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Jane Nelson
Secretary of State

ELECTION ADVISORY NO. 2024-18

To: All Election Officials
From: Christina Worrell Adkins, Director of Elections
Date: June 5, 2024
RE: Required List Maintenance Activities

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Introduction

As a reminder, the National Voter Registration Act of 1993 ("NVRA") imposes a list maintenance moratorium for 90 days before a federal election. During the moratorium, voter registrars must pause any programs that systematically remove the names of ineligible voters from the official list of registered voters, with the exception of voters who voluntarily cancel their voter registration, voters who are deceased, and voters who are finally convicted of a felony or adjudicated mentally incapacitated without the right to vote. 52 U.S.C. § 20507(c)(2).

The 90-day list maintenance moratorium for the May 28, 2024 primary runoff election has ended. Counties will not be subject to the NVRA moratorium again until August 7, 2024, 90 days before the November 5, 2024 general election.

During this critical ten-week period, voter registrars have the opportunity to engage in routine list maintenance activities that were paused due to the moratorium. Voter registrars should diligently review their list maintenance data and make every effort possible to resolve potential issues. Voter registrars have an obligation to ensure accurate and current voter registration rolls. Accurate and timely list maintenance efforts can prevent subsequent challenges to an election, and can prevent ineligible voters from voting illegally and subjecting themselves to potential criminal penalties.

We are issuing this advisory to provide guidance to election officials regarding their list maintenance obligations under state law, challenges to voter registration eligibility, and the Secretary of State's monitoring of counties' list maintenance activities.

All statutory references in this advisory are to the Texas Election Code, unless otherwise indicated.

List Maintenance Requirements

Chapter 16 of the Texas Election Code provides guidance on required list maintenance activities. This chapter defines the data sources that county voter registrars must utilize in performing list maintenance, the procedures for investigating potential ineligibilities, and the process for cancellation, if appropriate.

Data Sources for List Maintenance Activities

- **Deceased Voters**
 - **Notification by Local Registrars of Death:** The **local registrars of death** prepare an abstract of each death certificate that has been issued each month for a deceased individual 18 years of age or older who was a resident of the state at the time of death. The abstract is filed with the voter registrar of the deceased individual's county of residence and the Secretary of State **no later than the seventh day** after the date the abstract is prepared. Upon receipt by the Secretary of State, the list is immediately compared to the statewide voter registration database and matches are provided to county voter registrars for investigation. [Sec. 16.001(a)]
 - **Notification by Clerks of Courts:** The **clerks of all courts that have probate jurisdiction** must prepare an abstract of death for each application for probate of a will, administration of a decedent's estate, determination of heirship proceedings, and affidavits under Chapter 205 of the Texas Estates Code. The abstracts are filed with the voter registrar of the deceased individual's county of residence and the Secretary of State **no later than the seventh day** after the date the abstract is prepared. Upon receipt by the Secretary of State, the list is immediately compared to the statewide voter registration database and matches are provided to county voter registrars for investigation. [Sec. 16.001(b)]
 - **Notification by Bureau of Vital Statistics:** The Department of State Health Services' **Bureau of Vital Statistics** provides the Secretary of State all information relating to deceased residents of the State of Texas on a weekly basis. Upon receipt by the SOS, the list is compared to the statewide voter registration database and matches are provided to county voter registrars within the week of receipt for investigation. [Sec. 16.001(c)]
 - **Notification from Jury Exemptions and Disqualifications:** The Secretary of State compares information received from the **clerks of courts** related to exemptions and disqualification from jury service. If the Secretary of State determines from this information that a voter on the registration list is deceased, the list is immediately provided to county voter registrars for investigation. [Sec. 18.068(a)]

