



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

April 22, 2020

Logan Churchwell
Public Interest Legal Foundation
32 E. Washington Street, Suite 1675
Indianapolis, Indiana 46204

Dear Mr. Churchwell:

The Department of State (Department) has finished reviewing and processing your request for records under the National Voter Registration Act (NVRA), 52 U.S.C. § 20507 submitted to the Department on March 6, 2020. A copy of the request is enclosed and incorporated herein.

You request the following¹:

1. All records concerning the 193 absent voters impacted by Clerk Hawkins' alleged alterations to their QVF records for the November 2018 General Election. This Request includes, but is not limited to,
 - a. all information contained on the list or record described by MCL § 168.760, including
 - i. "the name of the applicant and the address to which the ballot or ballots are to be sent";
 - ii. "the date of receiving the application";
 - iii. "the date of mailing or delivering the ballot or ballots to such voter";
 - and,
 - iv. "the date of receiving the ballot from such voter."
 - b. copies of the absent ballot application submitted by each of the 193 voters. *See* MCL § 168.760 ("Applications and lists shall be open to public inspection at all reasonable hours."); and,
 - c. copies of the absentee ballot return envelopes from each of the 193 voters.
2. Copies of all written communications, including emails, between your office and the City of Southfield City Clerk's Office for the time period between November 5, 2018 and the present concerning Clerk Hawkins' alleged conduct during the November 2018 election.

¹ Additionally, your request alleges that you have submitted similar NVRA and FOIA requests to the City of Southfield and Oakland County but have been denied access to records. The Department notes that this request was submitted only as an NVRA request.

Logan Case 1:20-cv-00818
Public Interest Legal Foundation

April 22, 2020

Page 2

3. Copies of all written communications, including emails, between your office and the Oakland County Elections Division for the time period between November 5, 2018 and the present concerning Clerk Hawkins' alleged conduct during the November 2018 election.

The NVRA directs the states to establish three different programs to register individuals to vote: (1) a simultaneous registration application with a driver's license application; (2) registration application sent via mail; (3) registration submitted in person. 52 U.S.C. § 20507. The NVRA also requires the states establish a removal program without engaging in improper removal. *Id.* These records are required to be available for public disclosure. Specifically, the NVRA requires the states to make available for public inspection "all records concerning the implementation of programs and activities conducted *for the purpose of ensuring the accuracy and currency of official lists of eligible voters.* . . ." 52 U.S.C. § 20507(i)(1) (emphasis added).

The Department must first determine whether your request for records under the NVRA seeks records that are obligated to be produced under the NVRA. In interpreting statutes, the initial inquiry is whether the statute has a "plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). "The plain meaning of legislation should be conclusive, except in the rare cases [in which] the literal application of a statute will produce a result demonstrably at odds with the intentions of its drafters." *Somberg v. Utica Cmty. Schs.*, 908 F.3d 162, 179 (6th Cir. 2018) (internal quotations omitted).

"Congress enacted the NVRA in order to 'increase the number of eligible citizens who register to vote' in federal elections, 'enhance[] the participation of eligible citizens as voters,' 'protect the integrity of the electoral process,' and 'ensure that accurate and current voter registration rolls are maintained.'" *Project Vote / Voting for Am., Inc. v. Long*, 682 F.3d 331, 334 (4th Cir. 2012) (quoting 52 U.S.C. § 20505). There is no dispute that the NVRA requires the disclosure of cancellation and registration records.

However, your request seeks absentee ballot applications and correspondence between the Bureau of Elections and local clerks, neither of which are voter *registration* or voter registration *cancellation* records required to be produced under the NVRA – the vehicle through which this request is submitted. Similarly, the absentee ballot applications and correspondence are not "programs and activities conducted" for list maintenance purposes. 52 U.S.C. § 20507(i)(1)

Therefore, the Department denies your request for records under the NVRA.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State