democratic
81	William	Stalcup	817	D - Democratic
82	Kim	Stinger	402	D - Democratic
83	Kerry	Sullivan	815	D - Democratic
84	James	Taylor	107	D - Democratic
85	Kanan	Thaker	621	D - Democratic
86	Kimberly	Thomas	218	D - Democratic
87	Henry	Tolbert	702	D - Democratic

88	Christopher	Tully	216	D - Democratic
89	Susan	Tully	216	D - Democratic
90	Cynthia	Vough	325	D - Democratic
91	Courtney	Wayland	416	D - Democratic
92	Elizabeth	White	307	D - Democratic
93	Hubert	Wyllie	823	D - Democratic
	<b>First Name</b>	<b>Last Name</b>	<b>Home Precinct</b>	<b>Party</b>
1	Christine	Adkins	428	R - Republican
2	Tallal	Afzal	108	R - Republican
3	Catherine	Alifrangis	822	R - Republican
4	Matthew	Archer	411	R - Republican
5	James	Arter	416	R - Republican
6	Emmeline	Arthur	416	R - Republican
7	Laila	Bober	623	R - Republican
8	Stephen	Bozzo	510	R - Republican
9	Joseph	Bradford	504	R - Republican
10	Todd	Brazas	402	R - Republican
11	Dennis	Brouwer	426	R - Republican
12	Melissa	Brown	326	R - Republican
13	Kristina	Bullock	511	R - Republican
14	Laurie	Bush	216	R - Republican
15	Shamonique	Chacon	314	R - Republican
16	Sharon	Christenson	512	R - Republican
17	Becky	Christian	314	R - Republican
18	Mital	Christian	511	R - Republican
19	Cliff	Clary	710	R - Republican
20	Elizabeth	Courts	308	R - Republican
21	Sheila	Cowling	413	R - Republican
22	Julie	Curry	815	R - Republican
23	Ethan	Dahlby	328	R - Republican
24	Ngoc	Dang	314	R - Republican
25	Torre	Daniell	409	R - Republican
26	Ralph	Davis	209	R - Republican
27	Ross	Deem	413	R - Republican
28	Tauna	Delmonico	409	R - Republican
29	Patricia	DeSouza	623	R - Republican
30	Christopher	Dieken	427	R - Republican
31	David	Doby	511	R - Republican
32	Stephanie	Downer	120	R - Republican
33	William	Downer Jr	120	R - Republican
34	Robert	Drosdzal	815	R - Republican
35	John	Dubia	512	R - Republican
36	Edward	Ellis	810	R - Republican
37	Diane	Fairgrieve	409	R - Republican



38	Charles	Faust	430	R - Republican
39	James	Fishenden	627	R - Republican
40	Victor	Flores	509	R - Republican
41	Jennifer	Fox	409	R - Republican
42	Tony	Gallardo	820	R - Republican
43	Nestor	Gotay Umana	512	R - Republican
44	Steven	Hall	401	R - Republican
45	Donna	Hartford	504	R - Republican
46	Elliot	Hartford JR	504	R - Republican
47	Edward	Hauschild	403	R - Republican
48	Donna	Hoffman	504	R - Republican
49	Charlotte	Holland	817	R - Republican
50	James	Huber	503	R - Republican
51	Kimberly	Hurst	308	R - Republican
52	Deborah	James	424	R - Republican
53	Mark	Johnston	503	R - Republican
54	Douglas	Jones	409	R - Republican
55	Solomon	Kanamala	119	R - Republican
56	Jerome	Kasper	626	R - Republican
57	Mark	Kastilahn	621	R - Republican
58	Weelfried	Kawaya	126	R - Republican
59	Andrew	Keeter	820	R - Republican
60	John	Keppeler	326	R - Republican
61	Amira	Khater	319	R - Republican
62	Timothy	Lasher	401	R - Republican
63	Gail	Lataille	427	R - Republican
64	Equilla	Lavine	312	R - Republican
65	William (Bill)	Leake	501	R - Republican
66	Daniel	Letson	505	R - Republican
67	Grace	Liang	126	R - Republican
68	Stephen	Limbert	326	R - Republican
69	Barbara	Lowe	512	R - Republican
70	Shinta	Mariana	Fairfax Co.	R - Republican
71	Andrea	Masters	511	R - Republican
72	Danny (Dan)	Matzker	416	R - Republican
73	Alfred	Mbia	508	R - Republican
74	Robert	McCurdy	503	R - Republican
75	Kelly	McKnight	510	R - Republican
76	George	Merrell	817	R - Republican
77	Tracy	Miller	401	R - Republican
78	Ryan	Mooney	616	R - Republican
79	Richard	Moore	620	R - Republican
80	Mavis	Morris	815	R - Republican
81	Marianne	Mount	403	R - Republican

