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VIA EMAIL

Dear Wisconsin Election Officials:

Campaign Legal Center (CLC) writes to provide you with information regarding how Wisconsin municipal clerks and election inspectors can adjudicate frivolous challenges to voter eligibility under Wis. Stat. §§ 6.48; 6.92; 6.925 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voter registration records with publicly available information, but that information is almost always incomplete or out of date, making the database matches unreliable.⁴ They also often improperly flag registered voters with the same name as ineligible individuals, voters who are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 Wisconsin 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 SAVE⁹ 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.¹⁰ 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.¹¹ In fact, multiple federal courts have determined that the SAVE program is not a reliable source for verifying voters' current citizenship status or eligibility.¹² 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

⁶ See *id.*

⁷ 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>; 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>.

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 The chair of the Wisconsin Elections Commission (WEC) recently confirmed that Wisconsin law bars both local clerks and WEC from using the SAVE system. See Letter from Don M. Millis, Chair, Wis. Elections Comm'n, to Wisconsin legislative leaders (Sept. 29, 2026), available at <https://bloximages.chicago2.vip.townnews.com/madison.com/content/tncms/assets/v3/editorial/f/3e/f3ea4b7a-29f4-414c-aa2a-1900dca9eb07/6ac00b637f8b0.pdf.pdf>.

¹⁰ 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 Fifeild & 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>.

¹¹ 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>.

¹² *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).



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 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 processing voter eligibility challenges in compliance with the following requirements of Wisconsin and federal law.

All challenges to a voter's eligibility to vote or be registered under Wisconsin law must be rejected unless the challenging elector, municipal clerk, or board of election commissioners demonstrates *beyond a reasonable doubt* that a voter is ineligible.¹³ This standard of proof applies to all four of the following methods of challenging a voter's eligibility, *see infra* I-IV.

I. CHALLENGES TO A VOTER'S REGISTRATION¹⁴

As you are likely aware, Wisconsin law¹⁵ permits registered voters to challenge the voter registration of another voter in their municipality.¹⁶ A challenger must submit to their municipal clerk, in writing, an affidavit detailing the reasons why the challenged voter is not a qualified voter.¹⁷ Upon receiving a properly submitted affidavit, a clerk shall mail a notice of the challenge to the challenged voter.¹⁸

Within one week of the notification, the challenger must appear before the clerk, where the challenger shall make an affidavit answering any necessary questions demonstrating the challenged voter's ineligibility.¹⁹ Before rendering a decision on the challenge, the clerk may require the challenging elector to swear an oath and, if the challenged elector appears, may require that elector to take an oath and affirm their eligibility and qualifications to vote.²⁰ The exact language of both the challenging elector's and challenged elector's oaths are set by statute.²¹ Only the clerks--not the challenging elector--may choose to ask the challenged elector questions to determine their registration qualifications.²²

¹³ Wis. Stat. § 6.325.

¹⁴ A separate provision of Wisconsin law allows municipal clerks to challenge a voter's registration "[u]pon receipt of reliable information" that the voter has moved residences outside of the municipality. Wis. Stat. § 6.50(3).

¹⁵ There is a separate provision of law governing pre-election voter registration challenges in the City of Milwaukee. *See* Wis. Stat. § 6.48(2).

¹⁶ Wis. Stat. § 6.48(1)(a).

¹⁷ *Id.* The statute states that the affidavit "that the elector is not qualified and the reasons therefor," *id.* (emphasis added) and is therefore best read to require the affidavit to be specific to the challenged elector. *See Brey v. State Farm Auto. Mut. Ins. Co.*, 2022 WI 7, ¶ 15, 400 Wis. 2d 417, 970 N.W.2d 1 ("The definite article 'the' signals that the noun following it . . . refers back to a specific instance of that noun already mentioned."); *State v. Arberry*, 2018 WI 7, ¶ 19, 379 Wis. 2d 254, 905 N.W.2d 832 (citing The American Heritage Dictionary of the English Language 1333 (1969) ("The" is used "[b]efore singular or plural nouns and noun phrases that denote particular specified persons or things.")). As such, the statute only envisions individualized registration challenges, each supported by an affidavit and subject to the additional procedures set forth therein.

