



VIA EMAIL

May 26, 2026

The Hon. Maggie Toulouse Oliver
New Mexico Secretary of State
New Mexico Capitol Annex North
325 Don Gaspar, Suite 300
Santa Fe, NM 87501
Email: Elections@sos.nm.gov

RE: Notice of NVRA Violation

Dear Secretary Toulouse Oliver:

Pursuant to 52 U.S.C. § 20510(b)(1), this letter serves as statutory notice to Secretary Maggie Toulouse Oliver, as New Mexico’s chief election official, that she is in violation of the National Voter Registration Act (“NVRA”) for failure to permit inspection and reproduction of records as required by the NVRA, 52 U.S.C. § 20507(i)(1), and for failure to maintain records for at least two (2) years as required by the NVRA, 52 U.S.C. § 20507(i)(1).

Secretary Toulouse Oliver (“New Mexico”) is hereby notified that she faces federal litigation if the violation(s) are not cured in the time afforded by law.

Background

The NVRA requires each state and the District of Columbia 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). The records the NVRA describes are commonly referred to as “voter list maintenance” records.

On January 29, 2026, pursuant to the NVRA, the Foundation requested from your office the opportunity to inspect or receive certain voter list maintenance records, namely: “(1) Copies of all “Deceased Retractions” reports received from ERIC; and, (2) Copies of all other records concerning “Deceased Retractions” reports, *e.g.*, correspondence.”¹ The request sought records

¹ The request explained, “*In more recent years, your office may have received email alerts from Sarah Whitt, ERIC Systems and Data Analyst, (sarah.whitt@ericstates.org) copying Ericka Haas (Ericka.haas@ericstates.org) stating that new Deceased Retractions were available within your office’s dedicated Downloads folder on the ERIC FTP site.*” (emphasis in original).

from “the date your state joined ERIC through the present.” A copy of the Foundation’s January 29, 2026, request is enclosed with this notice.

Timeline of Correspondence with New Mexico

Email records maintained by the Foundation show:

- On January 29, 2026, the Foundation submits its requests per 52 U.S.C. § 20507(i)(1).
- On February 27, 2026, New Mexico acknowledged receipt of the January 29 letter and explained that an IT systems upgrade slowed their response. Additional time was needed to respond and they planned to do so by March 16.
- On March 16, 2026, New Mexico writes again, saying due to the “nature and timing” of the requests, more time would be needed because it is “excessively broad and burdensome.” They cite NMSA 1978, Section 14-2-10 for a time extension to March 31.
- On March 31, 2026, New Mexico sends another “broad and burdensome” extension letter delaying to April 15.
- On April 15, 2026, New Mexico sends another “broad and burdensome” extension letter delaying to April 30.
- On April 30, 2026, New Mexico sends another “broad and burdensome” extension letter delaying to May 15.
- On May 15, 2026, New Mexico sends another “broad and burdensome” extension letter delaying to May 30.

Violations of the National Voter Registration Act

Based on review of similar records received from other states, there is nothing “broad or burdensome” about the Foundation’s request. Each ERIC “Deceased Retractions” report is typically a single page of information that can easily be produced electronically. Yet for nearly half a year, New Mexico has refused to permit inspection and reproduction of these documents. Even under the most generous of production windows, New Mexico has effectively denied the Foundation’s request. New Mexico is violating the NVRA. .

The NVRA requires that:

Each State shall **maintain for at least 2 years** and shall make available for public inspection and, where available, photocopying at a reasonable cost, **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 requested records are within the NVRA's scope because they concern New Mexico's program for maintaining accurate and current voter registration records. The NVRA exempts only two pieces of information— (1) a declination to register to vote, and (2) the identity of a voter registration agency through which any voter is registered. 52 U.S.C. § 20507(i)(1). The Foundation does not seek either of those things and the NVRA's text exempts no other records.

Any state law providing for a shorter retention period or limiting disclosure of the requested records 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, 133 S. Ct. 2247, 2255-57 (2013); *see also Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1089 (10th Cir. 2025) (affirming the district court's holding that the NVRA preempts New Mexico law prohibiting certain uses and sharing of voter roll data).

Secretary Toulouse Oliver is hereby notified that she is violating the NVRA and litigation may commence against her imminently, given the proximity of the next Federal office elections scheduled for June 2, 2026.² 52 U.S.C. § 20510(b)(3).

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's fees and litigation expenses as the prevailing party in actions to enforce the NVRA's public inspection rights.³

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

Please contact me to arrange for secure transmission of the requested records.

Thank you for your continued attention to this matter.

Sincerely,



Logan Churchwell
Research Director
Public Interest Legal Foundation

² <https://www.sos.nm.gov/voting-and-elections/>

³ Doc. 97, *Public Interest Legal Foundation v. Bennett*, No. 4:18-cv-0981 (entered June 30, 2021).