



OCTOBER 05, 2026

VIA EMAIL

Dear Texas Election Officials:

Campaign Legal Center (CLC) writes to provide you with information regarding how Texas voter registrars and other officials can properly adjudicate frivolous challenges to voter eligibility under Tex. Elec. Code Ann. §§ 13 and 16 to minimize the burden on election administration and protect the rights of voters, including important guidance on limitations imposed by federal law.¹

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.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 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voter registration records with publicly available information, but that information is almost always incomplete or out of date, making the database matches unreliable.⁴ They also often improperly flag registered voters with the same name as ineligible individuals, voters who are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 where some but not all residents have moved.⁵ As

¹ This letter is not legal advice; it is intended to present a summary of relevant Texas 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>.

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>.

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

⁵ See *id.*



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.

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 assist you as you provide guidance to your staff and volunteers regarding the rules for voter challenges and their

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).



responsibilities in dismissing challenges without cause, allowing your office to ensure a fair and orderly election, safeguard voters from intimidation, and minimize administrative disruption.

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

I. VOTER CHALLENGES IN TEXAS

As you know, Texas law allows individuals to challenge the eligibility of registered voters to remain on the registration rolls under certain circumstances. When submitted without sufficient evidence and adherence to the requirements imposed by state law, challenges to voter eligibility can be weaponized by partisan actors to intimidate voters and impose significant burdens on election officials. Texas law includes several protections against baseless challenges, which we have detailed further below.

Texas law does not allow for challenges to a voter's eligibility at polling locations during early in-person voting or on Election Day; private individuals and county voter registrars may only challenge another person's eligibility to vote in limited circumstances outside of the voting period.¹²

A. Challenges by Voter Registrars

When an individual applies to register to vote, the county voter registrar may challenge the applicant's application for registration within two days of initially determining that the application is complete and indicates that the applicant is eligible to register.¹³ The registrar may make such a challenge only if the "registrar has reason to believe the applicant is not eligible for registration or the application was submitted in an unauthorized manner."¹⁴

Within two days of challenging the voter's application, the registrar must provide written notice of the challenge to the challenged voter. The notice must include the date of the challenge, "a statement of the grounds for the challenge[.]" and "a brief explanation of the applicant's right to a hearing on the challenge and the right to appeal the registrar's decision."¹⁵ The voter may then request a hearing on the challenge within ten days of the challenge being filed, which the registrar must schedule within ten days of the request.¹⁶ The challenged voter may either appear at the hearing to present evidence or offer evidence in an affidavit submitted prior to the hearing.¹⁷ "Promptly" after any hearing and after "considering the evidence or argument," the registrar must "determine the challenge and issue a decision in writing."¹⁸ If the registrar concludes that the applicant is eligible, they must approve the

¹² Tex. Elec. Code Ann. §§ 12.001, 13.074-.077, 16.091-.095.

¹³ *Id.* §§ 12.001, 13.074-.077, 16.091-.095.

¹⁴ *Id.* § 13.074(a), (c).

¹⁵ *Id.* § 13.075.

¹⁶ *Id.* §§ 13.076-.077. The hearing may be scheduled later than the ten-day deadline at request of the challenged applicant. *Id.* § 13.077(b).

¹⁷ *Id.* § 13.077(c).

¹⁸ *Id.* § 13.079(a).

application and notify the challenged applicant of their eligibility to vote.¹⁹ The registrar may only deny the application if the registrar determines the applicant is ineligible after a hearing on the evidence.²⁰ The registrar must retain a copy of the decision and deliver a copy to the applicant.²¹

B. Challenges by Private Parties

Texas law limits challenges by private parties to those made by a voter who is registered in the same county as the challenged voter.²² The challenger must file a sworn statement identifying the challenged voter and “stat[ing] a specific qualification for registration that the challenged voter has not met based on the [challenger’s] personal knowledge[.]”²³ **Personal knowledge requires that the challenger have concrete, firsthand information about the challenged voter.**

If the challenge is based on the challenged voter’s residence, the registrar must mail that voter a confirmation notice, “unless the residential address provided in the challenge for the voter is different from the voter’s current residential address indicated on the registration records.”²⁴ The voter must then reply to that notice to confirm their eligibility.²⁵ If the voter fails to respond to the notice, only then does the registrar enter the voter’s name on the “suspense list.”²⁶ The voter will then need to provide a statement of residence before voting in a subsequent election.²⁷

To ensure voters are not improperly removed in the critical period leading up to an election, Texas law strictly regulates when registrars may act upon challenges to residency. **In the 2026 General Election, the registrar is prohibited from acting on any residency challenges filed after August 20, 2026 (the 75th day before the November 2, 2026 election), unless the challenged voter registered after that date and prior to the 30th day before the general election (or October 4, 2026 for the 2026 Midterm Election).**²⁸

If the challenge is based on a ground other than residence, “the registrar shall schedule a hearing on the challenge” to occur within 20 days of the challenge’s filing.²⁹ The parties may present evidence in person at the hearing or may submit affidavits.³⁰ As with a challenge by the registrar, the registrar must “determine the challenge and issue a decision in writing” “promptly” after any hearing and after

¹⁹ *Id.* § 13.079(b)-(d).