¹⁸ *Id.*

¹⁹ *Id.* § 6.48(1)(b).

²⁰ *Id.* §§ 6.48(1)(b); 6.925 (challenger's oath); 6.94 (challenged voter's oath).

²¹ *Id.*

²² *Id.* § 6.48(b).

A challenged voter's non-appearance is **not** an admission of ineligibility and does **not**, on its own, entitle a clerk to find the voter ineligible. The challenging voter must still present evidence of ineligibility sufficient to meet the standard of "beyond a reasonable doubt."²³ However, a challenging voter's failure to appear within one week of the challenged voter notification *does* result in a cancelation of the challenge.²⁴

If the clerk sustains the challenge, the voter status is changed from active to inactive.²⁵ If the challenge is rejected, the challenged voter's registration remains active. Eligible voters may re-register.²⁶

II. CHALLENGES TO ELECTION DAY VOTES BY ELECTION INSPECTORS

Wisconsin law also permits election inspectors to challenge voters seeking to cast their ballots in person only in limited, specified circumstances and prescribes the procedure for handling these challenges. Aggressive and false challenges are considered voter intimidation and are subject to criminal penalties.

A voter can be challenged for cause by an election inspector²⁷ based on personal knowledge or suspicion that the voter is not a qualified elector only on the following grounds:²⁸

- The challenged voter is not a U.S. citizen;
- The challenged voter is not at least 18;
- The challenged voter has not resided in the election district for at least twenty-eight days;²⁹
- The challenged voter has a felony conviction and has not had their civil rights restored;
- The challenged voter has made a bet or wager on that election;
- The challenged voter has been adjudicated incompetent;³⁰ or
- The challenged voter has voted previously in the same election.

After a challenge has been made, a different election inspector must follow the procedure set out in the code. They must administer an oath to the challenged voter ("You do solemnly swear (or affirm) that you will fully and truly answer all questions put to you regarding your place of residence and qualifications as an elector of this election.") and ask, in yes-or-no form, only those of the following questions appropriate to test the person's qualifications based on the cause for the challenge:

- Are you a United States citizen?

²³ *Id.* § 6.325.

²⁴ *Id.* § 6.48(c); *see Wis. Elections Manual* at 3-14.

²⁵ *Id.* § 6.48(d).

²⁶ *See generally* § 6.28 *et seq.*

²⁷ Election inspectors appointed under Wis Stat. § 7.30(2)(am)—i.e., those who are 16 or 17 years of age—may not challenge a voter. *See* Wis. Stat. § 6.92(2).

²⁸ Wis. Stat. § 6.92; *see also Luft v. Evers*, 963 F.3d 665, 676 (7th Cir. 2020) (upholding extension of durational residency requirement from ten to twenty-eight days); Wis. Admin. Code EL § 9.01.

²⁹ A voter can vote for president and vice president if they have resided in Wisconsin for less than 28 days and are otherwise qualified to vote under state law. *See* Wisc. Stat § 6.15(1).

³⁰ Challenges cannot be brought based on the challenger's own allegations that a voter is incompetent or "incapable of understanding the objective of the elective process." Wis. Stat. §§ 6.935; 6.03(3). They may only be brought on the basis that someone has been *adjudicated* incompetent. *Id.*



- Are you at least 18 years of age?
- For at least the [28] days before this election, have you resided in, or been a resident of, the ward or election district from which you seek to vote?
- Are you currently disqualified from voting for any of the following reasons:
 - A felony conviction for which you are still serving probation or are on parole or extended supervision?
 - A judge's ruling that you are incapable of voting?
 - Having made a bet or wager on this election?
 - Having voted previously in this election?³¹

