



Wisconsin Elections Commission

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December 11, 2025

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VIA email to Eric.Neff@usdoj.gov

Re: December 2, 2025, Correspondence Regarding Wisconsin Statewide Voter Registration List

Attorney Neff,

This letter is the Wisconsin Elections Commission's ("Commission") response to your December 2, 2025, demand for full production of Wisconsin's unredacted statewide voter registration list, including the last four digits of each elector's social security number, each elector's driver's license number, or both. Although the Commission is willing to provide any non-confidential voter registration data or records sought by the United States Department of Justice ("USDOJ") as outlined herein, Wisconsin law explicitly prohibits the Commission from providing the full unredacted voter registration list.

This letter explains what information can and cannot be provided and specifies the current processes by which Wisconsin keeps its voter registration information current and compliant. The Commission, including agency staff, is happy to assist your office in any way that it can.

Controlling Wisconsin Law

State law requires that Wisconsin's official registration list be open for public inspection but prohibits the Commission from disclosing certain personally identifiable information ("PII"). Wis. Stat. § 6.36(1)(b)1.a.

Public voter registration data from the list (such as elector names, most addresses, and election participation history) is readily available to the public for a fee, which is set by state law and the Commission's administrative code. *See* Wis. Stat. § 6.36(6); Wis. Admin. Code § EL 3.50.

The Commission is required to keep certain elector PII confidential. This confidential information includes an elector's date of birth, driver's license number, social security number, addresses of confidential electors, and voting accommodation needs. Wis. Stat. § 6.36(1)(b)1.a. Municipal and county clerks are bound by this same prohibition against disclosing elector PII. *Id.*

Wisconsin Elections Commissioners

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The Commission lacks the legal authority under Wisconsin law to contract for the release of elector PII in the manner demanded in your letter. And having reviewed the December 2, 2025, proposed Memorandum of Understanding and related statutes, the Commission concludes that the cited federal authorities do not override Wisconsin's statutory restrictions on the release of elector PII.

The Federal Laws Cited do not Override Wisconsin State Law

The Commission wishes to briefly address the federal authority cited in your December 2, 2025, demand letter:

The National Voter Registration Act ("NVRA")

Your letter and accompanying materials appear to state that the NVRA, specifically Section 11, provides legal authority for your request. Wisconsin is exempt from the NVRA because it has offered election-day voter registration at polling places on a continuous basis since the NVRA's enactment. *See* 52 U.S.C. § 20503(b)(2); *see also, e.g., Pub. Int. Legal Found., Inc. v. Wolfe*, No. 24-CV-285-JDP, 2024 WL 4891940, at *3 (W.D. Wis. Nov. 26, 2024) ("[B]y its own terms, the NVRA does not apply to Wisconsin."). Accordingly, to the extent that your letter implies that Wisconsin has an obligation to disclose PII under the NVRA, that implication is incorrect. Wisconsin is properly exempt from all NVRA requirements.

The Help America Vote Act ("HAVA")

Your letter and accompanying materials cite HAVA, as a whole, as further legal authority for the request. *See* 52 U.S.C. § 20901, *et seq.* It is difficult for the Commission to evaluate a general citation, but on the Commission's review, nothing in HAVA authorizes or requires the release of PII from Wisconsin's voter registration list to your office.

You also cite a specific section of HAVA in your request, the "Attorney General's authority to enforce the Help America Vote Act" codified at 52 U.S.C. § 21111. Section 21111 allows the United States Attorney General to bring a civil action against a state for declaratory and injunctive relief to vindicate the requirements of four cross-referenced provisions that establish "uniform and nondiscriminatory election technology and administration requirements." This provision authorizes the Attorney General to bring enforcement actions; it does not authorize your office to demand confidential data disclosure of which is prohibited under state law.

The Commission's reading of this provision is supported by the plain language of 52 U.S.C. § 21083, which is the only cross-referenced section in 52 U.S.C. § 21111 relating to state registration lists. Section 21083 does not authorize the Attorney General or your office to seek access to such confidential voter data. It grants such access only to a small set of specified officials and only for limited and specific purposes. Congress did not grant list maintenance, audit, or data access authority to the USDOJ when it enacted HAVA.

Title III of the Civil Rights Act of 1960

Title III of the Civil Rights Act of 1960 requires election officials to retain certain election materials for a period of 22 months after each federal election. To the extent that your letter invokes Sec. 303 of Title III, the Commission does not consider your December 2 letter to constitute the type of demand, including a statement of the basis and purpose, contemplated by Sec. 303.

The Privacy Act of 1974

The Privacy Act of 1974 applies to federal agencies, not state agencies like the Commission. *See, e.g., Clancy v. Fla. Dep't of Corr.*, 782 F. App'x 779, 781 (11th Cir. 2019)¹. Accordingly, the Commission has no obligation to provide the information requested to the USDOJ under any provision of the Privacy Act.

