



VIA EMAIL & USPS CERTIFIED MAIL

August 29, 2025

The Hon. Wes Allen
Alabama Secretary of State
C/O Jeff Elrod, Director of Elections
State Capitol Building - Suite E-208
600 Dexter Avenue
Montgomery, AL 36130
Email: Laney.Rawls@sos.alabama.gov (Secretary's POC) | Jeff.Elrod@sos.alabama.gov |
Clay.Helms@sos.alabama.gov | public.records@sos.alabama.gov

RE: Notice of NVRA Violation

Dear Secretary Allen:

The Public Interest Legal Foundation ("Foundation") exercised its NVRA record reproduction rights by utilizing the Alabama Secretary of State's ("ALSOS") form for requesting voter registration data. The Foundation made no attempt to seek anything beyond what was offered on the form. The completed form is enclosed with this notice. The Foundation submitted the form to the ALSOS Elections office on March 27, 2025.

After the Eleventh Circuit's decision in *Greater Birmingham Ministries v. Sec'y of State*, 105 F.4th 1324 (11th Cir. 2024) seemed to remove electronic reproduction from the NVRA's scope in Alabama, the Foundation presumed its NVRA rights were limited to paper reproduction and/or reading rooms reminiscent of the early 1990s. The NVRA guarantees the cost of paper reproduction will be "reasonable," 52 U.S.C. § 20507(i)(1), rather than the exorbitant price tag (~\$37,000) Alabama charges for electronic reproduction.¹

Having received the Alabama voter roll in the past, the Foundation began to estimate that it would require a forest of legal-size pages to capture all data for all registrants. Taking delivery would require extraordinary logistical planning, extending perhaps to procuring a cargo truck.

Given Alabama's roughly 3.7 million² registered voters and how that would translate to a printed layout at the time, the Foundation approximated 370,000 legal size pages would be needed at a bare minimum, running at least \$370,000 to stay within the confines of ALSOS's Public

¹ <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/VoterListRequestForm.pdf>

² <https://www.sos.alabama.gov/alabama-votes>

Inspection policy for voter registration data³ and *Greater Birmingham Ministries v. Sec’y of State*, 105 F.4th 1324 (11th Cir. 2024).

Are you sure this is the best way to proceed, or might we reconsider electronic delivery?

Assuming the printing job would be completed as promised, the Foundation contemplated delivery logistics. A standard 10-ream carton of legal-size paper sold in office supply stores holds 5,000 pages at 6.5 pounds per ream on a scale.⁴ The Foundation would need to move almost 2.5 *tons* of paper from the office of ALSOS to exercise its federal reproduction rights, while considering local procedures and applicable court holdings. Thankfully, a U-Haul distributor on Mildred Street in Montgomery appeared to have a reliable supply of large box trucks.

Again, perhaps we might reassess the fixation on not providing electronic records? The actual costs to your office to provide these records in electronic form might be less than the rib plate at Dreamland. (\$16.99, and \$19.99 if you get center cut).

I am sure you can imagine the drawbacks expected for all involved in backing up a 26-foot U-Haul to your office. Again, perhaps it is time to reconsider the policy. We are happy to take you and your staff to Dreamland for lunch to talk about a simpler plan, even if it would cost far more for the Foundation than the cheap, quick, easy, modern electronic record that all the other states use.

Surely this isn’t the foreseeable consequence of the positions taken in *Greater Birmingham Ministries*?

All this planning was eventually for naught when, on April 8, 2025, ALSOS called to inform that even with an IT department intervention at your office, they could not find a way to perform a statewide print job.

Yikes. It seems the post *Greater Birmingham Ministries* world of NVRA compliance is noncompliance. It just cannot be done, according to your own staff. Obviously, this isn’t what you want and isn’t what we want. Perhaps we really should get some ribs and talk.

Failure to offer photocopy reproduction is a violation of the National Voter Registration Act of 1993 and applicable holdings by U.S. Court of Appeals for the Eleventh Circuit.

Correspondence Summary with ALSOS

- On March 27, 2025, the Foundation submits the Voter Registration Information Request form found on the ALSOS website at that time. A true and correct copy of this form is included with this notice.

³ Ibid footnote 1.

