



State of Delaware
Department of Elections

Via Mail and Email

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Dear Ms. Riordan and Mr. Gates,

This is the second response to your letter dated July 11, 2025 (the “July 11 Letter”) on behalf of both Delaware’s Department of Elections (the “Department”) and Delaware’s Commissioner of Elections (the “Commissioner of Elections”) and provides the remaining explanations and information requested in your July 11 Letter, consistent with state and federal law.

As an initial matter, please note that this response, as a courtesy, is being provided within the time frame you requested in your August 4 communication. You have provided no legal authority, or any other information, that supports the time deadlines requested by your letters.

I. Delaware Code Specifies the Roles of Those Responsible for Implementing Delaware’s Voter List Maintenance.

Your July 11 Letter requested information about the election officials responsible for implementing Delaware’s program of voter list maintenance since November 2022. (July 11 Letter at 1.) Under Delaware law, specifically 15 *Del. C.* § 1702, Delaware’s State Board of Elections is responsible for considering the removal of names from Delaware’s list of registered voters. Delaware’s Commissioner of Elections is an *ex officio* member of the State Board of Elections, pursuant to 15 *Del. C.* § 202. Delaware’s Commissioner of Elections is the Chief Election Official for Delaware, as required by Section 20509 of the NVRA. Pursuant to 15 *Del. C.* § 211, the Board of Elections appoints County Directors and Deputy Directors to assist the Commissioner of Elections in overseeing the Department of Elections’ list maintenance procedures. The Department of Elections website lists the individuals holding each of these positions at: [About Agency - Department of Elections - State of Delaware](https://elections.delaware.gov/aboutagency.shtml).¹

¹ The full internet address for this link is: <https://elections.delaware.gov/aboutagency.shtml>.

<https://ivote.de.gov>

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State of Delaware
Department of Elections

II. Delaware Complies with the NVRA's Voter List Maintenance Provisions.

Your July 11 Letter also requested “a description of the steps that [Delaware has] taken, and when those steps were taken, to ensure that the state’s list maintenance program has been properly carried out in full compliance with the NVRA.” (July 11 Letter at 1.) As a subset of that request, the July 11 Letter asks for an explanation of the actions that “Delaware is taking to ensure that voters who should not be on the voter rolls are being removed.” (July 11 Letter at 2.) Delaware law, read in conjunction with Federal law, specifies the list maintenance actions that the Department of Elections takes to ensure that voters who should not be on Delaware’s voter rolls are removed, without disenfranchising any eligible voter.

The NVRA provides that “the name of a registrant may not be removed from the official list of eligible voters except (A) at the request of the registrant; (B) as provided by State law, by reason of criminal conviction or mental incapacity; or (C) as provided under [Section 20507(a)(4) of the NVRA]. See 52 U.S.C. § 20507(a)(3). Delaware’s voter list maintenance program complies with this section of the NVRA because Delaware removes voters from the voter registration list only in one of the three cases specified in the NVRA.

With respect to NVRA subsection 20507(a)(3)(A): A registered voter may cancel their own voter registration in accordance with Section 20507(a)(3)(A) using a [form](#)² available on the Department of Elections’ website, or by a signed, written request from the voter.

With respect to NVRA subsection 20507(a)(3)(B): The Department of Elections removes voters from Delaware’s voter registration lists pursuant to Section 20507(a)(3)(B) of the NVRA in response to notifications from the courts. With respect to felony convictions in Delaware state courts, 15 *Del. C.* § 1703 provides that, “[t]he clerk or prothonotary of any court in this State having jurisdiction of felonies shall, when a person is convicted of a crime deemed by law a felony, notify immediately the Department and the State Election Commissioner. Such notification shall include a full, complete and accurate copy of the record of the name, present residence and last previous residence, date of birth, and Social Security number if available of each individual of voting age who has been convicted of a felony.” With respect to felony convictions in federal courts, 52 U.S.C. § 20507(g) requires federal courts to provide similar notifications. Finally, 15 *Del. C.* § 1701 provides that “[f]or purposes of this chapter, the term ‘adjudged mentally incompetent’ refers to a specific finding in a judicial guardianship or equivalent proceeding, based on clear and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment.” The Department of Elections removes a person from Delaware’s voter registration list promptly upon receipt of such a judgment issued by a court of competent jurisdiction.