If the challenged voter affirms their eligibility, and the inspector withdraws the challenge, the voter is issued a ballot and allowed to vote.³² Should the inspector refuse to withdraw the challenge, the voter must take another oath attesting they meet all eligibility criteria ("You do solemnly swear (or affirm) that: you are 18 years of age; you are a citizen of the United States; you are now and for 28 days have been a resident of this ward except under § 6.02(2), you have not voted at this election; you have not made any bet or wager or become directly or indirectly interested in any bet or wager depending upon the result of this election; you are not on any other ground disqualified to vote at this election."), after which the inspector must permit the voter to cast a ballot.³³

All challenges are recorded, including the name and address of both the challenger and challenged voter, the cause for the challenge, the questions asked of the challenged voter and their responses, whether or not the challenge was withdrawn, and whether or not the challenged voter took the oath or affirmation of eligibility.³⁴ If the challenged voter refuses to take either oath or answer the inspector's questions, they are not permitted to vote.³⁵

The challenges described above must be made on the basis of individualized knowledge and considered on a per-voter basis. **Lists or spreadsheets alleging that large numbers of voters are ineligible due to address changes—such as those based upon information from the National Change of Address database—are not a sufficient basis to challenge an individual voter's eligibility.** Likewise, mass voter lists alleging ineligibility based on citizenship data derived from the federal SAVE system or other federal data matching practices or programs are not sufficient to establish a basis for challenging a voter's eligibility as a U.S. citizen.³⁶ During the canvass process, the municipal or county board of canvassers, as applicable, is permitted but not required to subsequently review the eligibility of challenged voters whose ballots were marked as disputed.³⁷ In the absence of an adverse finding by the board of canvassers, the ballot is counted the same as any other ballot in the canvass.³⁸

³¹ Wis. Stat. §6.92(1); *Luft*, 963 F.3d at 676; Wis. Admin. Code EL § 9.01(1)-(2).

³² Wis. Stat. § 6.94; Wis. Admin. Code EL § 9.01(3).

³³ Wis. Stat. § 6.94; Wis. Admin. Code EL § 9.01(4).

³⁴ Wis. Admin. Code EL § 9.05.

³⁵ Wis. Stat. § 6.94; Wis. Admin. Code EL § 9.01(5), (6).

³⁶ *See supra* at n. 7, 8.

³⁷ Wis. Stat. § 6.95; Wis. Admin. Code EL § 9.06.

³⁸ Wis. Stat. §§ 6.95, 7.51(2)(c), (3)(c).



III. CHALLENGES TO ELECTION DAY VOTES BY OTHER VOTERS

In addition to inspectors, other electors can challenge a voter casting their ballot in person if the challenger personally knows or suspects that the challenged voter is not qualified on the grounds listed above.³⁹ An inspector then proceeds to ask the same questions and administer the same oaths as if the inspector had raised the challenge—the challenger does not question the challenged voter.⁴⁰ **The inspector must also examine the challenger under oath about the reasons they believe the challenged voter to be ineligible.**⁴¹ Importantly, a challenger abusing the process may be removed from the polling place if they are deemed to be disruptive or to be engaged in electioneering at the polling site.⁴² Any voter found to have provided a false statement to the inspector commits a Class I felony, punishable by up to 3.5 years in state prison and fines of up to \$10,000.⁴³

IV. CHALLENGES TO ABSENTEE BALLOTS

Ballots submitted by mail or absentee ballots submitted in person may also be challenged for cause by an inspector or another voter.⁴⁴ The statutes treat both types of ballots as if they were voted in person on election day, and inspectors have all the same powers described above, including the ability to administer an oath to the challenger.⁴⁵ However, if the voter is not present to answer questions (because they voted by mail), the inspectors or board of absentee ballot canvassers, as applicable, have the discretion to summon the absent voter and ask the questions and administer the oath as they deem appropriate.⁴⁶ To minimize disruption to election administration and avoid erroneously or unlawfully denying eligible Wisconsin residents the right to vote, **municipal clerks should direct inspectors and boards of absentee ballot canvassers only to investigate challenges supported by sufficient evidence and made on the basis of personal knowledge.**⁴⁷

