



OCTOBER 06, 2026

VIA EMAIL

Dear Pennsylvania County Boards of Election:

Campaign Legal Center (CLC) writes to provide you with information regarding how Boards and their staffs, including District Election Boards, can properly adjudicate frivolous challenges to voter eligibility under 25 Pa.C.S.A. §§ 1329, 1203(h)-(i) and 25 P.S. § 3053 to minimize the burden on election administration and protect the rights of voters, including important guidance on limitations imposed by federal law.¹ Such guidance will help to limit the disruption of frivolous challenges to election administration and protect Pennsylvania voters from harassment and intimidation.

This document compiles available information from existing state and federal laws and directives on voter eligibility and the challenge process. It is intended to serve as an accessible, nonpartisan resource for election officials and their counsel throughout the election process.

CLC is a nonpartisan, nonprofit organization working to protect and strengthen the U.S. democratic process across all levels of government through litigation, policy analysis, and public education. CLC seeks a future in which the American political process is accessible to all citizens, resulting in representative, responsive, and accountable government. Consistent with that mission, we have worked with election officials across the nation to improve their administrative policies, protect the freedom to vote of citizens within their jurisdictions, and strengthen the democratic process.

To that end, CLC is concerned about the potential for frivolous mass eligibility challenges during the upcoming election, which have become increasingly common throughout the country, especially in Pennsylvania.² In recent election cycles, partisan actors have relied on faulty databases to bring hundreds of thousands of challenges to voter eligibility across the nation.³ These databases attempt to

¹ This letter is not legal advice; it is intended to present a summary of relevant Pennsylvania and federal law.

² See, e.g., Nick Corasaniti & Alexandra Berzon, *Trump's Allies Ramp Up Campaign Targeting Voter Rolls*, N.Y. Times (Mar. 3, 2024), <https://www.nytimes.com/2024/03/03/us/politics/trump-voter-rolls.html> (noting the recent wave of voter eligibility challenges in states such as Georgia, Michigan, and Nevada); David Gilbert, *Election Deniers are Ramping Up Efforts to Disenfranchise Voters*, Wired (Jul. 31, 2024), <https://www.wired.com/story/election-deniers-efforts-disenfranchise-voters>; see also ELLY and Psephos: *How Eagle AI Rebranded—and Continues to Fuel Error-Prone Voter Challenges*, Campaign Legal Center (Aug. 4, 2026), <https://campaignlegal.org/document/elly-and-psephos-how-eagle-ai-rebranded-and-continues-fuel-error-prone-voter-challenges>. See also Carter Walker, *Trump administration explains how it identified potential noncitizen voters, says it will provide list to Pennsylvania*, Votebeat (Sep. 16, 2026), <https://www.votebeat.org/pennsylvania/2026/09/16/noncitizen-voter-department-homeland-security-pennsylvania-methodology/>; Hansi Lo Wang, *Thousands of Pennsylvania voters have had their mail ballot applications challenged*, NPR (Nov. 5, 2024), <https://www.npr.org/2024/11/04/nx-s1-5178714/pennsylvania-mail-ballot-voter-challenges-trump>; Carmen Russell-Sluchansky, *'Nothing has changed': Pa. election chief says voting will continue as usual despite Trump mail ballot limitation efforts*, WHYY (Sep. 9, 2026), <https://whyy.org/articles/2026-election-pennsylvania-mail-ballots/>.

³ See Robyn Sanders & Alice Clapman, *Protections Against Mass Challenges*, Brennan Ctr. for Just. (July 17, 2024), <https://www.brennancenter.org/our-work/research-reports/protections-against-mass-challenges-voter-eligibility>. One common database is Eagle AI, which experts have criticized for its frequent identification of eligible voters as ineligible. See Alice Clapman & Andrew Garber, *A New Antidemocracy Tool*, Brennan Ctr. for Justice (Sept. 5, 2023), <https://www.brennancenter.org/our-work/analysis-opinion/new-antidemocracy-tool>.



match voter registration records with publicly available information, but that information is almost always incomplete or out of date, making the database matches unreliable.⁴ The databases often improperly flag registered voters with the same name as ineligible individuals, voters who are temporarily staying in another place but remain qualified at the address at which they are registered, and households in which some but not all residents have moved.⁵ As a result, mass challenge lists almost always include significant numbers of eligible voters who should not be removed from the rolls.⁶