²⁰ *Id.* § 13.079.

²¹ *Id.*

²² *Id.* § 16.091.

²³ *Id.* § 16.092.

²⁴ *Id.* § 16.0921.

²⁵ In their response, the voter must submit a written, signed statement that contains “(1) all of the information that a person must include in an application to register to vote[.] . . . (2) a sworn affirmation of the voter’s current residence[.] . . . and (3) if the voter’s residence address is a commercial post office box or similar location that does not correspond to a residence, evidence of the voter’s residence address.” *Id.* § 15.053.

²⁶ *Id.* § 16.0921(b).

²⁷ *See id.* §§ 15.052(a)(1), 63.0011.

²⁸ *Id.* § 16.0921(c) (prohibiting the registrar from acting on residency challenges filed within seventy-five days of a general election until after that election, unless the challenged voter registered after the seventy-fifth day before Election Day and prior to the 30th day before the general election for state and county officers).

²⁹ *Id.* § 16.093. The parties can agree to a later hearing. *Id.* § 16.093(b). The registrar must deliver a written notice of a hearing to the parties no later than the “15th day before the date of the hearing.” *Id.* § 16.094.

³⁰ *Id.* § 16.093(c).

“considering the evidence or argument.”³¹ If the registrar concludes that the “voter’s registration should not be canceled,” the voter must remain registered and be permitted to vote a regular ballot in the subsequent election.³² The challenged voter’s registration may only be cancelled if, after a hearing on the evidence, the registrar determines the challenged voter is ineligible.³³ Upon making this determination, “the registrar shall cancel the registration on the 31st day after the date the registrar’s decision is issued.”³⁴

C. Appeal

A challenged voter may appeal an adverse decision by the registrar to the county’s district court within 30 days.³⁵ Any cancellation of the voter’s registration is stayed pending the appeal, meaning that the challenged voter must remain on the voter registration roll until the appeal is complete.³⁶ The challenged voter is entitled to a trial in a reviewing court.³⁷ The decision of the trial court is final and not subject to appeal.³⁸

II. OTHER LEGAL REQUIREMENTS

As you know, both federal and Texas law provide robust protection against 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 therefore comply with all federal and state laws, as well as the U.S. Constitution. As such, all Texas election officials have the responsibility to protect Texas voters from baseless and discriminatory challenges and ensure that the adjudication of all voter challenges complies with both state and federal law.

A. Racially Discriminatory Challenges

Organized challengers frequently target voters from historically disenfranchised communities to intimidate or deter members of those communities from voting.³⁹ Sustaining such discriminatory challenges could violate the U.S. Constitution and federal law. Taken together, the Equal Protection Clause of the Fourteenth Amendment⁴⁰ and Section 2 of the Voting Rights Act⁴¹ prohibit the use of voting practices that result in citizens being denied equal access to the democratic process on account

³¹ *Id.* § 16.095.

³² *See id.*

³³ *See id.*

³⁴ *Id.* § 16.095.

³⁵ *See id.* §§ 17.001-.003, .006. The private party who challenged a voter may also appeal a denial of the challenge within 30 days of the decision. *Id.* Untimely appeals by challengers should be summarily rejected. *Id.*

³⁶ *Id.* § 17.005.

³⁷ *Id.* § 17.007.

³⁸ *Id.* §§ 17.007-.008. The reviewing court must conduct a de novo trial on the facts. *Id.*

³⁹ *See, e.g.,* Nicolas Riley, *Voter Challenges*, Brennan Ctr. for Just. at 11-12 (2012), https://www.brennancenter.org/sites/default/files/legacy/publications/Voter_Challenges.pdf.

⁴⁰ U.S. Const. amend. XIV.

⁴¹ 52 U.S.C. § 10301.

of “race, color, or membership in a language minority group.”⁴² Because these are often the exact groups targeted by mass challenges, local election officials should consider carefully whether granting mass challenges brought before them would have the effect of unlawfully disadvantaging voters because of their race.