⁴ https://www.staples.com/staples-copy-paper-8-5-x-14-20-lbs-white-500-sheets-ream-10-reams-carton-221193/product_126987

- On April 4, the Foundation replies to its email submission thread to ask for an update on the request.
- On April 8, ALSOS Voter Registration Specialist Candace Payne called the Foundation to explain they were “having some difficulty” with the size of the data file and that print jobs were failing. Over the phone, the Foundation requested that Ms. Payne attempt to calculate an estimated page count. In the moment, Ms. Payne attempted to printer load Mobile County and arrived at approximately 30,000 legal size pages relative to its total count of registered voters. This conversation validated the Foundation’s own minimum page count estimates. The Foundation closed the call by requesting a written estimation of needed pages for a statewide print.
- On April 23, the Foundation replied to the email again to memorialize the April 8 conversation after seeing no estimates and restated its request for an estimated page count.
- On May 2, ALSOS Elections Director Jeff Elrod wrote back to deny the original request on two levels: *“Considering the format in which the voter list is currently maintained and available technology resources/limitations, we have determined that updating our request form/policy is necessary. Your request for a printed copy of the statewide file with all available data fields is not available in print form because any attempt to print it would be extremely costly and the result would likely be an unusable or at least extremely cumbersome product.”* Mr. Elrod demonstrated the form had been changed by attaching a revised version to his response. Finally, Director Elrod offered the spreadsheet version of the Alabama voter roll (in its natural format) at the standard rate price known to exceed \$30,000 per request.

[Although we are sorry to send it because we have enjoyed such a productive working relationship with your office over the last decade, please consider this a written notice of a] **violation of the National Voter Registration Act.** We’re still uncertain about the pages needed for a statewide print.

The ALSOS did not offer the Foundation any workable solution to obtain the data it is entitled to under the NVRA. There was no discount price on a compliant product elsewhere on its shelf. Utilizing inspection and document reproduction rights under the NVRA isn’t an act of commerce. And, given ALSOS’s victory in *Greater Birmingham Ministries v. Sec’y of State*, 105 F.4th 1324 (11th Cir. 2024), the office certainly cannot limit compliance with their own federal precedent based on the limiting factor of a request being too “cumbersome.” Denying the Foundation’s request via deliberate revision of the request form removes the precise reproduction option that federal law requires—photocopying. Set federal law aside for a moment – did you check AL Code § 17-4-38(a) regarding “hinderances” before deciding on the revision?

This decision to effectively not provide the data in a useable form isn’t just violating the NVRA—the ALSOS is, by intent and effect, eliminating federal rights guaranteed to voters.

The holding in *Greater Birmingham Ministries v. Sec’y of State*, 105 F.4th 1324 (11th Cir. 2024) established an incredibly narrow path, and likely impossible one, for successful utilization of the public’s NVRA rights in Alabama. The Court outlined three threshold matters to weigh the applicability of the NVRA toward a responsive record.

We doubt this is what the 11th Circuit envisioned also.

The Foundation was ready to comport to your reading under the NVRA. Unlike *Greater Birmingham Ministries*, the Foundation did not submit a request for electronic records. Rather, the Foundation checked off option boxes in ALSOS’s form controlling voter roll access and asked for nothing more than what was offered. Before the request was submitted, paper reproduction of this record was on the menu.

Next comes the “photocopying” question. While the 11th Circuit relied on “common sense” to address the core question and arrived at “if you can’t put something on a photocopy machine, you can’t photocopy it,” the ALSOS and the Foundation both understand that electronic database files— even ones from the early 1990s, are designed to be fed to printers to make photographic copies of digital data onto analog mediums, be they continuous form paper from dot matrix printers⁵ in 1992, or high-speed inkjets today. The ALSOS staff demonstrated this shared understanding by twice admitting their failures to print even with intervention from their IT department.



Finally, we again reach the question of whether the NVRA creates digital access for public inspection. This is an easy one, but it carries a warning for the public’s NVRA rights going forward.

Since the Court held in *Greater Birmingham Ministries v. Sec’y of State*, 105 F.4th 1324 (11th Cir. 2024) that the statute does not provide for digital reproduction, the Foundation asked for photographic reproduction—like the official form offered, and the NVRA explicitly requires. When the ALSOS staff said this cannot be done, they cancelled the Foundation’s order and struck paper reproduction from its menu—leaving only “Microsoft Excel” or “ACII text, tab delimited” as delivery options. That means you will need a *computer* – meaning “digital access” – to see any part of the Alabama voter roll going forward.

Again, this doesn’t seem to be what the 11th Circuit envisioned and might come as a surprise to the next panel that hears these issues. Those ribs seem awfully tasty right now, compared to a prolonged wrangle.