82	Kevin	Mulhern	428	R - Republican
83	Donna	Mullen	401	R - Republican
84	Adam	Newland	509	R - Republican
85	Johan	Perez Medina	712	R - Republican
86	Susanh	Perez-Molina	712	R - Republican
87	Elizabeth	Rasiak	504	R - Republican
88	Colleen	Regotti	120	R - Republican
89	Nona	Reynolds	411	R - Republican
90	Kevin	Reynolds	411	R - Republican
91	Elia	Ryan	705	R - Republican
92	Hannah	Serruya	814	R - Republican
93	Julie	Shaheen	814	R - Republican
94	Daniel	Shain	424	R - Republican
95	Cynthia	Smith	507	R - Republican
96	Dina	Smithson	423	R - Republican
97	Richard	Stibi	221	R - Republican
98	Carolyn	Strain	326	R - Republican
99	Connie	Street-Jager	403	R - Republican
100	Blake	Stroud	503	R - Republican
101	Nicole	Stverak	814	R - Republican
102	David	Suddoth	312	R - Republican
103	Afshan	Talib	808	R - Republican
104	Barbara	Tatum	815	R - Republican
105	Olga	Terekhina	628	R - Republican
106	LoriAnn	Waters	216	R - Republican
107	Jeffrey	Weaver	616	R - Republican
108	Joan	West	504	R - Republican
109	Joan	Wilson	508	R - Republican
110	Robert	Wright	505	R - Republican
111	Barbara	Yudd	402	R - Republican
	<b>First Name</b>	<b>Last Name</b>	<b>Home Precinct</b>	<b>Party</b>
1	Ravi	Achar	505	N - Non-Partisan
2	Adnan	Al Ghazzouli	120	N - Non-Partisan
3	James	Arter	416	N - Non-Partisan
4	Jeffery	Barrows	621	N - Non-Partisan
5	Stephanie	Bidinger	501	N - Non-Partisan
6	David	Bills	502	N - Non-Partisan
7	Elizabeth	Carroll	430	N - Non-Partisan
8	Carey	Cypher	509	N - Non-Partisan
9	Holly	Dhankhar	622	N - Non-Partisan
10	Robert	Di Trolio	217	N - Non-Partisan
11	Michele	Donovan	815	N - Non-Partisan
12	William	Forys	416	N - Non-Partisan
13	Star	Francis	324	N - Non-Partisan

14	Heather	Fruzzetti	314	N - Non-Partisan
15	Jennifer	Gustavus	823	N - Non-Partisan
16	Reynold	Guzman	716	N - Non-Partisan
17	Allen	Hamblin	427	N - Non-Partisan
18	Mary	Henderson	502	N - Non-Partisan
19	Bennet	Humpton	217	N - Non-Partisan
20	Catalina	Johnson	319	N - Non-Partisan
21	Brian	Jordan	313	N - Non-Partisan
22	Laura	Kibble	409	N - Non-Partisan
23	Joan	Lamarre	505	N - Non-Partisan
24	Claudia	Lewis	615	N - Non-Partisan
25	Varinder	Mago	505	N - Non-Partisan
26	Joshua	McCullough	423	N - Non-Partisan
27	Joshua	Meek	628	N - Non-Partisan
28	Jamie	Munizza	813	N - Non-Partisan
29	Jorge	Neyra Vigo	710	N - Non-Partisan
30	Jaja	O'Neil SR	112	N - Non-Partisan
31	Robert	Ohneiser	402	N - Non-Partisan
32	Jae	Park	107	N - Non-Partisan
33	Valerie	Rivera-Sorto	627	N - Non-Partisan
34	Jeffrey	Seggi	329	N - Non-Partisan
35	Christopher	Stanley	817	N - Non-Partisan
36	Suzette	Stone Busa	509	N - Non-Partisan
37	Konah	Terry	508	N - Non-Partisan
38	Mirela	Tsai	319	N - Non-Partisan
39	Amanda	Warrington	427	N - Non-Partisan
40	Frederick	Webb	702	N - Non-Partisan