List Maintenance Practices in Wisconsin

Wisconsin's voter registration list is readily available through the Commission's Badger Voters website (<https://badgervoters.wi.gov>). Both the Republican Party and the Democratic Party routinely obtain copies of the entire list several times each year. If the USDOJ elects to obtain the list through Badger Voters, it may be helpful to understand the broader framework of list maintenance practices in Wisconsin. Wisconsin's voter administration is largely delegated to the approximately 1,850 municipal and county clerks in the State. Those local election officials are assigned by law many voter registration list maintenance responsibilities and the Commission has only limited authority as to list maintenance in specific circumstances.

The joint effort between state and local election officials enhances the integrity of the system by ensuring responsibilities are distributed across thousands of officials in every city, village, and town, rather than concentrated among a small handful of state employees in the Capitol.

The vast majority of list maintenance work consists of routine updates, and the processes also serve to identify attempts at wrongdoing. Each year, Wisconsin election officials at all levels of government identify and refer to criminal prosecution: felons attempting to vote, double voters, non-citizens, and others trying to circumvent election law.

There are 11 major voter list maintenance processes in the State of Wisconsin.

1. Four consecutive years of inactivity, "Four-Year Maintenance" Wis. Stat. § 6.50(1).

By June 15 of every odd numbered year, the Commission is required to identify registered voters who have not participated in an election for four or more consecutive years. Wis. Stat. § 6.50(1). Thus, this process occurs *every two years*, in the summers of odd-numbered years. The identified voters receive a postcard from the Commission advising them that their voter registration will be suspended if they do not request continuation within 30 days. Wis. Stat. § 6.50(2). Voter requests to continue their registration are sent to their municipal clerk.¹ "Voters who fail to request continuation within 30 days are automatically deactivated on the voter registration list. Wis. Stat. § 6.50(2).

No later than August 1 of each year when Four Year Maintenance postcards go out, the Commission will publish data on the number of postcards that were mailed, the number that were returned as undeliverable, the number of voters who requested to continue their status, and the number of postcards not returned, among other fields. Wis. Stat. § 6.50(2r). This data can be accessed here: <https://elections.wi.gov/statistics-data/voter-list-maintenance>.

2. Voters Who Move. Wis. Stat. § 6.50(3).

Voters who move to a different municipality must re-register to vote. *See* Wis. Stat. § 6.27 (requiring most electors to register before voting in any election). If the municipal clerk reasonably believes a voter has moved to a

¹ *See also Hatfield v. Berube*, 714 F. App'x 99, 105-06 (3rd Cir. 2017); *N'Jai v. Pittsburgh Bd. of Public Educ.*, 487 F. App'x 735, 737 (3d Cir. 2012) (per curiam); *Spurlock v. Ashley County*, 281 F. App'x 628, 629 (8th Cir. 2008); *Schmitt v. City of Detroit*, 395 F.3d 327, 331 (6th Cir. 2005); *Perez-Santos v. Malave*, 23 F. App'x 11, 12 (1st Cir. 2001) (per curiam); *Dittman v. California*, 191 F.3d 1020, 1026, 1029 (9th Cir. 1999)

different municipality, they must mail the voter a “30-Day Notice” advising the voter of a pending change in registration status. Wis. Stat. § 6.50(3). If the voter fails to respond, or confirms that they have moved to a different municipality, the municipal clerk may deactivate the voter’s registration.

3. ERIC Movers. Wis. Stat. § 6.36(1)(ae)1.

Wisconsin law requires the state to be a member of the Electronic Registration Information Center (ERIC). Wis. Stat. § 6.36(1)(ae)1. ERIC is a nonprofit, nonpartisan membership organization created by and comprised of its member states and the District of Columbia. ERIC facilitates the exchange of information between states to identify voters who move, voters who die, and voters who attempt to vote in more than one state. More information about ERIC is available on their website.

To identify potential movers, ERIC obtains data from a variety of sources, such as the Wisconsin Department of Transportation (WisDOT), other member states’ data, and the National Change of Address (NCOA) database from the United States Postal Service. ERIC provides the State of Wisconsin with a list of voters who may have moved each quarter. The list of movers is, in turn, provided to municipal clerks for review.

4. Deceased Voters. Wis. Stat. § 6.50(4).

When a municipality learns that a registered voter has died, the municipal clerk deactivates the voter’s registration. Wis. Stat. § 6.50(4). The Commission facilitates the exchange of information between public health officials and local election officials. When the Wisconsin Department of Health Services reports a deceased voter to the Commission, the information is relayed to municipal clerks through a Registration List Alert process. See Wis. Stat. § 6.50(4).