Alabama has seemingly extinguished the NVRA’s inspection power. The current \$37,000 price per digital spreadsheet has nothing to do with actual costs and more to do with a windfall⁶ that

⁵ <https://www.quill.com/quill-brand-1-part-continuous-form-bond-paper-14-7-8x11-18-lb/cbs/006832.html>

⁶ AL Code § 17-4-38(d).

does not have a rational relation to actual costs. There is no pricing schedule like it elsewhere in the 11th Circuit. There is no pricing schedule like it in the nation. Wisconsin has the second-most expensive data in the nation *at less than a third* of Alabama’s price.

Voter Roll Access Costs – U.S. Eleventh Circuit			
STATE	PRICE	TOTAL REGISTRANTS	PRICE PER REGISTRANT
Alabama	\$37,000	3.7 million	\$0.01
Georgia ⁷	Flat - \$485	8.3 million	\$.000058
Florida ⁸	FREE	13.9 million	FREE

The NVRA requires election officials 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). Every court to address the question has held that a state’s voter roll, or a portion thereof, is subject to disclosure under the NVRA, including, just recently, the First Circuit Court of Appeals. *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36 (1st Cir. 2024) (explaining that the “[v]oter File plainly relates to the carrying out of Maine’s voter list registration and maintenance activities and is thereby subject to disclosure under Section 8(i)(1).”). The Alabama voter file is likewise within the NVRA’s scope and subject to disclosure.

Any state law or policy limiting disclosure of the requested records, such as the policy to eliminate the photocopying requirement, is inapplicable to our request because the NVRA, as a federal enactment, is superior to conflicting state laws under the Constitution’s Elections and Supremacy Clauses. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 12-15 (2013).

Failure to permit inspection and photographic reproduction or otherwise provide copies of the requested records is a violation of federal law for which the NVRA provides a private right of action. 52 U.S.C. § 20510(b).

Secretary Allen is hereby notified that his office is in violation of the NVRA and litigation may commence if the violations described herein are not cured within 90 days of receipt of this letter. *See* 52 U.S.C. § 20510(b)(2).

Can’t we just get lunch and sort this out?

For lawsuits initiated by a private party, an award of attorney’s fees, expenses, and costs incurred is available under 52 U.S.C. § 20510(c). The Foundation was recently awarded attorney fees and litigation expenses as the prevailing party in actions to enforce the NVRA’s public inspection rights.⁹

Shenna Bellows wrote the Foundation a very large check. We like everyone down there too much to want that to happen again. (Eg. Roll Tide, War Eagle, etc., etc.)

⁷ <https://sos.ga.gov/page/order-voter-registration-lists-and-files>

⁸ <https://dos.fl.gov/elections/data-statistics/voter-registration-statistics/voter-extract-request/>

⁹ Doc. 97, *Public Interest Legal Foundation v. Bennett*, No. 4:18-cv-0981 (entered June 30, 2021).

If the violation described herein is not cured in the time afforded by law, we will have no choice but to pursue remedies in federal court.

Alternative Resolution

Here are some ideas to resolve this. The voter registration data pricing scheme in conjunction with this office's campaign to suffocate NVRA transparency rights is indefensible. That dog won't hunt. To avoid litigation, why don't y'all adjust the Voter Information Fee Schedule¹⁰ and allow photographic reproduction, at a "reasonable" cost. 52 U.S.C. § 20507(i)(1). The Foundation has recent experience with this type of reform working with the New Mexico Secretary of State. A settlement agreement between the parties reduced that state's statewide voter roll fee from \$5,000 to \$600. *Pub. Int. Legal Found. v. Toulouse Oliver*, No. 1:23-cv-169 (D. N.M.) The 90-day curative period is an ideal window to accomplish this goal. Y'all know we make good deals, and Alabama law empowers you¹¹ to make a great one today.

Oh, and we'd also just take a CD or thumb drive with the data at a reasonable cost. We'll cover the cost of your preferred storage media. In our experience it will take less than an hour for your staff to perform a few mouse clicks. You already do this for free, depending on who's asking (do you actually give away more data than you sell?).¹² An hour of time, a plate of BBQ, and good conversation – isn't this a better way to help us help you find dead registrants and those voting in states with which you don't have agreement to compare voter rolls?

Sincerely,



Logan Churchwell
Research Director
Public Interest Legal Foundation

¹⁰ Ibid at 1.

¹¹ AL Code § 17-4-38(b).

¹² AL Code § 17-4-38(e)(f)(g).