



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Official ELECT Advisory

DATE: July 23, 2024

SUBJECT: Processes for Voters Who May Have Moved / Voter Challenges

WHY THIS IS NEEDED: As the 2024 November Election approaches, general registrars have seen increased requests from third parties regarding the potential removal of registered voters.

While ELECT employs diverse sources of information in the list maintenance process to ensure the most accurate and up-to-date voter rolls, considerations must be made for state and federal laws that govern the processes related to the removal of voters.

It is imperative that information utilized for the cancellation of a voter's registration come from sources authorized by the Code of Virginia and follow the processes as outlined in Virginia Code and the [National Voter Registration Act \(NVRA\)](#).

Pursuant to [52 U.S.C. §20507\(b\)](#) of the NVRA, a list maintenance program must be “uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) [now 52 U.S.C. 10301 et seq.].” Additionally, [§24.2-103](#) of the Code of Virginia requires the State Board of Elections, through ELECT, to “obtain uniformity in [the] practices and proceedings” of the work of county and city electoral boards and general registrars.

To ensure uniformity in list maintenance practices and procedures pursuant to [§20507\(b\)](#) of the NVRA and [§24.2-103](#) of the Code of Virginia, ELECT is providing an overview of the critical statutory provisions general registrars must be aware of.

HOW THIS AFFECTS YOU: As it pertains to voter registration cancellations for individuals that may have moved or may be registered to vote in another state, or for individuals whose registration is being challenged by qualified voters, there are specific statutory provisions that must be followed before a cancellation can be made.

[Cancellations for Voters who May Have Moved](#)

Voters who may have moved are identified and contacted through the federally mandated [National Change of Address \(NCOA\) confirmation process](#) required by both [§24.2-428](#) of the Code of Virginia and [§20507](#) of the NVRA.

The NCOA confirmation process prescribed by [§20507\(c\)](#) of the NVRA requires a [State-established program](#) to utilize change-of-address information supplied by the [United States Postal Service](#) or through its licensees to identify registrants whose addresses may have changed. The Commonwealth of Virginia further requires voters to be included in the NCOA confirmation process if any election mail sent to a registered voter is returned as undeliverable or if a voter provides an address on a candidate or referendum petition that differs from the address for the voter in VERIS, pursuant to [§24.2-428.1](#).

Unlike other list maintenance processes conducted throughout the year pursuant to [§20507\(c\)\(2\)\(B\)\(i\)](#), this program must be completed “not later than 90 days prior to the date of a primary or general election for Federal office” pursuant to [§20507\(c\)\(2\)\(A\)](#). The NCOA confirmation process provides for election officials to send the voter notices requesting confirmation of his or her address and follows the timeline established under [§20507](#) for when voters who fail to respond may be removed from the voter list.

Pursuant to [§20507\(d\)\(1\)\(B\)\(i\) and \(ii\)](#) of the NVRA, a voter may only be removed from the voter list if:

1. The voter has “failed to respond to a [confirmation] notice”; and
2. The voter “has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election ... [from the date of the notice until] the day after the date of the second general election for Federal office.”

Therefore, the NVRA only permits cancellation when a voter does not respond to these notices over the course of **two** federal general election cycles. There are only three additional reasons further prescribed under [§24.2-427](#) of the Code of Virginia in which a voter who may have moved may be canceled outside of the formal NCOA process:

1. The voter personally submits a [written request signed by the voter](#) to have their voter registration canceled;
2. A general registrar receives notice directly from the registration official of another jurisdiction that the voter has moved from the Commonwealth; *or,*

3. Reports provided from the DMV (sent to a general registrar through ELECT) indicate a voter has surrendered their Virginia driver's license AND the voter's new address is provided (Please note: [§24.2-427\(E\)](#) prohibits a voter's registration cancellation for this reason during the close of books).

No additional information can be used to cancel a voter that may have moved that is not listed above.

Cancellations Due to Voter Registration Challenges

Whenever a registered voter is alleged to be "improperly registered," except on the basis that a voter may have moved, either by the general registrar or by any three qualified voters of the locality in which the allegation is made, the general registrar must hold a hearing to determine if that voter's registration should be canceled, pursuant to [§24.2-429](#) of the Code of Virginia.

If a general registrar receives a challenge that they determine is on some basis **other than** a voter's move to a new address, a hearing must be held pursuant to [§24.2-429](#) as long as the hearing process can be completed prior to the deadlines set forth in [§24.2-429](#) of the Code of Virginia and [52 U.S.C. §20507](#) of the NVRA, as applicable.

Prior to administering a cancellation hearing, there are several notice requirements that must be met, and the hearing must be held not less than 10 days after mailing the notice to the voter(s) that may be canceled.

ACTION ITEMS: Upon receipt of any information regarding the potential removal of voters, please review the appropriate statutory provisions regarding the permitted sources of information and required processes.

- If you receive information from third parties regarding voters who may have moved, please inform them that these voters are entitled to the NCOA confirmation process and can only be canceled based on specific information provided from ELECT during specific time frames or from the [statutorily-approved entities](#) referenced above.
- If you receive a voter registration challenge, determine if a voter's potential move is the basis of the challenge. If so, inform the petitioners that [§24.2-429](#) prohibits a hearing for this reason.
- If you receive a challenge that is on some basis other than a voter's move to a new address and if the hearing the challenge cannot be completed before the applicable

statutory deadline, you must wait to hold the hearing until after the November general election.

- In these cases, you should send a letter to the voters who filed the challenge acknowledging receipt and notifying them the hearings will be held after the November election, in accordance with state and federal law.
- Additionally, although you may acknowledge receipt of the challenge petition, the individual's whose registration has been challenged should **not** be notified until after the election. Any such notification could potentially violate the state and federal statutory protections provided to voters near elections.

Please contact your local attorney if there are any additional concerns regarding complying with the above statutory provisions.

CONTACT: **For technical matters:** Submit a JIRA ticket to the System Support team for all VERIS-related issues

For Election Admin: EA@elections.virginia.gov

For all other matters:

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ADVISORY NUMBER:

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