**A-b**

**ELECTORAL BOARD  
COUNTY OF LOUDOUN  
ACTION ITEM**

**SUBJECT:** Authorization to Assign Non-Partisan Election Officers

**CRITICAL ACTION DATE:** September 12, 2024

**PURPOSE:** Seek approval from the board to place non-partisan election officers in accordance with the Election Officer Assignment Plan

**STAFF:** Margie Grimes, Election Coordinator

**RECOMMENDATIONS: Staff:** Authorize the Election Coordinator to begin assigning non-partisan election officers when partisan election officers are not available.

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**BACKGROUND:** The Electoral Board approved an Election Officer Assignment Plan that indicates no later than 50 days prior to the election the Election Coordinator shall seek approval to begin assigning non-partisan election officers when partisan election officers are not available. Va. Code §24.2-115 allows no more than one-third of the total number of officers appointed for each precinct to be citizens who do not represent any political party if practicable.

**ISSUES:** Delay in communicating with non-partisan election officers does not afford them an opportunity to sign up for training classes that best fit their schedule. It is imperative for us to have additional election officers to fill vacancies that may occur as we approach the election when election officers begin to call out, fail to take the required training, or simply do not show up on Election Day. Some non-partisan election officers are Help Desk or Technology certified and are needed to ensure we have certified election officers in each precinct to ensure uniform procedures are being followed across the Commonwealth.

**DRAFT MOTIONS:**

1. I move that the Electoral Board authorize the Election Coordinator to begin assigning any non-partisan election officers in accordance with Va. Code §24.2-115 when partisan election officers are not available and/or a Help Desk or Technology certified election officer is needed, if they hold such certification.

OR

2. I move and alternate motion.

# **EXHIBIT F**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES  
AND THE VIRGINIA DEPARTMENT OF ELECTIONS**

This Memorandum of Understanding (MOU) is made and entered into by and between the Virginia Department of Motor Vehicles ("DMV") and the Virginia Department of Elections ("ELECTIONS"). The MOU effective date is established by the date of execution.

**Article 1  
Introduction and Purpose**

The primary purpose of this MOU is to establish the terms and conditions under which, pursuant to Code of Virginia §§ 24.2-410.1, 24.2-411.3, 46.2-208(B)(9), 46.2-208.1, and 46.2-328.1, and Executive Orders Number Thirty-One (2024) and Number Thirty-Five (2024), DMV will provide certain data and electronic access to data to ELECTIONS, which requires this data in the conduct of its official duties under Title 24.2 of the Code of Virginia, and the terms and conditions under which ELECTIONS will receive, use, and protect the data provided to it by DMV. This MOU will cover the following five data transfers:

- A. Data Extraction File Transfers
- B. Data Transferred Pursuant to the National Voter Registration Act
- C. ELECTIONS Access to relevant DMV Information Systems
- D. Digital Signature Service
- E. VERIS verification against DMV records

**Article 2  
General Provisions**

**2.1 Term.** This MOU will commence upon the execution by both parties and will continue in effect until modified, amended, or terminated.

**2.2 Termination.** Either party may terminate this MOU at any time for any reason. Notwithstanding the foregoing, the parties agree that, to the extent reasonable, 30 days' notice of intent to terminate this MOU will be provided to the other party.

**2.3 Review and Modification of MOU.** This MOU may be modified or amended as necessary upon the mutual written agreement signed and dated by both parties. All modifications and amendments shall be incorporated and made a part of the MOU as if attached hereto. This MOU supersedes and replaces the MOU entered into by the Parties on March 15, 2021.

**2.4 Relationship of the Parties.** The parties shall meet and confer within 10 business days of a request of either party to address issues arising under this MOU.

