



Board of Elections and Registrations

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"Georgia's First Consolidated Government"
(706) 653-4392

Uhland "U.D." Roberts, Chair
Linda Parker, Vice-Chair
Edwin Roldan
Diane Scrimshire
Annette Williams

Muscogee County Board of Elections and Registration August 20, 2024 Minutes

The monthly meeting for the Muscogee County Board of Elections and Registration was held Tuesday, August 20th. Chairperson Uhland Roberts called the meeting to order at 2p.m.

Board Comments: N/A

Agenda Request: N/A

Approval of Minutes:

- Linda Parker seconded Diane Scrimshire's motion to approve the February board meeting minutes.

New Business:

- **State Election Board Rules and Proposals-** The Board unanimously carried. Proposed by: Linda Parker – Vice Chair (Democrat Appointee) Seconded by: UD Roberts – Chair (Republican Appointee) Linda Parker proposed the following resolution for the Muscogee County Board of Elections and Registration regarding the implementation of new proposed state election board rules: The proposed resolution for the Muscogee County Board of Elections and Registration asks for a 90-day quiet period for implementation of certain election-related changes/activities to policy before a federal election except in exigent circumstances. Justification: OCGA 21-2-300(a)(1) provides for equipment to be used for casting and counting votes to provide consistency in county, state, and federal elections unless a change is authorized by law not by rule. The Muscogee Election Board may review after the impending federal election
- **Voter Registration Report-** Diane Scrimshire seconded Annette Williams motion to accept 743 records that have been moved to inactive status due to no activity.
- **NCOA Within County-** Muscogee County mailed out 3800 to voters who have done an address change with post office within the county.
- **Petition Verification-West, RFK and HD 139-** All complete. HD139 is shared with Harris Co.
- **VR Cancellation Portal-**Muscogee County has 9 to date through the portal.

Old Business: N/A

Public Comments Regarding Agenda Items:

Correspondence:

- **Democratic Party of Georgia- Sachin Varghese** (See attachment)

No further business Chair, Uhland Roberts, adjourned the meeting at 2:36 p.m.

Respectfully Submitted

Uhland Roberts

Chairperson



GEORGIA DEMOCRATS

August 13, 2024

P.O. Box 1340
Columbus, GA 31902-1340

Via Email

Re: National Voter Registration Act 90-Day Quiet Period

Members of the Muscogee County Board of Registration and Elections (“Board”),

This letter is to inform you that as of August 7, 2024 we are now within 90 days of the November 5, 2024 General Election. During this time period, known as the “Quiet Period” under the National Voter Registration Act (“NVRA”), all activities constituting systematic list maintenance, including certain voter challenges, should immediately halt.

The NVRA expressly prohibits election officials from conducting any “systematic” maintenance of the voter rolls within 90 days of a federal election. *See* 52 U.S.C. § 20507(c)(2) (“[a] State shall **complete**, not later than 90 days prior to the date of a primary or general election for Federal office, **any program** the purpose of which is to **systematically** remove the names of ineligible voters from the official lists of eligible voters.”) (emphasis added). The “program” that must be completed by August 7, 2024 includes:

- Sending out address confirmation notices and general mailers;
- Placing voters on the “inactive” list; and
- Removing voters from the voting list.

According to the Department of Justice,¹ the 90-day “Quiet Period” applies not only to removal of voters from the voting list but to all stages of a list maintenance program. It says that election officials must:

[C]omplete any program the purpose of which is to systematically remove the names of ineligible voters from the official list of eligible voters not later than 90 days prior to the date of a primary election or general election for federal office. ***This 90 day deadline applies to state list maintenance verification activities such as general mailings and door to door canvassing.***

(Emphasis added).

¹ *The National Voter Registration Act of 1993 (NVRA)* (2024) Civil Rights Division. Available at: <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> (Accessed: 09 August 2024).