- **Felony Conviction**
 - The **Department of Public Safety (DPS)** prepares an abstract of final judgment for individuals, aged 18 and older, who were convicted of a felony. This information is transmitted to the SOS. Upon receipt by the Secretary of State, the information is compared to the statewide voter registration database and matches are provided to the county voter registrars for investigation. [Sec. 16.003]
 - If a person responds to a jury summons indicating that they are not eligible to serve because they have been finally convicted of a felony, this would also trigger a notice of examination. [Sec. 16.033]
- **Mental Incapacity**
 - The **clerks of all courts** that have jurisdiction to adjudicate a person’s mental capacity prepare an abstract of final judgment for each individual determined to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. The abstracts are filed with the voter registrar of the individual’s county of residence **no later than the 10th day of the month** after the abstract was prepared. Upon receipt by the Secretary of State, the information is compared to the statewide voter registration database and matches are provided to the county voter registrars for investigation. [Sec. 16.002]
 - If a person responds to a jury summons indicating that they are not eligible to serve because of a mental impairment, the voter registrar must send the voter a notice of examination. [Sec. 16.033]
- **Non-U.S. Citizenship**
 - The **Department of Public Safety (DPS)** prepares and transmits notifications of persons who indicate a lack of citizenship status in connection with a motor vehicle or DPS record. This information is transmitted to the Secretary of State **on a weekly basis**. [Sec. 16.0332] Upon receipt by the Secretary of State, the notifications are compared to the statewide voter registration database based on specific criteria and matches are provided to county voter registrars for investigation. [Sec. 18.068] For more information regarding this process, see [Advisory No. 2021-11 - List Maintenance Activity Involving Potential Non-United States Citizens](#).
 - The Secretary of State compares information received from the **clerks of courts** related to exemptions and disqualification from jury service as it relates to nonresidents of a county, noncitizens, and deceased voters. If the Secretary of State determines from this information that a voter on the registration list has been excused or disqualified from jury service because the voter is deceased or not a citizen or resident of the county in which the voter is registered to vote, the matches are immediately provided to county voter registrars for investigation. [Sec. 18.068(a), (a-1)]

- If a person responds to a jury summons indicating that they are not eligible to serve because they are not a U.S. citizen, the voter registrar must send the voter a notice of examination for proof of citizenship. [Sec. 16.033]

Notice of Examination Regarding Voter Registration Eligibility

Pursuant to Section 16.033(b) of the Election Code, if a voter registrar has reason to believe that a person is no longer eligible for registration, the registrar must notify the voter in writing that their registration status is being reviewed. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar.

The written notice to the voter must include a request for information relevant to determining the voter's eligibility for registration, and a warning that the voter's registration is subject to cancellation if the registrar does not receive an appropriate reply on or before the 30th day after the date the notice is mailed. [Sec. 16.033(c)]

If the voter registrar receives a response from the voter, the voter registrar shall retain a copy of the notice mailed to a voter under this section on file with the voter's registration application. If the voter's reply to the notice is in writing, the voter registrar shall also retain the reply on file with the application. If the reply is oral, the voter registrar shall prepare a memorandum of the reply, indicating the substance and date of the reply, and shall retain the memorandum on file with the application. [Sec. 16.033(f)]

The SOS has prescribed the forms for use in this process. The forms are located in the [Election Forms Manual](#).

Cancellation following a Notice of Examination

After mailing a Notice of Examination to a voter, the voter registrar shall cancel a voter's registration in the following circumstances:

- After considering the voter's reply, the registrar determines that the voter is not eligible for registration.
- No reply is received from the voter on or before the 30th day after the date the notice is mailed.
- Each notice mailed to the voter is returned as undeliverable with no forwarding information available. [Sec. 16.033(d)]

Challenges to Voter Registration Eligibility

In certain circumstances, a registered voter may challenge the registration of another voter of the same county at a hearing before the voter registrar. [Sec. 16.091] Subchapter D of Chapter 16 of the Texas Election Code outlines the procedures for these challenges.

A voter desiring to challenge a registration on a ground other than residence must file with the registrar a sworn statement of the grounds for the challenge that (1) identifies the voter whose registration is being challenged; and (2) states a specific qualification for registration that the challenged voter has not met based on the personal knowledge of the voter desiring to challenge the registration. [Sec. 16.092]

Upon receiving the challenge, the voter registrar shall set a hearing and deliver written notice of the hearing to each party to the controversy. A party may personally appear at the hearing to offer evidence or argument or may offer evidence or argument by submitting an affidavit to the registrar prior to the start of the hearing. After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing. [Secs. 16.093, 16.094, 16.095]

The procedures for a challenge to a voter's registration on the basis of residence are outlined in detail later in this advisory.