In the current election cycle, CLC is also concerned about the federal government's role in supplying unreliable, inaccurate data to fuel mass eligibility challenges. In recent months, federal officials have deployed questionable data matching practices and historically inaccurate databases and systems to compile lists of purportedly ineligible registered voters.⁷ Data supporting mass eligibility challenges is likely to come from the federal government's use of an immigration status verification tool called the Systematic Alien Verification for Entitlements (SAVE) program, or similarly unreliable data matching programs or practices.⁸ The federal government's repeated attempts to use SAVE or similar data matching tools to identify ineligible voters on state voter rolls have resulted in unreliable lists that misidentify eligible voters as non-U.S. citizens.⁹ The Department of Homeland Security's recent efforts to identify non-U.S. citizens on state voter rolls have spawned unsubstantiated claims and resulted in incomplete, unverified lists of voters.¹⁰ In fact, multiple federal courts have determined that the SAVE program is not a reliable source for verifying voters' current citizenship status or eligibility.¹¹ Given the federal government's insistence on using unreliable systems and practices to compile lists of purportedly ineligible voters, state and local election officials should be prepared for this inaccurate data to form the basis for mass eligibility challenges or demands by the federal government to engage in unlawful voter list maintenance in advance of the 2026 midterm elections.

⁴ See Sanders & Clapman, *supra* note 3.

⁵ See *id.*

⁶ See *id.*

⁷ Carter Walker, *Trump administration explains how it identified potential noncitizen voters, says it will provide list to Pennsylvania*, Votebeat (Sept. 16, 2026), <https://www.votebeat.org/pennsylvania/2026/09/16/noncitizen-voter-department-homeland-security-pennsylvania-methodology/>; Shannon Bond, Jenna McLaughlin, & Audrey Nguyen, *In primetime speech, Trump doesn't provide evidence for illegal voting*, NPR (July 16, 2026), <https://www.npr.org/2026/07/16/nx-s1-5896448/trump-election-address>; Jude Joffe-Block & Miles Parks, *DHS acknowledges the noncitizen numbers it touted on voter rolls were inflated*, NPR (Aug. 25, 2026), <https://www.npr.org/2026/08/25/nx-s1-5940807/noncitizen-voters-trump-nevada-call>; Nick Corasaniti & Hamed Aleaziz, *Whistle-Blower: Federal Agents May Have Broken State Laws in Search for Voter Fraud*, N.Y. Times (Sept. 14, 2026), <https://www.nytimes.com/2026/09/14/us/politics/homeland-security-voter-fraud-investigation.html?smid=nytcore-ios-share>; Nick Corasaniti, *From 16,000 to 185 to Zero: Trump's Claims of Illegal Voting in Nevada Fizzle*, N.Y. Times (Sept. 24, 2026), <https://www.nytimes.com/2026/09/24/us/politics/nevada-voters-homeland-security-trump.html>.

⁸ *What Is the SAVE System?*, Campaign Legal Center (May 12, 2026), <https://campaignlegal.org/update/what-save-system>; Jude Joffe-Block & Miles Parks, *33 million voters have been run through a Trump administration citizenship check*, NPR (Sept. 11, 2025), <https://www.npr.org/2025/09/10/nx-s1-5477367/save-election-citizenship-data-trump>.

⁹ See, e.g., Jude Joffe-Block, *Trump's SAVE tool is looking for noncitizen voters. But it's flagging U.S. citizens too*, NPR (Dec. 10, 2025), <https://www.npr.org/2025/12/10/nx-s1-5588384/save-voting-data-us-citizens>; Jen Fifield & Zach Despart, *"Not Ready for Prime Time." A Federal Tool to Check Voter Citizenship Keeps Making Mistakes*, ProPublica and The Texas Tribune (Feb. 13, 2026), <https://www.propublica.org/article/save-voter-citizenship-tool-mistakes-confusion>; Nicholas Kerr & Elise Spenner, *System that DHS is urging states to use to assess voter rolls known to return faulty results: reports*, ABC News (July 19, 2026), <https://abcnews.com/Politics/system-dhs-urging-states-assess-voter-rolls-return/story?id=134863557>.

¹⁰ Nick Corasaniti, *Homeland Security Made a Big Claim About Noncitizen Voting. Now It Can't Prove It*, N.Y. Times (Aug. 20, 2026), <https://www.nytimes.com/2026/08/20/us/politics/trump-nevada-voter-election-fraud.html>; Jude Joffe-Block & Miles Parks, *DHS acknowledges the noncitizen numbers it touted on voter rolls were inflated*, NPR (Aug. 25, 2026), <https://www.npr.org/2026/08/25/nx-s1-5940807/noncitizen-voters-trump-nevada-call>.

¹¹ *Mi Familia Vota v. Fontes*, 129 F.4th 691, 708-709 (9th Cir. 2025); *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1341 (11th Cir. 2014); *League of Women Voters v. U.S. Dep't of Homeland Security*, 835 F.Supp.3d 79, 113 (D.D.C. 2026).