Examples of “systematic” list maintenance include voter challenges, pursuant to O.C.G.A. §§ 21-2-229 and 21-2-230, that are based on data-matching processes that compare a state’s voting lists with other state or federal databases.² Applying that standard, a federal court in Georgia held that a county election board violated the NVRA when it upheld voter challenges within 90 days of a federal election. In that case, the challenge was based on a comparison of the Georgia voting rolls with the U.S. Postal Service Change of Address information.³ Thus, any “systematic” voter challenge based on these types of information should be dismissed without any further inquiry by the Board, and without setting the challenge for a hearing.

Rather, any voter challenge hearings during the NVRA’s 90 day “Quiet Period” can only proceed if the challenge falls within an exception in the statute or is based on “individual correspondence or rigorous individualized inquiry.”⁴

- **Exceptions to the NVRA “Quiet Period”.** The Board may, at any time, remove a voter from the voting list when the voter: (1) provides a written request to be removed; (2) dies; (3) is convicted of a felony; or (4) is deemed mentally incapacitated by a court of competent jurisdiction. *See* 52 U.S.C. § 20507(c)(2)(b)(i).

Notably, there *is no exception* to the NVRA’s “Quiet Period” that would allow a voter to be removed based on a change of residence or registration in another state. And, under Georgia law, the mere fact that a voter’s name appears on another state’s voting rolls is not regarded as a “written request” by the voter “to be removed.” Instead, Georgia law requires that the “registration officials” in that other state “send a notice of cancellation reflecting the registration of the elector in the other state, which includes a copy of such elector’s voter registration application bearing the elector’s signature.” O.C.G.A. § 21-2-232(b)(1).

- **Rigorous individualized inquiry.** “Individualized” does not mean that county boards may take a data-matching spreadsheet and go through the list one-by-one. Instead, it means that a challenge must be based on evidence that reflects the voter’s individual circumstances and therefore “lead[s] to a smaller chance for mistakes.”⁵ A written request from the voter is the gold standard, and endorsed by the NVRA and Georgia law,⁶ because it increases the likelihood that we have the correct voter and that we know their intent to cancel their voter registration – whereas more generalized evidence like a spreadsheet or a screenshot from a

² The U.S. Court of Appeals for the Eleventh Circuit in *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1338 (11th Cir. 2014) ruled that a program that uses “a mass computerized data-matching process to compare the voter rolls with other state and federal databases” is “a ‘systematic program’ under any meaning of the word” and prohibited within 90 days of a federal election.

³ The U.S. District Court for the Middle District of Georgia in *Majority Forward v. Ben Hill County Board of Elections*, 512 F. Supp. 3d 1354, 1357 (M.D. Ga. 2021) ruled that matching USPS change of address data to voter rolls “fail[s] to conduct the requisite individualized inquiry required for challenges made within 90 days of a federal election.”

⁴ *Arcia*, 772 F.3d at 1346.

⁵ *Id.*

⁶ *See* O.C.G.A. § 21-2-232(a).

government website could relate to a different voter of the same name and does not reflect the voter's subjective intent.

Finally, the changes to Georgia's Elections Code through SB 189 does not alter the NVRA's "Quiet Period." Rather, SB 189 "postpones" all challenges within 45 days of any election, creating an additional reason to reject voter challenges in the run-up to the Election. Therefore, the NVRA and SB 189 can be read in harmony and, where there is any such conflict the NVRA, as federal law, supersedes Georgia law under the Supremacy Clause of the U.S. Constitution, *see* U.S. Const. art. II, § 2, cl. 2, and preempts any contravening state law.⁷

Accordingly, for the reasons stated above, we respectfully urge the Board to dismiss any "systematic" voter challenges and other list maintenance activity during the NVRA's 90-day Quiet Period and take no additional action until the November election has occurred.

Sincerely,

/s/ Sachin Varghese

Sachin Varghese
General Counsel
Democratic Party of Georgia

CC:

Kevin Olesanoye, Executive Director, Democratic Party of Georgia

(kevin@georgiademocrat.org)

Matthew M. Weiss, Deputy General Counsel, Democratic Party of Georgia (mweiss@prhd.com)

Cecilia Ugarte Baldwin, Director of Voter Protection, Democratic Party of Georgia

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⁷ *See Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1354 (11th Cir. 2005) (finding that NVRA "overrides state law inconsistent with its mandates").