Moreover, to ensure that no voter is unconstitutionally deprived of their constitutional right to vote, no challenge to an absentee ballot should be sustained without the voter being provided notice and a meaningful opportunity to confirm their eligibility. Federal courts around the country (including in the Seventh Circuit) have held that once a state extends the ability to vote by mail or absentee ballot to its citizens, as Wisconsin has done, voters have a constitutionally protected liberty interest in having their mail ballot counted, and States “must afford appropriate due process protections to the use of [mail-in] absentee ballots.”⁴⁸

³⁹ Wis. Stat. § 6.925; Wis. Admin. Code EL § 9.02.

⁴⁰ Wis. Admin. Code EL § 9.02(1)-(2).

⁴¹ Wis. Stat. § 6.925; Wis. Admin. Code EL § 9.02(1).

⁴² Wis. Stat. § 7.41(3); Wis. Admin. Code EL § 9.02(1).

⁴³ Wis. Stat. §§ 12.13(1)(b), 12.60(1)(a).

⁴⁴ Wis. Stat. § 6.93; Wis. Admin. Code EL § 9.04.

⁴⁵ *Id.*

⁴⁶ Wis. Stat. §§ 6.93, 7.52(5)(b).

⁴⁷ See *id.* § 7.52(5)(b) (“the board of absentee ballot canvassers *may* call before it any person whose absentee ballot is challenged ...”) (emphasis supplied).

⁴⁸ See, e.g., *Frederick v. Lawson*, 481 F. Supp.3d 774, 793 (S.D. Ind. 2020); *Democracy North Carolina v. North Carolina State Board of Elections*, 476 F. Supp.3d 158, 227 (M.D.N.C. 2020); *Martin v. Kemp*, 341 F. Supp.3d 1326, 1338 (N.D. Ga. 2018); *Saucedo v. Gardner*, 335 F. Supp.3d 202, 217 (D.N.H. 2018); *Raetzle v. Parks/Bellefont Absentee Election Board*, 762 F. Supp. 1354, 1358 (D. Ariz. 1990); *Zessar v. Helander*, No. 05 C 1917, 2006 WL 642646, at *6 (N.D. Ill. Mar. 13, 2006).

The U.S. Supreme Court has held that the “fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”⁴⁹ Because “there is no possibility of meaningful postdeprivation process when a voter’s ballot is rejected . . . sufficient predeprivation process is the constitutional imperative.”⁵⁰ **Municipal clerks should endeavor to ensure that any voter whose mail-in absentee ballot is challenged receives adequate notice of the challenge and its potential consequences, as well as a meaningful opportunity to refute the challenge and assert their eligibility to vote.** Failure to do so risks violating the Due Process Clause of the U.S. Constitution.

V. STANDARD OF PROOF

The standard of proof necessary to disqualify a voter under Wisconsin law is “**beyond a reasonable doubt.**”⁵¹ Before a voter may be disqualified, the evidence must establish beyond a reasonable doubt that the voter is not qualified. Beyond providing the documents and answering the questions as provided for in law, **the burden is not on the voter to establish their eligibility, but is on the challenger to demonstrate that the challenged voter is not eligible.**⁵²

VI. OTHER LEGAL REQUIREMENTS

As you know, both federal and Wisconsin 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 Wisconsin election officials have the responsibility to protect Wisconsin 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 in an attempt to intimidate or deter members of those communities from voting.⁵³ Sustaining such discriminatory challenges could violate the U.S. Constitution and federal law. Taken together, the Equal Protection Clause of the Fourteenth Amendment⁵⁴ and Section 2 of the Voting Rights Act⁵⁵ 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.”⁵⁶ Because these are often the exact groups targeted by mass challenges, clerks and other 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.