Mass eligibility challenges organized by partisan challengers and submitted with insufficient evidence risk disenfranchising eligible voters and causing unnecessary disruption to the orderly administration of the 2026 elections. We recognize that many election offices have lost their most experienced officials because of threats and volatility over the past several election cycles. We hope this letter will minimize administrative disruption and assist you in providing guidance to your staff and volunteers, conducting a fair and orderly election, and safeguarding voters from intimidation.

To mitigate the potential harm to both voters and election administrators caused by baseless mass challenges, CLC provides the election law summary below to support your development of uniform processes for adjudicating voter eligibility challenges, in compliance with the requirements of Pennsylvania and federal law.

I. LEGAL REQUIREMENTS AND GUARDRAILS

As you know, both federal and Pennsylvania law provide robust protection against arbitrary and discriminatory treatment, voter intimidation, and other forms of infringement on the fundamental right to vote. The process for responding to voter challenges—especially those conducted in bulk—must comply with all such federal and state laws, as well as the U.S. Constitution. **All Boards of Election have the responsibility to protect Pennsylvania voters from baseless and discriminatory challenges and ensure that the adjudication of all voter challenges complies with both state and federal law.**

A. The National Voter Registration Act and the U.S. Constitution Require Uniform and Nondiscriminatory Standards in Voter List Maintenance.

The U.S. Constitution and federal law require that each state and political subdivision use uniform, nondiscriminatory standards and processes for evaluating voter eligibility challenges.¹² Under the U.S. Constitution, counties in the same state are prohibited from “us[ing] varying standards to determine what [i]s a legal vote” when processing ballots in presidential elections.¹³ Similarly, the National Voter Registration Act (NVRA) mandates that any voter registration list maintenance activity be “uniform, nondiscriminatory, and in compliance with the Voting Rights Act[.]”¹⁴ including “any list maintenance activity based on third party submissions.”¹⁵ The U.S. Department of Justice has advised that numerous list maintenance methods commonly used in mass voter eligibility challenges might violate the NVRA, including “comparing voter files to outdated or inaccurate records or databases, taking action that erroneously affects a particular class of voters (such as newly naturalized citizens), or matching records based solely on first name, last name, and date of birth.”¹⁶ **Since Pennsylvania already conducts uniform nondiscriminatory list maintenance activities annually, actions taken on the basis of third-party submissions where the county is unable to verify the methods used to create the data may subject the county to the risk of violating federal law.**

¹² See *Bush v. Gore*, 531 U.S. 98, 104 (2000) (finding that the lack of uniform standards across counties for when to count a ballot violates the Constitution’s Equal Protection Clause).

¹³ *Id.* at 107.

¹⁴ 52 U.S.C. § 20507(b).

¹⁵ See *Voter Registration List Maintenance: Guidance under Section 8 of the National Voter Registration Act*, 52 U.S.C. § 20507, U.S. Dept. of Justice at 3 (Sept. 2024) (see attachment) [hereinafter “DOJ Guidance”].

¹⁶ *Id.*

The NVRA further mandates that election officials may not “systematically remove” ineligible voters from voter registration rolls within 90 days preceding an election for federal office.¹⁷ This restriction “applies to list maintenance programs based on third-party challenges derived from any large, computerized data-matching process.”¹⁸ Any “mass computerized data-matching process” is systematic “where the inclusion of a person’s name on a list electronically compared to other agency databases is enough for removal from the voter rolls.”¹⁹ This includes programs even where individual notice is provided to the voter.²⁰

For that reason, **sustaining mass challenges to voters’ registration would likely violate the NVRA’s prohibition on the “systematic” removal of voters from the rolls within 90 days of a federal election.**²¹ According to the U.S. Supreme Court, this “moratorium” is currently in effect and applies to programs that rely on data generated using the federal government’s SAVE system.²²

Local election officials should work to eliminate any meaningful divergence in the standards and processes used to evaluate voter challenges in different municipalities and replace them with uniform standards and processes. This will ensure that voter challenge processes do not qualify as “arbitrary and disparate treatment” that violates the U.S. Constitution.²³

B. Removals Based on Change of Address Are Strictly Limited

The NVRA also strictly regulates the process for removing a registered voter from the voter registration rolls based on suspected change of address, including when such removals are triggered by mass voter eligibility challenges.²⁴ Election officials may only remove a voter from the list of registered voters based on change in residence when: (1) the voter confirms in writing that they have moved outside of the jurisdiction; or (2) election officials have satisfied the process outlined in Section 8(d)(2) of the NVRA.²⁵ The United States Department of Justice has cautioned that “[a] third-party submission—such as a submission of another individual’s information via an online portal or a challenge based solely on public database information—is not confirmation by the registrant of a change of address.”²⁶ Consequently, removing individuals from the list of registered voters due to suspected change of address on the basis of mass voter eligibility challenges alone likely violates the NVRA.²⁷

¹⁷ 52 U.S.C. § 20507(b)(1).