² The full internet address for this link is: https://elections.delaware.gov/voter/pdfs/cancelreg_registrant.pdf.
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State of Delaware
Department of Elections

With respect to subsection 20507(a)(3)(C): Section 20507(a)(4) of the NVRA requires states, including Delaware, to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of (A) death of the registrant; or (B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d)[.]” By statute, Delaware has implemented programs addressing both subsections of this provision.

Delaware complies with Section 20507(a)(4)(A) in the manner described in 15 *Del. C.* § 1705, which establishes Delaware’s process for removing the name of a person who is no longer eligible to vote by reason of death of the registrant from Delaware’s voter registration rolls. 15 *Del. C.* § 1705 states:

(a) The State’s Office of Vital Statistics shall send each month to the Department and to the State Election Commissioner a complete and accurate file or list of each person 16 years of age or older who has been reported to have died within the State since the previous report. The file or list shall contain, as a minimum: the decedent’s name, Social Security number, residence at time of death, date of birth, date of death, and death certificate number.

(b) The State’s Office of Vital Statistics shall in January and July of each year send a file or list to the Department and the State Election Commissioner containing the name, Social Security number, residence at time of death, state where died, date of birth, date of death, and death certificate number for each Delaware citizen 16 years of age or older reported to that office as having died in another state or country. Where complete data about a decedent is not available, the Office of Vital Statistics shall provide as much information as is available in the file or on the list.

(c) Upon receipt of a file or list from the Office of Vital Statistics, the Department shall cancel the registration of each registered voter whose name is on the list.

(d) The Department may cancel the registration of a person upon receipt of a copy of a death certificate or a written notice from the decedent’s spouse, adult child, sibling or parent.

(e) The Department may use an obituary from a Delaware newspaper as authority to cancel the registration of a registered voter who died in another state or country.

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State of Delaware
Department of Elections

Consistent with subsection (a), the State Office of Vital Statistics provides the Department of Elections and the Election Commissioner with a list of deceased residents monthly. Since the adoption of the Delaware Code, technological enhancements allow the State's Office of Vital Statistics to provide to the Department and the State Election Commissioner to provide the information referenced in (b), above, on a monthly cadence as well. Consistent with subsection (c), the Department removes deceased individuals from Delaware's voter list upon receipt of either such file from the Office of Vital Statistics. The Department also cancels voter registrations upon notification as provided in subsections (d) or (e).

Delaware's program of voter list maintenance pursuant to 52 U.S.C. § 20507(a)(4)(B) for people no longer qualified to vote due to change of residence follows the NVRA's "safe harbor" guidance provided in 52 U.S.C. § 20507(c)-(f). Specific elements of Delaware's program are defined by Delaware law in 15 *Del. C.* §§ 1702, 1704, and 1707.

First, Section 1702 specifies that the Board of Elections will evaluate removal of voters. It states:

- (a) At any duly called meeting of the State Board of Elections, the Board may sit to consider the removal of names from any County Master Record in cases where there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which that person is registered.
- (b) The board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases, first giving notice as required by § 1711 of this title [repealed].

The Board of Elections holds duly noticed public meetings.³ Its [annual calendars of meetings](#) are posted online.⁴

In advance of each meeting, the Department of Elections prepares a list of people to be considered for removal on the basis that they are no longer qualified electors within the state of Delaware. The Department of Elections includes in this list people who are subject to removal under the guidelines contained in the NVRA at 52 U.S.C. § 20507(c)-(f). These principles are reiterated under Delaware law at 15 *Del. C.* § 1704. At a high level, Section 1704 of the Delaware Code mirrors the NVRA by providing that a person can be considered to have moved out of state and thus no longer a qualified Delaware elector when multiple pieces of mail directed to that person from the Department of Elections are returned as

³ The Board determines its own schedule, pursuant to 15 *Del. C.* § 208.