**2.5 Party Contacts.** The parties identify the following individuals as their points of contact for operational, administrative, and/or performance questions, concerns or issues, and as their representatives to receive notice under this MOU:

For DMV:

Matthew Martin  
Director of Data and Records Services  
Department of Motor Vehicles  
(804) 763-8568  
[Matthew.Martin@dmv.virginia.gov](mailto:Matthew.Martin@dmv.virginia.gov)  
2300 West Broad Street  
P.O. Box 27412  
Richmond, Virginia 23269

For ELECTIONS:

Brandon Smith  
Chief Information Officer  
Department of Elections  
(804) 971-3960  
[Brandon.Smith@elections.virginia.gov](mailto:Brandon.Smith@elections.virginia.gov)  
1100 Bank Street, 1<sup>st</sup> Floor  
Richmond, VA 23219

**2.6 Notice.** Any notice required or permitted to be given under the MOU shall be in writing and shall be deemed to have been sufficiently given if delivered in person, if provided by email to the person designated by each party to receive notice by email, or if deposited in the U.S. mail, postage prepaid, for mailing by first class, registered, certified mail, or overnight courier service addressed to the individual and at the address provided by each party. The parties may change the individual identified in the preceding section to receive notice or any of the contact information by giving the other party notice of such change in accordance with this provision. The parties agree that, should the designated person cease to be the appropriate representative, such party shall appoint a new contact and notify the other party within five (5) business days of the appointment.

**2.7 Titles and Headings.** Titles and headings are inserted for convenience only and shall not be used to interpret this MOU.

**2.8 Governing Law.** This MOU shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia and of the United States. If necessary, any disputes that arise out of the MOU shall be tried by a court of competent jurisdiction located in the Commonwealth of Virginia.

**2.9 Modification of Data Fields and Services.** Any addition, deletion, or significant modification of the fields included in any of the data exchanges subject to the provisions of this agreement, and any change to the frequency with which DMV sends the data to ELECTIONS, must be agreed upon in writing. The parties may amend this agreement to reflect a modification in accordance with Article 2.3 of this MOU or may attach the written documentation as an amendment to this MOU. After DMV and ELECTIONS agree, in writing, to any modification to data fields and services, DMV will develop, test, and implement software development lifecycle and change-control processes pursuant to DMV and COV policies. DMV is a pass-through for collecting customer information, and ELECTIONS is responsible for ensuring that the data received meets the agreed upon requirements in a timely manner in both test and production environments.

**2.10 ELECTIONS Liability.** ELECTIONS shall be liable for any misuse or misappropriation of any information obtained from DMV in connection with this MOU, any failure by ELECTIONS, its employees, agents, and/or authorized users to comply with the provisions of the Federal Driver's Privacy Protection Act, Va. Code §§ 46.2-208 and 58.1-3, and the Government Data Collection and Dissemination Practices Act, and for any failure to safeguard and limit access to DMV files as required herein.

**2.11 DMV Liability.** DMV shall be liable for any misuse or misappropriation of any information obtained from ELECTIONS in connection with this MOU, any failure by DMV, its employees, agents, and/or authorized users to comply with the provisions of the Federal Driver's Privacy Protection Act, Va. Code §§ 46.2-208 and 58.1-3, and the Government Data Collection and Dissemination Practices Act, and for any failure to safeguard and limit access to ELECTIONS files as required herein.

**2.12 Notification of Material Changes to Services.** Each party shall be required to notify the other of any planned material changes in the security or functionality of any dependent services with sufficient time for the parties to discuss any security/technical/functional considerations and/or changes.

### **Article 3 Data Extraction File Transfers**

**3.1 Provide Information.** DMV agrees to provide ELECTIONS with the following data extractions:

- 1) Daily, DMV will provide to ELECTIONS an electronic file, which includes those customers for whom DMV recorded (1) a NO answer to the citizenship question posed for voter registration purposes or (2) legal presence documents indicating non-citizenship status during the business day. The NO answers will include customers who certify that they are not citizens in connection with an application for a driver or identification privilege card; however, in accordance with Code of Virginia §§ 46.2-328.3 and 46.2-345.3, DMV will not identify to ELECTIONS which customers hold privilege cards.
- 2) On or about the 10<sup>th</sup> day of each calendar month, DMV will provide to ELECTIONS an electronic file, which includes those customers for whom DMV recorded (1) an in-state or out-of-state address change or (2) an out-of-state surrender of license.
- 3) On or about the 10<sup>th</sup> day of each calendar month, DMV will provide ELECTIONS an electronic file, which includes data from each DMV customer record.

