

The Public Interest Legal Foundation (“Foundation”) hereby files this complaint against Secretary of State Steve Simon (“Secretary”) under Minnesota’s HAVA administrative complaint procedures alleging a violation of Title III of the Help America Vote Act, found at 52 USCS §§ 21081 et seq., is occurring and will continue to occur absent relief. Specifically, Secretary Simon is not complying with the requirement to eliminate duplicate names from Minnesota’s official list of eligible voters.

### **Legal Background**

#### *The Help America Vote Act*

1. The Help America Vote Act (“HAVA”) was passed in 2002 and, among other things, requires states receiving funding to implement “a single, uniform, official centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State.” 52 U.S.C. § 21083(a)(1)(A). *See also McGrath v. Minn. Sec’y of State*, No. A11-613, 2011 WL 5829345, at \*1 (Minn. Ct. App. Nov. 21, 2011).
2. This “computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.” 52 U.S.C. § 21083(a)(1)(A)(i). It further serves as the “official voter registration list for the conduct of all elections for Federal office in the State.” 52 U.S.C. § 21083(a)(1)(A)(viii).
3. HAVA requires that Minnesota’s computerized voter registration list be maintained so that “voter registration records in the State are accurate and are updated regularly.” 52 U.S.C. § 21083(a)(2) and (4).
4. HAVA specifies that the list maintenance performed should ensure that: “(i) the name of each registered voter appears in the computerized list; (ii) only voters who are not

registered or who are not eligible to vote are removed from the computerized list; and  
(iii) duplicate names are *eliminated* from the computerized list.” 52 U.S.C. §

21083(a)(2)(B) (emphasis added).

5. Minnesota state law also mandates that “[l]ist maintenance must include procedures for *eliminating* duplicate names from the official list of eligible voters.” *See* Minn. Stat. Ann. § 201.171 (emphasis added).
6. HAVA sets forth the appropriate means by which to remove individuals from the list. 52 U.S.C. § 21083(a)(2)(A).
7. Even states not subject to the National Voter Registration Act of 1993, like Minnesota, must “remove the names of ineligible voters from the computerized list in accordance with State law.” 52 U.S.C. § 21083(a)(2)(A)(iii).
8. HAVA further specifies the *minimum* standard for accuracy of State voter registration records be that the list maintenance program “makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters.” 52 U.S.C. §§ 21083(a)(4)(A), 21084.

#### *Minnesota’s HAVA Complaint Procedure*

9. Any state that accepts HAVA grant money—funds to be used for specific election activities related to federal elections— must establish a state-based administrative complaint procedure to remedy violations of HAVA’s Title III. 52 U.S.C. § 21112(a)(1), (a)(2)(B).
10. Minnesota’s HAVA complaint procedure is set forth in Minn. Stat. Ann. § 200.04, and provides a specific form to be completed and filed with Minnesota’s Secretary of State’s Office.

11. Under HAVA, “any person who believes that there is a violation of any provision of title III [52 USCS §§ 21081 et seq.] (including a violation which has occurred, is occurring, or is about to occur) may file a complaint.” 52 U.S.C. § 21112(a)(2)(B).
12. The Foundation is a “person” under HAVA.

### **Factual Allegations**

13. Minnesota receives HAVA grant money. *See* Minn. Stat. Ann. § 5.30; U.S. Election Assistance Commission 2020 Grant Expenditure Report, July 2021, found online at [https://www.eac.gov/sites/default/files/paymentgrants/expenditures/2020\\_State\\_Grant\\_Expenditure\\_Report\\_FINAL.pdf](https://www.eac.gov/sites/default/files/paymentgrants/expenditures/2020_State_Grant_Expenditure_Report_FINAL.pdf) (last accessed May 2, 2022).
14. Minnesota has a voter registration requirement with respect to elections for Federal office. *See* Minn. Stat. Ann. § 201.018.
15. In Minnesota, the Secretary of State is the state official tasked with performing list maintenance with respect to the computerized voter registration list. *See* Minn. Stat. Ann. § 201.13.
16. Therefore, the Secretary must ensure that duplicate names are “eliminated” from voter registration list pursuant to 52 U.S.C. § 21083(a)(2)(B).
17. However, Minnesota’s voter registration list contains more than 500 duplicated registration records sets, meaning more than 500 registrants are registered more than once in the state.
18. These duplicates were identified by a data scientist, who implemented the following four different queries to identify potential duplicate sets: (1) identification of all records that share the exact same address information, and also have the exact same last name, first name, and year of birth; (2) identification of all records that share the exact same address

information and also have the exact same first name and year of birth and have the last name of one record fully incorporated into the last name of the other record; (3) identification of all records that share the exact same address information and also have the exact same first name and year of birth and have the last name of one record be 2 characters or fewer different than the last name of the other record, and; (4) all records that share the exact same address information and also have the exact same last name and year of birth and have the first name of one record be 2 characters or fewer different than the first name of the other record. *See attached* Declaration of Ken Block and exhibits.

19. Using these methodologies, the Foundation identified 586 pairs of apparent duplicated registration sets.
20. The Secretary is not eliminating duplicate names as HAVA requires. 52 U.S.C. § 21083(a)(2)(B).
21. Furthermore, the presence of duplicate registrants on the official list of eligible voters demonstrates that the Secretary current list maintenance system does not make a reasonable effort to remove duplicate registrants pursuant to 52 U.S.C. § 21083(a)(4)(A).
22. The Secretary is violating Title III of the Help America Vote Act by not maintaining the voter registration list as required by law.<sup>1</sup>
23. Absent relief, the upcoming special election on August 9, 2022 will be conducted using an inaccurate voter registration list.

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<sup>1</sup> The Foundation recognizes there is a special primary election for Congressional District 1 on May 24, 2022, which could also be affected, but lists the general election as the main election for which the voter roll discrepancies need to be resolved.

### **Prayer for Relief**

WHEREFORE, the Foundation requests a hearing on the matter before the Minnesota Office of Administrative Hearings (OAH) at 600 North Robert Street, St. Paul, Minnesota, and prays for an expedited hearing and an entry of a judgment:

24. Declaring Defendant to be in violation of the Help America Vote Act by failing to eliminate duplicate names from the official list of eligible voters;
25. Declaring Defendant to be in violation of the Help America Vote Act by failing to make reasonable efforts to maintain a current and accurate voter registration list;
26. Ordering Defendant to immediately and thoroughly investigate the duplicated registration records identified by the Foundation and remove or merge confirmed duplicated records from the official list of eligible voters;
27. Ordering Defendant to implement and follow a reasonable and effective list maintenance program to cure the violations identified herein and bring the state's voter registration list into compliance with 52 U.S.C. § 21083;
28. Order the Defendant to pay the Foundation's reasonable attorney's fees, including litigation expenses and costs, and;
29. Granting the Foundation such further relief as this Court deems just and proper, including all other injunctive relief available to the Court.