⁴ The full internet address for this link is: <http://elections.delaware.gov/public/boardofelections/index.shtml>.



State of Delaware
Department of Elections

undeliverable and the person has not voted or contacted the Department of Elections for specified periods of time or when the person informs the Department of Elections that they have moved out of state.

Delaware's process for identifying and removing people who have moved out of state also relies upon information provided from other states, the voter, or their family members. Section 1707 of Title 15 of the Delaware code provides that:

- (a) The Department shall consider notification from another state, election jurisdiction or election official that a person registered to vote in Delaware has applied to register to vote or who has registered to vote in another state as permission from that person to cancel that person's Delaware voter registration.
- (b) The Department shall consider a written notice from a spouse, adult child, sibling or parent that a registered voter has moved out of state as permission from that person to cancel that person's voter registration. The notice shall be signed and the relationship to the previously mentioned voter stated.
- (c) The State Board of Elections may cancel the voter registrations for any person who has moved out of state and given permission in writing or as otherwise provided in this section.
- (d) Upon registration of a person in Delaware who is registered to vote in another state, the Department or State Election Commissioner shall notify the other state that the person has registered to vote in the State of Delaware.

In connection with subsections (a) and (d) of this provision, Delaware was a founding member of the Electronic Registration Information Center ("ERIC").⁵ ERIC is a consortium of 25 states and the District of Columbia that securely shares voter registration and motor vehicle agency data, as well as official death data from the Social Security Administration and change of address data from the United States Postal Service to provide member states with reports identifying voter registration records within the member jurisdictions that may be inaccurate or out of date, voters who are deceased, and voters who have moved from one ERIC member jurisdiction to another. Delaware utilizes available ERIC voter list maintenance reports at the most regular frequency possible to update voter registration records, as provided under 15 *Del. C.* § 1707, by removing people who have registered to vote as residents of a different state.

⁵ The full internet address for this link is: <https://ericstates.org/>.

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State of Delaware
Department of Elections

In connection with subsections (b) and (c) of this provision, the Department of Elections provides forms permitting a voter or a family member to update their address or to note when they move out of state.⁶

If you have further questions, we encourage you to review our Voter Registration Frequently Asked Questions (FAQs) for further descriptions of the methods that the Department utilizes to conduct voter list maintenance and maintain accurate voter registration lists.⁷

The July 11 Letter requested records of the voters removed from Delaware’s voter registration list based upon these provisions between the 2022 election and the present. (July 11 Letter at 3.) In advance of each Board of Elections meeting (roughly monthly), the Department of Elections prepares a report to the Board of Elections. These reports contain the totals of voters removed from Delaware’s voter registration list on the basis that they are no longer a Delaware citizen, were adjudged incompetent, or were convicted of a felony in the preceding month. These reports are available on the Board of Elections’ website.⁸

III. The EAVS Report Reflects Delaware’s Successful Voter Registration and Voter List Maintenance Efforts.

The July 11 Letter asked three specific questions about Delaware’s responses to the most recent report from the Election Assistance Commission’s Election Administration and Voting Survey (“EAVS”).⁹ We believe the EAVS Report reflects the success of Delaware’s automatic voter registration process (pursuant to 15 *Del. C.* §§ 2050 and 2050A) and voter list maintenance process, which is described above. Delaware values the information provided through the EAVS Report but cautions that states’ interpretations of the questions posed in the EAVS and data provided may vary and a comparison of each state’s statistics is often not an apples-to-apples comparison.

EAVS Question One asks for an explanation of Delaware’s voter list maintenance process. (July 11 Letter at 3.) Delaware’s voter list maintenance process is outlined above. As background to this question, the July 11 Letter notes that the EAVS Report shows that Delaware has a high rate of voter registration. The Department of Elections is proud of Delaware’s success in registering eligible citizens to vote. Two separate

⁶ These forms are available at <https://de.gov/cancelreg> and chrome-extension://efaidnbmninnbpcajpcgclclefindmkaj/https://elections.delaware.gov/voter/pdfs/cancelreg_closerelative.pdf, respectively.

