



October 25, 2024

Via email and U.S. Mail

Paul D. Pate
Iowa Secretary of State
First Floor, Lucas Building
321 E. 12th St.
Des Moines, IA 50319
[REDACTED]

The County Auditors of all 99 Counties in the State of Iowa
Individual Addresses Listed in Appendix A

Re: Iowa Voter Challenges and Compliance with State and Federal Law

Dear Secretary Pate and County Auditors:

Earlier this week, Iowa's Secretary of State's office communicated to Iowa county auditors and county attorneys that large numbers of improper challenges to Iowa voters' registrations are occurring across the state, ostensibly pursuant to Iowa Code § 48A.14. As a result, some voters have had their registrations wrongfully cancelled based upon these challenges. We are writing regarding these recent mass challenges, including in at least Johnson County, Muscatine County, and Pottawattamie County.

Acting upon these challenges to remove voters from the rolls is very likely a violation of state and federal law. We write to remind you of the law related to voter challenges in Iowa and to ask that any county auditor that has received voter challenges ahead of the November 5, 2024, election refrain from processing the challenges until after the election. Moreover, any voters removed pursuant to recent mass challenges, should have their registrations reinstated at once and notice of reinstatement should be sent to any impacted voters.

State law (Iowa Code § 48A.14 *et seq.*)

With respect to state law, Iowa law specifies that voter challenges under Section 48A.14 must be made more than 70 days before the next election, or else they cannot be processed until after the election. Iowa Code § 48A.14(4). The only exception to this clear rule is for a voter challenge "filed within twenty days of the commissioner's receipt of the challenged registrant's registration form or notice of change to an existing registration." Iowa Code § 48A.14(4). As we understand it, the voters who have been subjected to these mass challenges are typically longtime Iowa voters, not recent registrants. Accordingly, with the November 5, 2024 general election less than two weeks away, no such voter challenges may be processed and no challenged voters'

registrations may be cancelled before the election. This would be the case for any challenges filed any time on or after August 27 of this year.

For challenges made in writing and pursuant to proper procedure prior to that date, Section 48A.15 of the Iowa Code sets out procedures for notifying challenged registrants and challengers of the date, time, and place of a hearing regarding voter challenges made under Section 48A.14. Iowa Code § 48A.15. Section 48A.16 notes that “[o]n the basis of the evidence submitted” at the hearing (by the challenger, the challenged registrant, or any person appearing on behalf of either), “the commissioner shall either reject the challenge or cancel the registration of the challenged registrant. Either the challenged registrant or the challenger may appeal the commissioner’s decision to the district court in the commissioner’s county, and the decision of the court shall be final.” Iowa Code § 48A.16(1). Additionally, if the challenged registrant does not appear at the hearing and that challenged registrant’s registration is canceled, “the commissioner shall immediately notify the challenged registrant of the cancellation by first class forwardable mail sent to the challenged registrant’s most recent mailing address according to the registration records.” *Id.* § 48A.16(2).

Accordingly, to the extent any action is ever taken on the challenges discussed here, such action must (1) wait until after the election *and* must also (2) comply with the rest of the statute’s safeguards, including the requirement of adequate notice and a hearing.

Federal law (The National Voter Registration Act, 52 U.S.C. § 20501 *et seq.*)

With respect to federal law, Section 8 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507, includes key protections against improper removals of voters from the rolls.

Under Section 8(c) of the NVRA, beginning 90 days before the November 5, 2024, election—on August 7, 2024—systematic voter list maintenance is generally prohibited. Section 8(c) pauses “*any* program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters” during the “90 days prior to the date of a primary or general election for Federal office.” 52 U.S.C. § 20507(c)(2) (emphasis added). The only exceptions to this 90-day rule are for removals “at the request of the registrant,” or based on “criminal conviction or mental incapacity,” death, or “correction of registration records.” *Id.* § 20507(c)(2)(B). This limitation applies to “*any*” and all list maintenance programs, including list maintenance “based on third-party challenges,” particularly challenges “derived from any large, computerized data-matching process”—processes which are commonly used by third parties in making voter challenges on a large scale.¹ The mandated 90-day quiet period addresses the significant risk of mistakenly removing and disenfranchising eligible voters close in time to an upcoming election.

¹ See U.S. Dep’t of Justice, *Voter Registration List Maintenance: Guidance Under Section 8 of the National Voter Registration Act*, 52 U.S.C. § 20507, at 4 (Sept. 2024), <https://www.justice.gov/crt/media/1366561/dl> (providing that this 90-day deadline can also apply to “list maintenance programs based on third-party challenges”).

Additionally, both during and outside of the 90-day quiet period, Section 8(d) of the NVRA sets out the exclusive procedure for removing registered voters based on a purported change of residence and requires that certain notice and waiting period procedures be followed before removing any voters from the rolls on this basis. *Id.* § 20507(d). Section 8(d) specifies that “[a] State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless” the following notice and multi-year waiting period procedures are followed to help protect voters from being mistakenly disenfranchised:

[T]he registrant—(A) confirms in writing that the registrant has changed residence to a place outside the registrar’s jurisdiction in which the registrant is registered; or (B)(i) has failed to respond to a notice described in paragraph (2)²; and (ii) has not voted or appeared to vote (and, if necessary, correct the registrar’s record of the registrant’s address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

52 U.S.C. § 20507(d)(1). Any removal of a voter from the official list of eligible voters based on a voter challenge on the ground of a purported change of residence is unlawful under these provisions of federal law unless election officials first comply with the notice and waiting period procedures mandated by Section 8(d) of the NVRA.

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The bottom line is that, to the extent that voter challenges have been filed in Iowa within 70 days of the upcoming election, with very limited exceptions, Iowa law requires that these voter challenges should not be processed *at all* before the November 5, 2024 election. Moreover, to the extent that certain removals have been or are being made in response to these voter challenges, these would be similarly prohibited during the federal 90-day quiet period under the NVRA. In addition, to the extent that any voter challenges have been made based on a purported change of residence (regardless of the timing of these voter challenges), election officials must *always* first comply with the notice and multi-year waiting period procedures of the NVRA before removing any such voters from the rolls.

² Section 8(d)(2) of the NVRA provides that an adequate notice:

is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect: (A) If the registrant did not change his or her residence, or changed residence but remained in the registrar’s jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant’s address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and 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. (B) If the registrant has changed residence to a place outside the registrar’s jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

52 U.S.C. § 20507(d)(2).

These requirements of Iowa law and federal law are mandatory. The State and/or the Counties should act quickly to address or correct any potential violations of state or federal law identified in this letter, including by setting aside any hearings or process arising from the voter challenges identified herein, by refraining from removing any voters from the rolls or altering their status based on these challenges, and by restoring the status of any voters who have been removed, cancelled, or altered in any way based on these challenges.

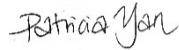
Your swift action to confirm compliance with applicable law will help ensure that eligible Iowa voters are not mistakenly disenfranchised on the eve of the fast-approaching election. To the extent that any eligible Iowa voters may have been negatively impacted by voter challenges, we also urge you to remind voters about the opportunity to register to vote on Election Day. Iowa Code Ann. § 48A.7A. We request confirmation from your office that 1) no voters will be removed from the rolls or canceled as a result of a voter challenge within 90 days of the election and 2) if any voter has been removed or canceled as a result of a voter challenge within 90 days of the election, such voter will be returned to the rolls and notified.

Thank you for your attention to this important matter.

Respectfully,



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