¹⁸ DOJ Guidance at 4.

¹⁹ *Va. Coal for Immigrant Rts. v. Beals*, No. 24-2071, 2024 WL 4601052, at *1 (4th Cir. Oct. 27, 2024).

²⁰ *See Mi Familia Vota v. Fontes*, 129 F.4th 691 (9th Cir. 2025); *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335 (11th Cir. 2014).

²¹ 52 U.S.C. § 20507(c)(2)(A).

²² *League of Women Voters, et al. v. Dep’t of Homeland Security*, 26A308, Order on Application for Stay, 609 U.S. ____ (2026) (per curiam), available at https://www.supremecourt.gov/opinions/25pdf/26a308_pok0.pdf (retrieved Sep. 30, 2026).

²³ *Bush*, 531 U.S. at 104-05.

²⁴ *See* 52 U.S.C. § 20507(b); DOJ Guidance at 4-6.

²⁵ *See* 52 U.S.C. § 20507(b)-(d); DOJ Guidance at 4. The DOJ Guidance also provides detailed information on the requirements of Section 8(d)(2). Election officials may only remove a voter under Section 8(d)(2) of the NVRA if that voter: (1) does not vote in any election between the date the notice was sent and the second general election following the notice; and (2) does not respond to the notice. 52 U.S.C. § 20507(d)(2).

²⁶ DOJ Guidance at 4.

²⁷ *Id.* at 4-5.

C. Racially Discriminatory Challenges are Prohibited

Organized challengers frequently target voters from historically disenfranchised communities in an attempt to intimidate or deter members of those communities from voting.²⁸ Sustaining such discriminatory challenges could violate the U.S. Constitution and federal law. Taken together, the Equal Protection Clause of the Fourteenth Amendment²⁹ and Section 2 of the Voting Rights Act³⁰ prohibit the use of voting practices that result in citizens being denied equal access to the democratic process on account of “race, color, or membership in a language minority group.”³¹ Because these are often the exact groups targeted by discriminatory challenges, clerks and other local elections officials should consider carefully whether acting upon mass challenges brought before them would have the effect of unlawfully disadvantaging voters because of their race.

D. Mass Challenges May Constitute Voter Intimidation

Baseless mass challenges to voter eligibility could constitute voter intimidation if such challenges are made to deter eligible citizens—including members of historically disenfranchised groups—from voting. Such voter intimidation is illegal under both federal and Pennsylvania law.

Federal law provides that anyone who “intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote” in a federal election has committed a federal crime.³² Additionally, several federal statutes impose civil liability for voter intimidation. Section 11(b) of the Voting Rights Act makes it unlawful to “intimidate, threaten, or coerce” another person, or attempt to do so, “for voting or attempting to vote” or “for urging or aiding any person to vote or attempt to vote.”³³ In 2016, a federal court determined that voter challenges that intentionally target geographic areas with a large percentage of racial or ethnic minorities and that had the purpose or effect of deterring qualified members of those minority groups from voting violated a court order in a case involving claims under Section 11(b).³⁴ Further, the U.S. Department of Justice has cautioned that challenges made with the intention of or that have the effect of intimidating a reasonable voter can violate Section 11(b).³⁵ And the Ku Klux Klan Act of 1871 makes it unlawful for “two or more persons to conspire to prevent by force, intimidation, or threat,” any voter from casting a ballot for the candidate of their choice.³⁶

Similarly, Pennsylvania law criminalizes the use of force, violence or restraint, threat or infliction of injury, damage, harm, or loss, and other intimidation or coercion practices meant “to induce or compel [a] person to vote or refrain from voting at any election, or to vote or refrain from voting for or against any

²⁸ See, e.g., Nicolas Riley, Brennan Ctr. for Just., *Voter Challenges* 11-13 (2012), https://www.brennancenter.org/sites/default/files/legacy/publications/Voter_Challengers.pdf.

²⁹ U.S. Const. amend XIV, § 1.

³⁰ 52 U.S.C. 10301.

³¹ See U.S. Dept. of Justice, *Guidance Under Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, for Redistricting and Methods of Electing Government Bodies* (Sept. 1, 2021), <https://www.justice.gov/opa/press-release/file/1429486/download>.

³² 18 U.S.C. § 594.

³³ 52 U.S.C. § 10307(b).

³⁴ See *Democratic Nat’l Comm. v. Republican Nat’l Comm.*, No. CV 81-03876, 2016 WL 6584915, at *2 (D.N.J. Nov. 5, 2016).

