January 9, 2026

The Honorable Jane Nelson
Texas Secretary of State
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VIA EMAIL AND FIRST-CLASS MAIL

Dear Secretary Nelson:

I write on behalf of the Democratic National Committee (DNC) to address an imminent violation of the National Voter Registration Act (NVRA), 52 U.S.C. §§ 20501-11, in the State of Texas. The U.S. Department of Justice has indicated that Texas has entered or may soon enter a memorandum of understanding (MOU) that appears to require violations of the NVRA. Through this letter, the DNC aims to ensure that Texas is fully aware of federal constraints on voter registration list maintenance and will forebear from unlawful removals from its official list of eligible voters in elections for federal office.

During a recent hearing, the Acting Chief of the Voting Section of the U.S. Department of Justice told a federal judge that Texas had "expressed . . . a willingness" to enter into a proposed memorandum of understanding (MOU) concerning voter registration list maintenance. Tr. 89:18-90:6, *United States v. Weber*, No. 2:25-cv-9149 (C.D. Cal. Dec. 4, 2025). The proposed MOU has become public, and it requires the signatory state to agree that "within forty-five (45) days of receiving notice from the Justice Department of any issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns, your state will clean its [Voter Registration List]/Data by removing ineligible voters and resubmit the updated [Voter Registration List]/Data to the Civil Rights Division of the Justice Department to verify proper list maintenance has occurred by your state pursuant to the NVRA and HAVA," the Help America Vote Act, 52 U.S.C. §§ 20901-21145. This 45-Day Removal Demand has the potential to violate two provisions of the NVRA: the Notice and Waiting Provision governing removal based on a suspected change in residence, *see* 52 U.S.C. § 20507(d)(1), and the Quiet Period Provision barring systematic voter list maintenance in the months before a federal election, *see id.* § 20507(c)(2).

The 45-Day Removal Demand purports to address "proper list maintenance . . . pursuant to the NVRA and HAVA," meaning that the Justice Department should provide information concerning only potential movers and deceased registrants. The NVRA's affirmative list maintenance mandate requires nothing more than a "reasonable effort" to remove those two categories of ineligible individuals from voter registration rolls. *See* 52 U.S.C. § 20507(a)(4). HAVA specifies that appropriate officials must remove voters from statewide voter registration lists using a "system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters . . . consistent with the [NVRA]," *id.* § 21083(a)(4)(A), and this provision does not "broaden[] the scope of the NVRA's

list-maintenance obligations." *Bellitto v. Snipes*, 935 F.3d 1192, 1202 (11th Cir. 2019); *see also Am. Civ. Rights Union v. Phila. City Comm'rs*, 872 F.3d 175, 184-85 (3d Cir. 2017). To the extent that the Justice Department has claimed that the NVRA or HAVA imposes a mandate for states to identify and remove other categories of ineligible registrants, this has no basis in federal law. *See, e.g.*, *Am. Civ. Rights Union*, 872 F.3d at 185.[9]

Application of the 45-Day Removal Demand to registered voters flagged as no longer eligible based on a change of residence would violate the Notice and Waiting Provision, 52 U.S.C. § 20507(d)(1). This Provision directs that states "shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or has failed to respond to a [statutorily defined] notice . . . and has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice." The Justice Department itself has recognized that "[i]nformation submitted by a third party does not constitute a 'removal at the request of the registrant.'" U.S. Dep't of Justice, *NVRA List Maintenance Guidance* (Sept. 2024), https://perma.cc/J3C2-WSSE; *see also League of Women Voters of Indiana, Inc. v. Sullivan*, 5 F.4th 714, 724 (7th Cir. 2021); *Common Cause v. Indiana*, 937 F.3d 944, 958-59 (7th Cir. 2019); *U.S. Student Ass'n Found. v. Land*, 546 F.3d 373, 381-82 (6th Cir. 2008); *Common Cause New York v. Brehm*, 432 F. Supp. 3d 285, 318-19 (S.D.N.Y. 2020). Thus, challenges to the eligibility of individual registrants based on a suspected change of address—whether by private citizens or the Department of Justice—cannot circumvent the Notice and Waiting Provision. *See Majority Forward v. Ben Hill Cnty. Bd. of Elections*, 512 F. Supp. 3d 1354, 1369-70 (M.D. Ga. 2021); *N.C. State Conf. NAACP v. N.C. State Bd. of Elections*, No. 1:16-cv-12274, 2016 WL 6581284, at *7-8 (M.D.N.C. Nov. 4, 2016). Purging such "ineligible voters" pursuant to the 45-Day Removal Demand would violate Section 8(d)(1) of the NVRA.