⁷ The full internet address for this link is: <https://elections.delaware.gov/voter/pdfs/VoterRegistrationFAQs.pdf>

⁸ The full internet address for this link is: <https://elections.delaware.gov/public/boardofelections/index.shtml>.

⁹ The 2024 EAVS Report is available from the Election Assistance Commission at https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf.

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State of Delaware
Department of Elections

factors are particularly important to bear in mind to understand Delaware’s reported rate of voter registration.

First, Delaware was one of the first states in the country to fully implement summary automatic voter registration (“SAVR”) through the Delaware DMV, pursuant to legislation approved by the Delaware General Assembly.¹⁰ The NVRA requires all states to offer voter registration through the DMV. Under a SAVR process, a Delaware resident is registered to vote when they obtain services at the Delaware DMV without the need for the resident to take separate steps to register to vote. *See* 15 *Del. C.* §§ 2050 and 2050A. The SAVR process, paired with Delawareans’ general reliance on personal motor vehicles for transportation, has achieved high rates of voter registration. For more information on Delaware’s SAVR implementation, please see [Automatic Voter Registration at DMV - State of Delaware News](#).¹¹

Second, Delaware also has had one of the highest rates of population growth in the country.¹² This rate of growth can skew the EAVS data to overstate Delaware’s rate of voter registration. More specifically, the EAVS Report relied upon the 2023 American Community Survey state estimate for Delaware’s voting age population;¹³ this estimate understates Delaware’s voting age population as of November 1, 2024. When Delaware’s November 2024 actual voting age population is compared to Delaware’s November 2024 registered voter totals, Delaware’s rates of voter registration remain high, but are lower than reflected in the EAVS report.

EAVS Question Two notes that Delaware’s rate of duplicate voter registrations is 0.4%, which is well below the national average. This low rate of duplicate registrations results from the Department of Elections’ ongoing efforts in eliminating duplicate records. The Department reviews and resolves potential duplicate registration records daily, evidencing our commitment to maintaining accurate voter rolls. Your July 11 Letter requests a list of the registrations that were canceled based upon the determination that they were duplicate registration records. (July 11 Letter at 3). Delaware does not prepare a consolidated list of the duplicate voter registrations nor does the NVRA require the Department of Elections to maintain a consolidated list of this information. *See e.g. Greater Birmingham Ministries v. Sec’y of State for Alabama*,

¹⁰ A discussion of the effects of Summary Automatic Voter Registration by the Institute for Responsive Government is available from [6c13d289-24.05.08_avr_report_booklet-web.pdf](#). *See also* Institute for Responsive Government, [Boosting Voter Registration: New Data from Delaware - Institute for Responsive Government](#), available at <https://responsivegov.org/research/boosting-voter-registration-new-data-from-delaware/>.

¹¹ The full internet address for this link is: <https://news.delaware.gov/2023/06/20/automatic-voter-registration-at-dmv/>.

¹² *See* [Population Growth in Most States Outpaced Long-Term Trends in 2024 | The Pew Charitable Trusts](#), available at <https://www.pew.org/en/research-and-analysis/articles/2025/03/05/population-growth-in-most-states-outpaced-long-term-trends-in-2024>.

¹³ *See* 2024 EAVS Report at X.

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State of Delaware
Department of Elections

105 F.4th 1324, 1334 (11th Cir. 2024) (holding that the NVRA did not require the provision of records electronically). This information is stored within daily working reports that the Department uses to identify and address duplicate registrations, and within individual voter records within Delaware’s voter registration database. We remain available to further discuss your need for daily reports consistent with the law.

EAVS Question Three observes that “the EAVS data for Question A10d, Delaware had 20,889 invalid registrations out of 56,820 confirmation notices sent (36.8 percent), more than twelve times higher than the nationwide average of 2.9 percent.” (July 11 Letter at 3.) The July 11 Letter requests an explanation as to why “the percentage of invalid registrations was so high in Delaware compared to the number of confirmation notices sent.” (*Id.*) We again caution that EAVS data is not always comparable across states, and must be fully understood in its context.