As to the level of personal knowledge required from the voter desiring to challenge the registration as provided under Section 16.092 of the Election Code, please reference [Secretary of State Election Law Opinion RP-1 \(2018\)](#).

Address Confirmation Process for Residency Issues

Standard Address Confirmation Process

If the voter registrar has reason to believe that a voter's current residence address is different from that indicated on the registration records, the registrar must send the voter a Notice of Address Confirmation per Section 15.051 of the Election Code. If a voter does not respond to the Notice of Address Confirmation, the voter will remain on the suspense list for two federal elections. If the voter does not vote during that time or separately confirm their residence, the registration will be cancelled on November 30 following the second federal election after the voter's name was placed on the suspense list. [Sec. 16.032]

Address Confirmations Requiring Documentation

There is a separate address confirmation process for voters registered at certain addresses that do not correspond to a residence. If the voter registrar has reason to believe that a voter's residence address is a commercial post office box or similar location that does not correspond to a residence, the voter registrar shall deliver an address confirmation to the voter. The response to the address confirmation for these voters must include a photocopy of certain documentation that corresponds to the voter's residence address. [Secs. 15.051, 15.052, 15.054]

For more information about this process and the documentation required for submission, please see [Advisory No. 2021-10 - NEW LAW: SB 1111 \(2021, Regular Session\) Address Confirmation Process and Forms](#).

Challenges to Residency

If the voter registrar receives a challenge based on a sworn statement under Section 16.092 of the Election Code, and the challenge is based on residence, Section 16.0921 of the Election Code requires the voter registrar to send a Notice of Address Confirmation to the challenged voter(s), unless the residential address provided in the challenge for the voter(s) is different from the voter's current residential address indicated on the registration records.

A voter registrar may not deliver a confirmation notice resulting from a sworn statement filed after the 75th day before the date of the general election for state and county officers until after the date of that election. [Sec. 16.0921(c)]

As to the level of personal knowledge required from the voter desiring to challenge the registration as provided under Section 16.092 of the Election Code, please reference [Secretary of State Election Law Opinion RP-1 \(2018\)](#).

Monitoring of List Maintenance Activities

Section 16.039 of the Texas Election Code authorizes the Secretary of State to withhold funds from a county voter registrar if the registrar fails to timely perform certain voter registration duties. The Secretary of State will continue to monitor each voter registrar's list maintenance activity on an ongoing basis for substantial compliance with their voter registration cancellation duties. This includes individual list maintenance processes conducted through the statewide voter registration system, the generation of notices of examination for investigation of voter eligibility, and the resolution of notices within the 30-day response period specified in the Texas Election Code.

The Secretary of State will monitor such items as the number of outstanding list maintenance tasks on a voter registrar's dashboard, the amount of time that tasks remain on a registrar's dashboard before the registrar takes any action, the timing and scope of a registrar's actions after a notice of examination is sent, and the extent to which a registrar fails to take any substantive action on tasks on their dashboard.

For more information regarding the monitoring process, see [Advisory No. 2022-24 - NEW LAW: SB 1113 \(2021, Regular Session\) Withholding of Funds for Voter Registrar's Failure to Timely Perform Voter Registration Duties](#).

Moratorium for November 5, 2024 Presidential Election and General Election for State and County Officers

The 90-day NVRA moratorium will resume on August 7, 2024 for the November 5, 2024 election. As outlined above, during this moratorium, voter registrars will be required to pause any programs that systematically remove the names of ineligible voters from the official list of

registered voters, other than voters who voluntarily cancel their voter registration, voters who are deceased, and voters who are finally convicted of a felony or adjudicated mentally incapacitated without the right to vote.

If you have any questions regarding this advisory, please contact the Elections Division toll-free at 1-800-252-VOTE (8683).

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