5. Voters Residing in a Condemned Structure. Wis. Stat. § 6.50(5).

The law requires municipal clerks to investigate whether voters are registered at addresses of structures in their municipalities that are condemned for human habitation. If a building has been condemned, it cannot be a residence for voting purposes. *See* Wis. Stat. § 6.50(5).

6. Voter Requests for Deactivation. Wis. Stat. § 6.50(6).

Voters may voluntarily ask to have their registration deactivated. Wis. Stat. § 6.50(6). Such requests do not result in the deletion of voter information from WisVote—even inactive voter records must be preserved as public records. Wis. Stat. § 19.35(1)(a).

7. Voters Adjudicated Incompetent by a Court. Wis. Stat. §§ 6.03(1)(a), 6.03(3), 54.25.

Wisconsin competency proceedings are governed by Ch. 54 of the Wisconsin statutes. A person may be disqualified from voting if a court determines they are incapable of understanding the objective of the electoral process and are therefore ineligible to vote. Wis. Stat. § 6.03(1)(a). The grant of a guardianship order alone is not sufficient, and a court must make a specific finding of incompetence to vote under Wis. Stat. § 54.25(2)(c)1.g. Once made, an incompetency determination “shall be communicated in writing by the clerk of court to the election official or agency charged . . . with the responsibility for determining challenges to registration and voting.” Wis. Stat. § 54.25(2)(c)1.g.

Once an individual is adjudicated incompetent to vote, their right to vote can only be restored by a court order. *See* Wis. Stat. §§ 6.03(1)(a), 6.03(3), 54.25.

8. Voters Convicted of a Felony/Treason/Bribery. Wis. Stat. § 6.03(1)(b).

A person is not eligible to vote if they are convicted of a felony and still serving their term of imprisonment or probation for the crime. Wis. Stat. § 6.03(1)(b). The Wisconsin Department of Corrections provides felony conviction information to the Commission pursuant Wis. Stat. § 301.03(20m) The information is provided to municipalities through two processes: (1) the Registration List Alert process; and (2) the Ineligible Felon List. Registration List Alerts are used by clerks to identify registered voters who have become ineligible to vote due to a felony conviction. The Ineligible Felon List is used by clerks to review new voter registration applications to ensure the applicant is not currently ineligible to vote. Wis. Stat. §§ 6.29(2)(am) (for use during late registration); 6.55(2)(cs) (for use on Election Day); 6.79(2)(dm)(for use on election day); 6.56(3m) (for use during reconciliation).

9. Duplicate Voter Records. Wis. Stat. § 7.15(1)

Duplicate records are a common occurrence because voters who move often register in their new municipality without notifying their old municipality that they have moved. Duplicate records may also be created when a registered voter believes they are not registered and submits a new registration request. In addition to being a good database management practice, reviewing the voter list for duplicates and resolving them is required by the federal Help America Vote Act (HAVA). 52 U.S.C. § 21083(2)(B)(iii). The Registration List Alert process identifies possible duplicate records. When identified, duplicate records are merged into the newest record.

10. Online Voter Registration (OVR), DMV Check Processes. Wis. Stat. § 6.30(5)

OVR-DMV Checks are required by state law to validate online voter registration requests. Wis. Stat. § 6.30(5). OVR-DMV checks occur automatically when the statewide voter registration system attempts to match data from voters with data from the Wisconsin Department of Transportation. The OVR-DMV check occurs nearly instantly to verify that a voter's name, date of birth, license number, and residency match DMV records. If the OVR-DMV check does not match, the voter is not permitted to register online. Therefore, all records with a source of "Online Registration" passed the OVR-DMV check with a 100% match.

11. HAVA DMV Check Process

HAVA-DMV Checks are comparisons between a voter registration record and a DMV or Social Security record. The checks were created by the federal Help America Vote Act of 2002 ("HAVA"). HAVA § 303(a)(1)(A) codified at 52 U.S.C. § 21083(a)(1)(A).

In Wisconsin, HAVA-DMV checks occur automatically when the statewide voter registration system attempts to match data from voters with data from the Wisconsin Department of Transportation and the Social Security Administration. The checks are run in batches overnight on voters who register on a paper form, whether in person or by mail. This check attempts to match the voter's name, date of birth and driver license (or state ID) number with WI DMV records once the registration information is entered into WisVote by the clerk. If the voter does not have a Wisconsin driver license or state ID card, the system tries to match the name, date of birth and the last four digits of their Social Security Number.

We are pleased to help the USDOJ obtain Wisconsin voter records through the processes permitted by law. Should you have any questions about navigating the Badger Voters website, or about the list maintenance processes

described above, please do not hesitate to contact our staff. Our office is available to provide additional clarification or assistance as needed.

Sincerely,

Commission Chair Ann S. Jacobs,
Commissioner Marge Bostelmann,
Commissioner Don M. Millis
Commissioner Carrie Riepl
Commissioner Mark L. Thomsen