⁴⁹ *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

⁵⁰ *Self Advocacy Solutions N.D. v. Jaeger*, 464 F.Supp.3d 1039, 1052 (D.N.D. 2020).

⁵¹ Wis. Stat. § 6.325.

⁵² See Wis JI 140.

⁵³ 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_Challengers.pdf.

⁵⁴ U.S. Const. amend XIV, § 1.

⁵⁵ 52 U.S.C. 10301.

⁵⁶ 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>.

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 Wisconsin 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.⁵⁷ 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.”⁵⁸ 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).⁵⁹ 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).⁶⁰ 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.⁶¹

Similarly, Wisconsin law makes voter intimidation, the use or threat of “force, violence, or restraint” to “compel any person to vote or refrain from voting at an election” a felony.⁶² The aggressive use or threat of a challenge to a voter’s eligibility when there is no cause could fall under this provision. Wisconsin law also proscribes the use of fraud to prevent someone from casting a vote.⁶³ The use of false accusations, misinformation, or inaccurate or falsified data regarding a voter’s citizenship or other qualifications to vote may fall under this provision. Wisconsin law authorizes municipal clerks and chief inspectors to order the removal from the polling place or in-person absentee voting site of “[a]ny elector who abuses the right to challenge.”⁶⁴ Refusing to obey an inspector’s lawful order, engaging in disorderly behavior at or near a polling place, or disturbing voting or the canvassing of an election constitutes a violation of Wisconsin law and exposes violators to a maximum fine of \$1,000 or imprisonment of not more than 6 months, or both.⁶⁵

⁵⁷ 18 U.S.C. § 594.

⁵⁸ 52 U.S.C. § 10307(b).

⁵⁹ 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).

⁶⁰ 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”].

⁶¹ 42 U.S.C. § 1985(3).

⁶² Wis. Stat. § 12.09(1); See Wisc. Dept. of Justice, *How to Recognize and Report Voter Intimidation in Wisconsin* (Oct. 29, 2020), <https://www.doj.state.wi.us/news-releases/how-recognize-and-report-voter-intimidation-wisconsin>; See also Wisc. Dept. of Justice, *Wisconsin Department of Justice Is Working To Protect Fair Elections* (Oct. 1, 2026), <https://www.wisdoj.gov/PressReleases/press-release-protecting-elections.pdf>.

⁶³ Wis. Stat. § 12.09(2); See Wisc. Dept. of Justice, *Wisconsin Department of Justice Is Working To Protect Fair Elections* (Oct. 1, 2026), <https://www.wisdoj.gov/PressReleases/press-release-protecting-elections.pdf>.

⁶⁴ Wis. Admin. Code EL § 9.02.

⁶⁵ Wis. Stat. §§ 12.13(3)(x); 12.60(b).



Other tactics—including following voters into or out of polling places or writing down a voter’s license plate number—also constitute voter intimidation and should be reported to the Wisconsin Department of Justice.⁶⁶

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.⁶⁷ 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.⁶⁸

Clerks 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, Wisconsin’s voter challenge processes can avoid the “arbitrary and disparate treatment” of challenged ballots that violates the U.S. Constitution.⁶⁹

* * *

By ensuring compliance with the processes, requirements, and limitations of Wisconsin’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 procedures and policies for adjudicating such challenges and train your staff, volunteers, and election inspectors on the requirements of Wisconsin 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 Wisconsinites’ freedom to vote.

Sincerely,

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⁶⁶ Wisc. Dept. of Justice, *Wisconsin Department of Justice Is Working To Protect Fair Elections* (Oct. 1, 2026), <https://www.wisdoj.gov/PressReleases/press-release-protecting-elections.pdf>.

⁶⁷ 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).

⁶⁸ *Id.* at 107.

⁶⁹ *Bush*, 531 U.S. at 104-05.



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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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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[Justice.gov/voting](https://www.justice.gov/voting)