**3.2 Data Format.** DMV will provide ELECTIONS with the above-specified data using the file layout and transmission protocols determined and agreed to by information technology personnel of the two agencies; the file layout and transmission protocols may be revised and/or adjusted over time as the agencies' personnel deem appropriate without the necessity of a new MOU.



Such revisions or adjustments must be agreed upon in writing by both agencies. The written documentation will not become an amendment to this MOU unless requested by either party.

**3.3 Costs.** ELECTIONS will reimburse DMV for the costs of providing data in accordance with Article 3 of this MOU at the rate of \$600 per month. Using automated monthly billing, DMV will invoice ELECTIONS on a monthly basis following the successful and timely transmission of the data required by this MOU. ELECTIONS will remit the invoice fee in accordance with the standards set forth in the relevant CAPP topics.

#### **Article 4**

##### **Transfer of Customer Data Pursuant to the National Voter Registration Act**

**4.1 Purpose.** Pursuant to the requirements of the National Voter Registration Act, 52 U.S.C. §§ 20501, et seq.; the Help America Vote Act of 2002, 52 U.S.C. §§ 20901, et seq.; and Title 24.2, Article 4, of the Code of Virginia, DMV provides customers conducting qualifying transactions the opportunity to apply to register or to update their voter information with ELECTIONS. DMV serves as a pass-through agency by collecting information from the customer and transferring the data to ELECTIONS, together with the identifying information from the customer's DMV record. This transfer of customer responses and customer record data is referred to as a "motor voter transaction." Customers present in a DMV customer service center will be presented with questions to complete the motor voter transaction on the credit card terminal located at the customer service window. Customers conducting online DMV transactions will be presented with questions to complete the motor voter transaction within their online DMV transaction.

##### **Qualifying Transactions:**

- Original Driver's License/Commercial Driver's License Issuance
- Driver's License/Commercial Driver's License Renewal
- Driver's License/Commercial Driver's License Replacement
- Original Identification Card Issuance
- Identification Card Renewal
- Identification Card Replacement
- Change of Address associated with Driver's License/Commercial Driver's License or Identification Card

##### **Non-Qualifying Transactions:**

- Driver Privilege Card Issuance or Replacement, pursuant to Code of Virginia § 46.2-328.3
- Identification Privilege Card Issuance or Replacement, pursuant to Code of Virginia § 46.2-345.3
- Change of Address for a customer who only owns a vehicle

**4.3 All Customers.** All customers will be informed that, if they are eligible, they will be registered to vote or have their voter registration information updated unless they decline. If the customer declines, the motor voter transaction will be concluded.

**A. Application to Apply to Register to Vote**

The customer will be asked if he or she is a citizen and will have the option to decline to have their information transmitted to ELECTIONS for voter registration purposes. If the customer does not decline to have their information transmitted and they have affirmed that they are a citizen, the customer will then be presented with a series of questions to collect the information needed to transmit the voter application to ELECTIONS. The language of the questions and the order in which the questions are presented for information needed to complete the voter application process are within ELECTIONS' discretion. The language of questions collecting information needed only for the DMV transaction is at DMV's discretion. The parties shall consult and attempt to agree on all language and workflow for the motor voter process. The language of the questions, including any translations thereof, presented in a motor voter transaction may be changed by written agreement of the parties without the need to amend this MOU.

**B. Registered voters**

Registered voters will be presented with one additional screen not seen by unregistered voters. The screen will display the customer's current voter registration information with ELECTIONS and state that, if the information is incorrect, it may be changed.

**C. Non-consents**

When the customer responds negatively to certain questions or prompts, the Registration Type is Non-Consent.

**4.4 Transaction Confirmation.** A confirmation record of each of the above-named transactions will be retained by DMV in accordance with established records retention policies.

**4.5 Print-on-demand transactions.** Customers who are unable or unwilling to complete the motor voter transaction on the credit card terminal available in a customer service center will be provided a print-on-demand form. DMV will prepopulate the form with the customer's information found on the DMV record. The customer will be given the opportunity to complete the form while present in the DMV and return the form to the DMV customer service representative. DMV will collect all forms and mail them on a daily basis to ELECTIONS.

**4.6 Overnight batch.** DMV offers customers the opportunity to change an address, renew or replace a driver's license, and renew or replace an identification card, by mailing a paper form to DMV headquarters. To comply with the requirement to offer a motor voter transaction to these customers, DMV will send a paper application prepopulated with the customer record information to the customer through an overnight batch process. Customers will be directed to return the form to ELECTIONS by mail.