Multiple factors explain why the EAVS data reports Delaware with a higher than average rate of invalid registrations results. The primary driver in the variance in invalid registration rates is how different states interpret the questions that EAVS uses to collect the data underlying this calculation. Many states consider a registration canceled as invalid on the basis of a confirmation notice only when the notice is returned as undeliverable. However, in addition to undeliverable notices, Delaware also includes confirmation notices returned to the Department by the recipient reporting a move to a new address (either within the state or to another state) within the total invalid registrations reported to EAVS. More than half of the total invalid registrations that Delaware reports in this section consist of a voter responding to a confirmation notice by updating an address. Thus, Delaware’s high rate of cancelations based upon invalid registrations reflects the Department’s success in convincing voters to update their information in response to confirmation notices.

IV. Delaware’s Voter Registration List

Your July 11 Letter also requested a copy of Delaware’s voter registration list in a form containing sensitive personally identifiable information, including social security numbers and driver’s license numbers. (July 11 Letter at 1-2.) Our July 25, 2025 response and August 6 email, stated and reiterated that the Department of Elections is willing to provide a copy of Delaware’s public voter registration list, consistent with 15 *Del. C.* § 304(g) and (h), subject to resolving data security and confidentiality concerns.

Delaware’s Department of Elections and Election Commissioner have a duty to ensure the protection and proper use of information related to Delaware citizens under Delaware law. It is important that citizens be able to register to vote without fear that the information they provide to do so could be disseminated contrary to law and/or used to their detriment. The 1974 Privacy Act imposes specific limitations upon Federal agencies, including the Federal Department of Justice, when federal agencies collect, aggregate, or maintain information concerning individual citizens, even when the information might be publicly available.

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**State of Delaware
Department of Elections**

The 1974 Privacy Act also provides individuals the right to update, correct, or remove their personal information if needed and in specified circumstances.

Thus, we have asked for clarification in our July 25 response and August 6 email as to the application of the 1974 Privacy Act upon the Federal Department of Justice's receipt, storage, and maintenance of the personal information stored within the public version of Delaware's voter registration list. We have also asked for any authority that you might have under which the Department could be permitted or required to provide non-public, sensitive, personally identifying information (such as social security numbers), in addition to the public voter registration list.

We received a letter from you yesterday, August 14, at 4:06 pm, which demands the production Delaware's full voter registration list, including sensitive personal information of individual Delaware citizens, within 5 business days. Your August 14 Letter does not address the authority we provided on this subject in our July 25 response; it also omits the information we requested on August 6 about the application of the Federal Privacy Act to your requests. We emphasize that your requests implicate important civil voting rights and privacy rights of Delaware citizens, as well as legal obligations relevant to both the Delaware's Department of Elections and the Civil Rights Division of the Federal Department of Justice.

The right of citizens to vote is paramount in our democracy; so are the privacy interests of citizens. Those privacy interests are enshrined in both federal and state law. Citizens should never have to choose between their privacy rights and their right to vote. It is critical that the government – both state and federal – follow the laws that balance those interests. Thus, we are committed to ensuring that we follow the law and not yield to unreasonable, unexplained deadlines.

We are evaluating the authority provided in your August 14 letter. We will further respond to both its requests and its legal arguments in due course.

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V. Conclusion

Voting is a critical right of citizens. It is crucial to a functioning democracy that all citizens have an opportunity to vote and to have their votes counted; that all election processes operate with integrity, anonymity, and transparency; and that elections operate in a fair, non-partisan, and apolitical manner.

Delaware's Department of Elections exists "to assure the people's right to free and equal elections, as guaranteed by [Delaware's] state Constitution." 15 *Del. C.* § 101A. Assuring that right demands the creation of an "orderly system" for "the registration of voters and the preservation of voter registration records." *Id.* The Delaware Department of Elections is guided by these principles constantly. We are proud of the state's effective and user-friendly voter registration, and of our systematic voter list maintenance processes.

Sincerely,

Anthony J. Albence
State Election Commissioner