³⁵ DOJ Guidance at 3.

³⁶ 42 U.S.C. § 1985(3).

particular person.”³⁷ Individuals who intimidate voters in this manner can be fined up to \$5,000 and face up to two years in prison.³⁸

Each county and district election board should review their duties and responsibilities to maintain peaceful and orderly polling places and ensure that election officials are prepared to exercise their authority to remove any challengers who fail to abide by state and/or federal law prohibiting voter intimidation.

II. REQUIREMENTS FOR VOTER CHALLENGES IN PENNSYLVANIA

As you know, Pennsylvania law permits three distinct types of challenges: (1) to a voter’s registration; (2) to a voter’s mail ballot or application for a mail ballot before Election Day; and (3) to a voter’s identity or continued residence on Election Day. Every such challenge must meet all elements required by Pennsylvania law. Those that do not must be rejected. Whether an elector is improperly registered or is qualified to vote in the event of a dispute is determined at the local level, making the Boards of Elections’ role in training election inspectors and election judges to protect voters from baseless challenges essential.³⁹

A. Limitations on Challenges to Voter Registration

A challenge to an individual’s registration to vote may only be made by registration commissioners, registration staff, or qualified voters from the same municipality, who must submit a challenge affidavit setting out all the information required by statute.⁴⁰ The challenged voter must be given an opportunity to respond to the challenge with a sworn or affirmed written statement and provide evidence that he or she is eligible to register and vote.⁴¹

If the challenged voter establishes their eligibility to be registered to the commission’s satisfaction, they must remain registered.⁴² Individuals whose registrations are canceled may appeal the decision to the applicable state trial court up to seven days before an election – which this year, is Tuesday, October 27.⁴³

Because Pennsylvania law requires a challenger to individually set out the basis for a challenge in an affidavit, challenges submitted in bulk in the form of a spreadsheet or other data set without individualized affidavits are facially insufficient and should be rejected.⁴⁴

³⁷ 25 P.S. § 3547.

³⁸ *Id.*

³⁹ *See* 25 P.S. § 3053; 25 Pa.C.S.A. §§ 1203(h)-(i).

⁴⁰ *See, e.g.*, 25 Pa.C.S.A. § 1329(a)-(b).

⁴¹ *Id.* § 1329(c); *see also* *id.* § 1301, 1302 and 25 P.S. § 2811 (setting out the qualifications to register to vote, the rules for determining a voter’s residence, and the qualifications to vote).

⁴² *Id.* § 1329(d). As explained above, any cancellation must also comply with the National Voter Registration Act, 52 U.S.C. § 20507, which prohibits the systematic removal of voters within 90 days of an election.

⁴³ *Id.* § 1602(a)(2), (b).

⁴⁴ *See* 25 Pa.C.S.A. § 1329(b) (requiring challengers to submit a form detailing the reason for the challenge).

And, as detailed above, the adjudication of a challenge to a voter's registration must comply with the requirements of the National Voter Registration Act.

B. Limitations on Challenges to Mail Ballot Eligibility

Individuals seeking to challenge a county election board's decision approving an application for a mail ballot may do so only on the basis that the applicant is not a qualified elector.⁴⁵ A challenge to mail ballot eligibility made on any other basis is invalid.

Any challenge to a voter's mail ballot eligibility made after 5 p.m. on October 30, 2026—the Friday before Election Day—must also be rejected as untimely.⁴⁶ Any person challenging a mail ballot or an application for a mail ballot must also make a \$10 cash deposit for each challenge with the county board, to be refunded only if the challenge is sustained or if the challenge is withdrawn within five days after the election.⁴⁷

The county board must give notice of the hearing "where possible" to all voters whose mail ballot eligibility is challenged, as well as to every challenger.⁴⁸ The hearing must take place no later than the Friday after Election Day, which this year is November 6, 2026.⁴⁹ The challenged voter has a right to appear at that hearing, and any testimony presented by the challenger or challenged voter must become part of the record of the hearing.⁵⁰ **When adjudicating a challenge, the burden is on the challenger to prove his or her allegations by a preponderance of the evidence.**⁵¹

The county election board's decision to "uphold or dismiss any challenge" may be reviewed by the county court of common pleas.⁵² Any appeal of a challenge decision by the board must be filed within two days of the board's decision.⁵³ After all challenges have been resolved, any ballots "finally determined to be valid" must be counted with the remainder of the county's votes.⁵⁴

C. Limitations on Challenges to Election Day and Provisional Ballots

Only district election officials, election overseers, poll watchers, and voters who are lawfully present in the polling place may challenge a voter's ballot cast in-person on Election Day.⁵⁵ **Election Day**

⁴⁵ 25 P.S. §§ 3146.2b(c), 3150.12b(a).