**4.7 Lack of social security number on DMV customer record.** Prior to transmitting an electronic motor voter customer transaction, the DMV system will check the customer record to determine if the customer has a social security number on file. If the check determines no social security number is present, the motor voter transaction will be held until the end of the day, when the system will check the customer record a second time. If a social security number is present, the number will be transmitted with the customer record information and responses to the motor voter questions to ELECTIONS at that time. If the customer still does not have a social security number on file at the end of the day, the customer will be sent a paper application in accordance with the batch process in Article 4.6.

**4.8 Data Retention.** DMV will maintain all properties related to the submission of the customer transaction permanently. The data submitted pursuant to Articles 4.3 and 4.4 will be considered a copy once ELECTIONS has confirmed receipt and will be maintained by DMV only so long as administratively useful.

## **Article 5**

### **ELECTIONS' Access to Relevant DMV Information Systems**

**5.1 Provide Access.** DMV shall provide read-only access to relevant DMV information systems to authorized ELECTIONS users, as set forth in Article 5.2. Read-only access to relevant DMV information systems is intended to provide ELECTIONS with information to research voter registration and verify customer responses in relation to the voter registration process.

**5.2 ELECTIONS Users.** ELECTIONS will provide a log of all authorized users to relevant DMV information systems to DMV and keep the log updated with personnel changes. The parties will agree upon a schedule for adding or deleting authorized users as required to provide sufficient support for elections scheduled throughout the calendar year.

**5.3 Operations Maintenance Windows.** DMV will make every effort to ensure applicable systems and services are accessible; however, DMV systems and services may not be available during required, scheduled DMV or Commonwealth maintenance windows, including, but not limited to, the Virginia Information Technology Agency's Wednesday and Sunday evening windows.

**5.4 Election-related Freeze Periods.** DMV will make every effort to comply with the change freeze periods around scheduled elections. If DMV determines that a required change is critical to DMV security or operational requirements and must be made during a freeze period, DMV will take all necessary precautions to limit negative impacts to ELECTIONS' services and will notify ELECTIONS of any potential impacts prior to implementation, if feasible.

## **Article 6**

### **Digital Signature Service**

**6.1 Purpose.** ELECTIONS must obtain a customer signature to complete any electronic DMV or ELECTIONS' voting-related transaction initiated by the customer. Pursuant to Code of Virginia § 24.2-416.7, DMV shall provide ELECTIONS with a digital copy of an applicant's signature on record with DMV.

**6.2 Information Provided by ELECTIONS.** For each transaction conducted under Article 6, ELECTIONS sends applicable data to DMV.

**6.3 Information Provided in Return to ELECTIONS.** DMV provides applicable data in response to a customer submission from ELECTIONS conducted under Article 6:

**6.4 Data Format.** The above-specified data will be transferred using the transmission protocols determined and agreed to by information technology personnel of the two agencies; the transmission protocols may be revised and/or adjusted over time as the agencies' personnel deem appropriate without the necessity of a new MOU. Such revisions or adjustments must be agreed upon in writing by both agencies. The written documentation will not become an amendment to this MOU unless requested by either party.

## **Article 7**

### **Online Verification against DMV records**

**7.1 Purpose.** DMV will assist ELECTIONS in verifying the identity of customers seeking to register to vote by direct contact with ELECTIONS.

**7.2 Information Provided by ELECTIONS.** For each transaction, ELECTIONS sends the applicable data to DMV.

**7.3 Information Provided in return to ELECTIONS.** DMV will attempt to make an exact match to customer data on record. If an identical match is found, ELECTIONS will be notified that a match has been found. If the data is not an identical match to DMV data in any respect, ELECTIONS will be notified that an identical match has not been found.

**7.4 Data Format.** The above-specified data will be transferred using the transmission protocols determined and agreed to by information technology personnel of the two agencies; the transmission protocols may be revised and/or adjusted over time as the agencies' personnel deem appropriate without the necessity of a new MOU. Such revisions or adjustments must be agreed upon in writing by both agencies. The written documentation will not become an amendment to this MOU unless requested by either party.