Systematic removal of registered voters pursuant to the 45-Day Removal Demand may also violate the Quiet Period Provision, 52 U.S.C. § 20507(c)(2). The Quiet Period Provision mandates that states "shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters," although the Provision

[9] The "reasonable effort" requirement does not authorize the Justice Department to supervise state voter registration list maintenance efforts. *See, e.g.*, *See Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624-26 (6th Cir. 2025) (recognizing NVRA does not contain a "quantifiable, objective standard" for state list maintenance); 52 U.S.C. § 21085 ("The specific choices on the methods of complying with the requirements of [Title III of HAVA] shall be left to the discretion of the State."). Indeed, the Justice Department has long recognized substantial state flexibility when conducting voter registration list maintenance. *See, e.g.*, U.S. Dep't of Justice, *The National Voter Registration Act of 1993* (last updated Nov. 1, 2024), https://perma.cc/D8YZ-F9AM; U.S. Dep't of Justice, *NVRA List Maintenance Guidance* (Sept. 2024), https://perma.cc/J3C2-WSSE. The Department's recent assertion that it "has special standing under federal election statutes to *conduct* list maintenance," U.S. Br. 16, *United States v. Benson*, No. 1:25-cv-1148 (E.D. Mich. Dec. 26, 2025), ECF No. 53 (emphasis added), is a baseless claim untethered from the U.S. Constitution, federal statutes, or principles of federalism.

carves out removals at the request of the registrant, by reason of felony conviction or adjudicated incapacitation, or the death of the registrant. *See also Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1343-48 (11th Cir. 2014); Prelim. Inj., *Ala. Coal. for Immigrant Justice*, No. 2:24-cv-1329 (N.D. Oct. 16, 2024), ECF No. 56, https://www.justice.gov/crt/media/1373591/dl. Texas will conduct a primary election for federal offices on March 3, a primary runoff on May 26, and a general election for federal offices on November 3, 2026. Thus, list maintenance pursuant to the 45-Day Removal Demand before May 26 and again between August 6 and November 3, 2026 would violate the Quiet Period Provision.

Texas acquiescence to the 45-Day Removal Demand in violation of the NVRA would harm the DNC and its members. A systematic purge of registered voters under the 45-Day Removal Demand would likely lead to errors that remove registrants who remain eligible under state law. In turn, this would force the DNC to expend and divert funds and resources that it would otherwise spend on voter outreach and mobilization efforts toward informing voters about their registration status and urging them to reregister. Moreover, members of the Democratic Party erroneously flagged as ineligible will be harmed by loss of voter registration status, particularly if they are removed from the rolls after the close of registration for an upcoming election. *See, e.g.*, *Tex. Democratic Pty. v. Benkiser*, 459 F.3d 582, 587–88 (5th Cir. 2006) (recognizing political party associational standing). To reduce the likelihood of such harm, the DNC requests that you produce the following records within thirty days, pursuant to Section 8(i) of the NVRA, 52 U.S.C. § 20507(i), and Texas open records laws.

- Any proposed, revised, amended, draft, or final memorandum of understanding, consent decree, or other agreement between the U.S. Department of Justice and Texas or Texas officials concerning voter registration list maintenance.

- Any correspondence between the U.S. Department of Justice and Texas or Texas officials concerning voter registration list maintenance, including but not limited to information requests, requests for meetings, and discussion of any proposed, revised, amended, draft, or final memorandum of understanding, consent decree, or other agreement.

- Any notice from the Justice Department of any issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns regarding voter registration list maintenance, including but not limited to any list of purportedly ineligible voters identified on Texas's voter registration rolls subject to the 45-Day Removal Demand.

- The names of any registered voters removed from the registration list, inactivated, or contacted based on the 45-Day Removal Demand or any other information provided by the U.S. Department of Justice, including the voter's full name, residential address, phone number (if available), email address (if available), partisan affiliation, and any purported basis of ineligibility.

Please provide responsive records dating from January 1, 2025, to the present. Any charge for these records must be a "reasonable cost." 52 U.S.C. § 20507(i)(1). Please inform me of the expected cost prior to delivery if such cost may exceed $100. I would prefer to receive all records in electronic format via email or other electric method to freemand@dnc.org. If this is

not possible, I would be happy to confer about other ways I may meaningfully access these records.

It remains possible that Texas has not yet violated Section 8(d)(1) or 8(c)(2) of the NVRA based on the activities described above. Therefore, this letter does not constitute written notice of violations of the NVRA, pursuant to Section 10(b)(1) of the Act, 52 U.S.C. § 20510(b)(1). Rather, the DNC sends this letter in the hope that the imminent violations set out above may still be avoided. Nonetheless, the DNC stands ready to issue a formal notice should evidence of ongoing violations come to light. In the event that your office believes further conversations might help avoid a violation of federal law, I would be happy to discuss this matter with you or your staff.

Sincerely,

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