⁴⁶ *Id.*

⁴⁷ *Id.* § 3146.8(f).

⁴⁸ *Id.* § 3146.8(g)(5). The county board must maintain all mail ballots that have been challenged—whether due to challenges to the ballot applications or to the ballots themselves—unopened in a secure, sealed container in the board's custody until it fixes a time and place for a formal hearing to consider all challenges.

⁴⁹ *See id.*; *id.* §§ 3146.2b(c), 3150.12b(a).

⁵⁰ *Id.* § 3146.8(g)(5).

⁵¹ *See Appeal of Petrucci*, 38 Pa. D. & C. 2d 675, 677 (Pa. Ct. Com. Pl. 1965) ("The burden of proof is upon the challenger . . . Absent such proof, the ballot shall be sustained.").

⁵² 25 P.S. § 3146.8(g)(6).

⁵³ *Id.*

⁵⁴ *Id.* § 3146.8(g)(7).

⁵⁵ *Id.* § 3050(d).

challenges may only be made on two bases: the voter's identity or continued residence.⁵⁶ A voter's identity may also be deemed challenged if district election officials determine that the voter's signature does not match the signature in the district voting register.⁵⁷ No challenges are permitted on other voter eligibility requirements at the polling place. **Challenges based on personal characteristics or protected traits such as race, ethnicity, or student status are also not permitted.**⁵⁸

When challenged, a voter "shall produce at least one qualified elector of the election district as a witness, who shall make affidavit of his identity or continued residence in the election district."⁵⁹ However, guidance issued by the Commonwealth makes clear that **before requiring the challenged voter to produce a witness, the judge of elections must determine if the challenge is "based on actual evidence and rests on a good faith belief that the challenged voter is not who they say they are or [does not] live in the voting district."**⁶⁰ If the challenge proceeds and the voter produces a witness and signs an affidavit, they are entitled to vote a regular ballot.⁶¹ Otherwise, the voter may cast a provisional ballot.⁶²

Whether a provisional ballot is ultimately counted is determined after Election Day. Within seven days of Election Day, the county election board must hold an initial examination of the provisional ballot envelopes to determine whether the individual who submitted each provisional ballot was eligible to vote.⁶³ Representatives of the candidates and political parties participating in the election may monitor this process and lodge formal challenges to the county election board's determination as to a particular provisional ballot.⁶⁴ If a provisional ballot is challenged, the county election board must hold a hearing within seven days to determine whether each challenged provisional ballot should be counted.⁶⁵ As with hearings for adjudicating challenges to mail ballot eligibility, the board must provide notice and an opportunity for the challenged voter to appear and present evidence of their eligibility to vote.⁶⁶ The board's decisions on provisional ballot challenges are subject to the same appeal procedures.⁶⁷

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⁵⁶ *Id.* Challenges can also be based on noncompliance with certain procedural rules for casting a ballot. *Id.* In addition, the Election Code contains a provision for challenging a ballot based on the voter's giving or a receiving a bribe in exchange for a vote. *Id.* § 3051. Such challenge may be made only by an election official or eligible voter, election overseer, or poll watcher and is decided by district election officers. *Id.* A voter accused of violating this anti-bribery provision may rebut the accusation with a written affidavit. *Id.*

⁵⁷ *Id.* § 3050(a.3).

⁵⁸ *Guidance on Rules in Effect at the Polling Place on Election Day*, 8-9 Pa. Dept. State (Apr. 7, 2025), <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2025/2025-04-guidance-rules-atpollingplace-on-electionday-2.1.pdf> [hereinafter *Guidance*]. As explained above, federal law also prohibits discriminatory challenges made on the basis of race, ethnicity, or another protected class.

⁵⁹ 25 P.S. § 3050(d).

⁶⁰ *Guidance* at 7-8.

⁶¹ See *id.* at 8; 25 P.S. § 3050(d); *Voting and Election Information in Pennsylvania*, Pa. Att'y Gen., <https://www.attorneygeneral.gov/for-the-public/voting-and-elections/> [hereinafter Att'y Gen. Guidance].

⁶² See 25 P.S. § 3050(a.2)-(a.4), (d); Att'y Gen. Guidance.

⁶³ *Id.* § 3050(a.4)(4).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*



**CAMPAIGN
LEGAL
CENTER**

By ensuring compliance with the processes, requirements, and limitations of Pennsylvania's voter challenge laws, Boards of Election can mitigate the potential harm and disruption caused by frivolous voter eligibility challenges. Our hope is that this summary of the relevant law should help you to prepare proactively to develop written procedures and policies for adjudicating such challenges and train your staff, volunteers, and district election officials on the requirements of Pennsylvania and federal law applicable to voter eligibility challenges.