## **Article 8 ELECTIONS' Responsibilities**

**8.1 Use of DMV information.** ELECTIONS will use DMV information for the purposes of voter registration as required by Chapter 4 of Title 24.2 of the Code of Virginia. Except as provided in Va. Code §§ 24.2-404 and 24.2-444, ELECTIONS shall not make DMV information available to the public and shall not provide such information to any third party.

**8.2 Confidentiality and Privacy of Information.** ELECTIONS acknowledges and agrees that any information obtained pursuant to this MOU is considered personal and confidential and is subject to and governed by the restrictions upon access, use and/or dissemination of such information set forth in state and/or federal laws and regulations. ELECTIONS agrees, without reservation or qualification, that it and its employees, agents, and/or authorized users shall comply with and be subject to all applicable laws and regulations, whether federal or state, in connection with any receipt and use of DMV data received pursuant to this MOU including, but not limited to, (1) the Federal Drivers Privacy Protection Act (18 U.S.C. §§ 2721, et seq.), (2) the Government Data Collection and Dissemination Practices Act (Va. Code §§ 2.2-3800, et seq.), (3) the Virginia Computer Crimes Act (Va. Code §§ 18.2-152.1, et seq.), (4) the provisions of Va. Code §§ 46.2-208 and 58.1-3, and (5) any successor rules, regulations, or guidelines adopted by DMV with regard to disclosure or dissemination of any information obtained from DMV records or files. ELECTIONS agrees to comply with such restrictions and to make all employees, agents, and authorized users of ELECTIONS aware of such provision and of their duties and obligations thereunder.

**8.3 Monitoring Use of Information.** ELECTIONS agrees to monitor all use of the information obtained from DMV and to immediately report to DMV any incidents of non-compliance with federal or state laws and regulations, non-compliance with this MOU, or misuse of information provided under this MOU by any person or entity.

**8.4 Limitation on Use.** Distribution of privileged information, as described at Va. Code § 46.2-208, to any third party other than elections officials in order to carry out their official functions under Title 24.2 of the Code of Virginia is prohibited. ELECTIONS certifies, by execution of this MOU, that the information obtained under this MOU will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

**8.5 Antivirus and Security Patch Requirements.** ELECTIONS understands and agrees that each electronic device used to access the DMV System must:

- a) Have commercially available Antivirus software installed and actively running on the device, and that the Antivirus software must be maintained with up-to-date virus definitions; and
- b) Have the latest approved operating system security patches installed on the device, and that the operating system must be maintained with up-to-date security patches.

**8.6 Security Requirements.** ELECTIONS shall, at its own expense, comply with and maintain compliance with all Commonwealth of Virginia IT security policies, standards, and guidelines, including any revisions, amendments, and/or successors thereto. ELECTIONS also shall, at its own expense, comply with and maintain compliance with the DMV IT Architecture and Security Documents, as may be amended from time to time.

Copies of the current Commonwealth of Virginia IT security policies, standards, and guidelines are available on the VITA Website at

<http://www.vita.virginia.gov/library/default.aspx?id=537#securityPSGs>.

Copies of the most recent DMV IT Architecture and Security Documents are available on the DMV Website at

<https://www.dmv.virginia.gov/sites/default/files/documents/DMV%20Security%20%26amp%3B%20Risk%20Management%20Policy%202.1.pdf>.

ELECTIONS will be responsible for reviewing these websites for revisions, updates and/or modifications at least once every six months.

**8.7 Audit.** DMV reserves the right to audit ELECTIONS to confirm compliance with all requirements in this MOU. ELECTIONS shall provide DMV with full access to and the opportunity to examine any electronic devices, records and/or other materials necessary to performing such audits, except any such records and/or other materials that are privileged or confidential. Similarly, ELECTIONS reserves the right to audit DMV to confirm compliance with all requirements in this MOU. DMV shall provide ELECTIONS with full access to and the opportunity to examine any electronic devices, records and/or other materials necessary to performing such audits, except any such records and/or other materials that are privileged or confidential.

**IN WITNESS WHEREOF,** the Parties hereto have caused this MOU to be duly executed by their authorized representatives intending to be bound by the terms and conditions herein set forth.

Virginia Department of Motor Vehicles

Virginia Department of Elections

By: Gerald F. Lackey  
Gerald F. Lackey, Ph.D., Commissioner

By: Susan Beals  
Susan Beals, Commissioner

Date: September 3, 2024

Date: Sept 3, 2024