B. Voter Intimidation

Baseless mass challenges to voter eligibility could constitute voter intimidation, because such challenges are often made in bad faith to deter eligible citizens—including members of historically disenfranchised groups—from voting. Such voter intimidation is illegal under both federal and Texas 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.⁴³ 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.”⁴⁴ 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).⁴⁵ 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).⁴⁶ 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.⁴⁷

Similarly, Texas law criminalizes influencing or threatening to influence a voter not to vote or to vote in a particular way.⁴⁸ Texas law further criminalizes harming or threatening to harm a voter because the voter voted for or against a candidate or measure, or the voter refused to reveal how they voted.⁴⁹ Indicating to a voter in a polling place by word, sign, or gesture how the voter should or should not vote is also prohibited.⁵⁰

Texas law empowers the presiding judge of each precinct to preserve order, prevent breaches of the peace, and prevent violations of the election code.⁵¹ They may issue arrest warrants to fulfill those duties.⁵² The presiding judge of a polling place may remove poll watchers for violating the state’s Penal

⁴² See *Guidance Under Section 2 of the Voting Rights Act*, 52 U.S.C. § 10301, for *Redistricting and Methods of Electing Government Bodies*, U.S. Dept. of Justice (Sept. 1, 2021), <https://www.justice.gov/opa/press-release/file/1429486/download>.

⁴³ 18 U.S.C. § 594.

⁴⁴ 52 U.S.C. § 10307(b).

⁴⁵ 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).

⁴⁶ 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”].

⁴⁷ 42 U.S.C. § 1985(3).

⁴⁸ Tex. Pen. Code § 36.03(a)(2).

⁴⁹ Tex. Elec. Code § 276.001.

⁵⁰ *Id.* § 61.008.

⁵¹ *Id.* § 32.075(a).

⁵² *Id.* § 32.075(c).

Code. Additionally, the judge may remove a poll watcher for violating the Election Code or another provision of law provided that the judge or an election worker observed the conduct constituting the violation.⁵³ The judge may call a law enforcement officer to remove a poll watcher but should use reasonable judgment in deciding whether doing so would be necessary.⁵⁴ Presiding judges and election workers should exercise caution in assessing whether to expel a poll watcher, as they are subject to criminal penalties for unlawfully obstructing a watcher.⁵⁵

To that end, each presiding judge and local board of election inspectors should review their duties and responsibilities to maintain a peaceful and orderly polling place and be prepared to remove any challengers who fail to abide by Texas law. Presiding judges and boards of election inspectors should also not hesitate to refer incidents of voter intimidation, including repeated impermissible voter challenges orchestrated by partisan outside groups, to the appropriate local law enforcement agencies.

C. Uniform and Nondiscriminatory Standards

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.⁵⁶ 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.⁵⁷ 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[,]”⁵⁸ including “any list maintenance activity based on third party submissions.”⁵⁹ 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.”⁶⁰

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.⁶¹ This restriction “applies to list maintenance programs based on third-party challenges derived from any large, computerized data-matching process.”⁶² 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

⁵³ *Id.* § 32.075(g).

⁵⁴ *Id.* § 32.075(h).

⁵⁵ *Id.* § 33.061.

⁵⁶ 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).

⁵⁷ *Id.* at 107.

⁵⁸ 52 U.S.C. § 20507(b).

⁵⁹ DOJ Guidance at 3.

⁶⁰ *Id.*

⁶¹ 52 U.S.C. § 20507(b)(1).

⁶² DOJ Guidance at 4.

removal from the voter rolls.”⁶³ This includes programs even where individual notice is provided to the voter.⁶⁴

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.**⁶⁵ 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.⁶⁶

Local election officials should work to eliminate any meaningful divergence among them in the standards and processes used to evaluate voter challenges in different municipalities and replace them with uniform standards and processes. By doing so, Texas voter challenge processes can avoid the “arbitrary and disparate treatment” of challenged ballots that violates the U.S. Constitution.⁶⁷

D. Removals Based on Change of Address

The NVRA strictly regulates the process for removing a registered voter from the voter registration rolls based on suspected change of address, including when removals are triggered by mass voter eligibility challenges.⁶⁸ 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.⁶⁹ 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.”⁷⁰ 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.**⁷¹ As detailed in the August 21, 2024, letter, Texas law also prohibits removals based on such challenges absent *personal knowledge* by the challenger—first-hand information or experience, not guessing, speculation, or reliance on information from third parties.

* * *

By ensuring compliance with the processes, requirements, and limitations of Texas’s voter challenge laws, you can mitigate the potential harm and disruption caused by frivolous voter eligibility challenges. Our hope is that this summary of the relevant law will help you to prepare proactively to develop written

⁶³ *Va. Coal for Immigrant Rts. v. Beals*, No. 24-2071, 2024 WL 4601052, at *1 (4th Cir. Oct. 27, 2024).

⁶⁴ *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).

⁶⁵ 52 U.S.C. § 20507(c)(2)(A).

⁶⁶ *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.

⁶⁷ *Bush*, 531 U.S. at 104-05.

⁶⁸ *See* 52 U.S.C. § 20507(b); DOJ Guidance at 4-6.

⁶⁹ *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).

⁷⁰ DOJ Guidance at 4.

⁷¹ *Id.* at 4-5.



procedures and policies for adjudicating such challenges and train your staff, volunteers, and election inspectors on the requirements of Texas 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 Texans' 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

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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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