Please do not hesitate to reach out with any questions. We stand ready to assist you in upholding federal and state law and protecting Pennsylvanians' freedom to vote.

Sincerely,

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Voter Registration List Maintenance: Guidance under Section 8 of the National Voter Registration Act, 52 U.S.C. § 20507

Published September 2024

Federal law imposes important limits on the rules and procedures States may adopt regarding their voter registration lists. The National Voter Registration Act of 1993 (also known as the “NVRA” or “motor voter law”), for one, sets forth certain voter registration requirements for federal elections. Section 8 of the NVRA, 52 U.S.C. § 20507, addresses the administration of voter registration by States and requires procedures to maintain accurate and current voter registration lists. These requirements govern, among other issues:

- The date by which valid voter registration applications must be accepted and eligible persons registered,
- Changes in a registrant’s address information,
- Limits on removal of names from the voter registration list, and
- Administration of a uniform, nondiscriminatory voter registration list maintenance program that complies with the Voting Rights Act (VRA”).¹

This guidance addresses one aspect of maintaining a voter registration list: when and how jurisdictions may remove voters from their voter lists. This guidance does not impose legal obligations and is not intended to be comprehensive. Rather, it is intended only to aid jurisdictions as they comply with existing obligations under Section 8 in three areas:

- List Maintenance
- Restrictions on List Maintenance
- Special Rules for Changes of Address

¹ The NVRA applies to 44 States and the District of Columbia. Six States (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming) are exempt from the NVRA because, on and after August 1, 1994, they either had no voter-registration requirements or had election-day voter registration at polling places with respect to elections for federal office. Likewise, the territories are not covered by the NVRA (Puerto Rico, Guam, Virgin Islands, American Samoa). While the NVRA applies to elections for federal office, most States have extended its procedures to all elections.



List Maintenance

Section 8(a)(4) of the NVRA sets forth steps that States must follow concerning general voter registration list maintenance programs that make a reasonable effort to remove from the voter rolls people who are ineligible by reason of death or change in residence to a location outside the jurisdiction. A State's voter registration list maintenance program must comply with procedures in the NVRA.

To conduct a general program that makes a reasonable effort to remove voters who are ineligible due to a change in residence, States can follow the "safe harbor" procedure in Section 8(c)(1) of the NVRA. That procedure allows use of change-of-address information supplied by the United States Postal Service through its National Change of Address program (NCOA) to identify registrants who may have changed residences. Once a State has identified such individuals, it may take one of two actions:

1. If the NCOA information indicates that the person has moved to a different residence in the same registrar's jurisdiction, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid, pre-addressed return form the registrant can use to verify or correct the address information; or
2. If the NCOA information indicates that the registrant has moved to a residence outside the registrar's jurisdiction, the registrar may remove the registrant from the voter rolls after satisfying all requirements of the Section 8(d) notice process described below.

States do not have to use the NCOA process. They have discretion under the NVRA in designing their general program, subject to the limitations described below.

Restrictions on List Maintenance

The NVRA also limits whether, when, and how a State can remove a person's name from the rolls. States can remove the name of a person from the voter registration rolls when the registrant requests it, and, if State law so provides, for mental incapacity or criminal conviction. States can also remove ineligible persons from the voter rolls because the person has died or changed their



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residence to a place outside the jurisdiction. Finally, States can remove people who were ineligible or improperly registered in the first instance.

Removal at the Request of the Registrant

A “removal at the request of the registrant” under the NVRA requires first-hand action by a registrant: (1) asking to remove their name from the voting registration list; (2) completing and returning a notice card indicating an address change outside the jurisdiction; or (3) submitting a new application registering to vote a second time in a new jurisdiction and providing information regarding the registrant’s prior voter registration address on the new application, which the State can treat as a request to cancel or transfer their prior registration.

Information submitted by a third party does not constitute a “removal at the request of the registrant.” When a registrant provides notice of a new address within the same jurisdiction, or registers to vote a second time at a new address within the same jurisdiction, the State should update the original registration, rather than cancel it.

Discrimination, Intimidation, Threats, and Coercion

Under Section 8(b) of the NVRA, a State’s list maintenance program must be uniform, nondiscriminatory, and consistent with the VRA. Section 2 of the VRA, 52 U.S.C. § 10301, prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in a language minority group. Section 11(b) of the VRA, 52 U.S.C. § 10307(b), also prohibits any conduct that attempts to, or actually would, intimidate, threaten, or coerce a reasonable voter.

Examples of list maintenance activities that may violate the NVRA include comparing voter files to outdated or inaccurate records or databases, taking action that erroneously affects a particular class of voters (such as newly naturalized citizens), or matching records based solely on first name, last name, and date of birth. **The prohibitions of the NVRA extend to any list maintenance activity based on third-party submissions.**

The 90-Day Quiet Period Before Federal Elections

The NVRA limits when States can conduct a general list maintenance program. Under Section 8(c)(2), **States must complete any program that systematically removes the names of ineligible voters from the official list of eligible voters no later than 90 days before a**



primary election or general election for federal office. In other words, once an election for federal office is less than 90 days away, processing and removals based on systematic list maintenance must cease. And, if a State's federal primary election occurs less than 90 days before a federal general election, the State must complete any systematic-removal program based on change of address for the federal election cycle no later than 90 days prior to the federal primary election: no further systemic activity may take place between the primary and general elections.

This 90-day deadline applies to State list maintenance verification activities such as general mailings and door-to-door canvasses. **This deadline also applies to list maintenance programs based on third-party challenges derived from any large, computerized data-matching process.** However, the 90-day deadline does not preclude removal of a registrant's name at the request of that registrant, removal due to the death of the registrant, or removal due to a criminal conviction or mental incapacity of the registrant as provided by State law, nor does the deadline preclude the correction of a registrant's information. 52 U.S.C. § 20507(c)(2)(B).

Special Rules for Changes of Address

Section 8(b) of the NVRA prohibits removing registrants from the voter registration list solely because of a failure to vote. However, States may **initiate** the process of determining whether a voter has changed residence to outside of the jurisdiction based on information showing that a voter has not voted in elections nor communicated with a registrar over an extended period.

Section 8(d) of the NVRA prescribes additional rules for a State seeking to remove a person from the voting rolls based on a change of residence, regardless of the voters' participation in prior elections. Specifically, a State may remove a person from the voter registration list due to a change in residence *only* in one of two circumstances: upon (1) the person's written confirmation of a change in residence to a place outside the jurisdiction, or (2) completion of the notice-and-waiting process described in Section 8(d)(2).

Confirmation in writing means confirmation by the voter, such as a notice card completed and returned by the voter. **A third-party submission—such as a submission of another individual's information via an online portal or a challenge based solely on public database information—is *not* confirmation by the registrant of a change of address.** In the



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absence of a written confirmation from a registrant of a change of address outside the jurisdiction, Section 8(d) of the NVRA sets forth a process for removing a person based on a change of residence. 52 U.S.C. § 20507(d)(2). This process requires sending a forwardable notice, in the form of a postage-prepaid and pre-addressed return card, on which the person may state their current address. The notice must include the language required by Section 8(d)(2) of the NVRA. If the registrant did not change their residence, or changed residence but remained in the registrar's jurisdiction, the notice must advise that:

1. The registrant should complete and return the card no later than the voter registration deadline for the next election;
2. If the card is not returned, the registrant may need to affirm or confirm their address before being permitted to vote in a federal election from the date of the notice to the day after the second general election for Federal office that occurs after the date of the notice; and
3. If the registrant does not vote in an election during that period, the registrant's name will be removed from the list of eligible voters.

Id. § 20507(d)(2)(A). If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, the notice must provide information concerning how the registrant can continue to be eligible to vote. *Id.* § 20507(d)(2)(B).

Any political subdivision covered by Section 203 of the VRA, 52 U.S.C. § 10503, must provide such notices in the language of the applicable minority group as well as in English, unless the language of the applicable minority group is oral or unwritten (or in the case of Alaska natives and American Indians, if the predominant language is historically unwritten). *See id.* § 10503(c). The jurisdiction may designate the registrant as inactive if the registrant fails to return the card by the voter registration deadline for the next election after the notice is sent.

The jurisdiction may remove the registrant from the voter rolls after sending the notice *only* in one of two circumstances. First, if the registrant confirms in writing, such as by completing and returning the notice card, that the registrant has changed residence to a place outside the jurisdiction, then the registrant can be removed from the list immediately. Second, if the registrant fails to respond to the notice and fails to vote or to appear to vote in an election from the date the notice is sent to the day after the second federal general election after the notice is sent, then the registrant can be removed from the list after that second federal general election.



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Section 8(f) of the NVRA establishes that if a voter changes address to another address within the registrar's same jurisdiction, the registrar must update the voter's registration to reflect the new address, and the voter may not be removed based on this change, except as otherwise provided in Section 8(d). A "registrar's jurisdiction" in this context means (1) an incorporated city, town, borough, or other form of municipality; or (2) a geographic area larger than a municipality or a geographic area of consolidated municipalities, if voter registration is maintained by such larger units of government.

For more information, please consult the Department's NVRA Questions and Answers at <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>.

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