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### 7.1 Definition of List Maintenance

List maintenance is the process by which accurate and current lists of registered voters are maintained. The regulations governing list maintenance are set forth in Virginia Election Laws [Title 24.2](#). They are based on and comply with the National Voter Registration Act of 1993 (NVRA, [42 USC 1973gg-1 et seq.](#)), the Help America Vote Act of 2002 (HAVA, [42 USC 15301 et seq.](#)) and the Voting Rights Act of 1965 ([42 U.S.C. 1971 et seq.](#)). [2011 Virginia legislation](#) requires the State Board of Elections promptly to provide and general registrars to act upon information provided by SBE for list maintenance within 30 days (deceased, moved outside locality of residence, felony conviction, adjudication of incapacity, declared noncitizen who has not timely affirmed U.S. citizenship, other disqualification provided by law). Each type of information reported by SBE is discussed in more detail below.

### 7.2 National Voter Registration Act (NVRA)

**The importance of understanding the role NVRA plays in list maintenance cannot be understated. The Virginia Code provisions are taken directly from the language of NVRA. Non-compliance with list maintenance requirements can result in violations of state and federal laws.**

The National Voter Registration Act (NVRA), passed by Congress in 1993, fundamentally changed the way General Registrars register and maintain lists of voters. NVRA mandates that each state develop and maintain programs to ensure accurate and current voter registration rolls. These list maintenance programs are required to be uniform, nondiscriminatory and in compliance with the Voting Rights Act. They may

not remove the name of a voter from the list because of failure to vote. The purpose of these requirements is to prohibit selective or discriminatory voter removal practices.

NVRA divides the required list maintenance programs into two major areas: cancellations and confirmations. It is important to understand the difference between the programs and what each accomplishes in lists maintenance.

## **7.3 Virginia's List Maintenance Programs**

The list maintenance programs requirements of NVRA are managed through the Virginia Election/Registration Information System (VERIS). Through VERIS, it is possible to add or delete registrants, maintain records of "Active" and "Inactive" voters, generate reports of transactions and activity, track the origin of registration applications, maintain records of confirmation mailings, and interface with other State agencies. *See*, GREB 6 (providing details on what records are available for public inspection and copying).

### **7.3.1 Voter Cancellation Program**

NVRA mandates that each state must have a general program that makes a reasonable effort to remove the names of ineligible voters from the official list of registered voters [42 USC 1973gg-6\(a\)\(4\)](#). The state of Virginia has met this requirement through, [§ 24.2-427](#), which requires the general registrar (GR) to cancel registrations under certain conditions. Virginia's program authorizes cancellation for the reasons provided below.

#### **7.3.1.1 Deceased Registrants**

The name of a person who is deceased must be removed from the voter registration rolls. [42 USC 1973gg-6\(a\)\(4\)\(A\)](#), [§ 24.2-427\(B\)](#). Each month VERIS receives updated electronic files from the Bureau of Vital Statistics and the Social Security Administration. The VERIS "Hopper" and "Agency Updates" screens will reflect the new information. The following steps should be taken:

- Once the identity of a deceased individual has been matched with the information of a registered voter, cancel the voter registration using the VERIS "Hopper" or the "Change Status" screens. On the "Change Status" screen, select "Deceased" for the NVRA reason and place important supporting information in the "Comment" section.
- Mark the back of the application in the box provided for deceased. Include the date of death, date of deletion, and the source of the information.
- If a box is not provided, record the information on the lower right corner of the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.

- File the application form in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.

VERIS will generate a cancellation letter expressing condolences to “The Family of” the deceased former voter. Consideration should be given to timing the mailing of the notification to allow time for grieving, (about 10 days following a published death notice is appropriate).

- ① Unless you attended the funeral, don’t delete except on official notification by the family, Vital Statistics or Social Security Administration. Using the obituary column as the source document for deceased deletions presents the possibility for errors, especially in large communities.

### 7.3.1.2 Felony Convictions

The name of a person who has been convicted of a felony must be removed from the official list of registered voters. [42 USC 1973gg-6\(a\)\(3\)\(B\)](#), [§ 24.2-427\(B\)](#)

Each month VERIS receives updated electronic files reporting felony convictions from the Virginia State Police CCRE (Central Criminal Records Exchange). [§ 19.2-389](#), [§ 24.2-409](#). In addition, reports of felony convictions by United States District Courts are entered into VERIS. [§ 24.2-409.1](#). The VERIS “Hopper” and “Felon Search” screens will reflect the new information. The following steps should be taken:

- Process all Felony Conviction potential matches through the “Hopper.” Determine if a registered voter matches the Felony Conviction information. If so, approve the match to cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status” screen. On the “Change Status” screen, select “Felon” for the NVRA reason and place important supporting information in the “Comment” section.
- Mark the box provided for “Convicted of Felony” on the back of the application. Include the date of conviction, and the State Police SID number.
- If a box is not provided, record the information on the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the “Deleted” file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice generated by VERIS stating the reason for removal and any comments entered when processing the cancellation. Include an Application and Instructions for Restoration of Civil Rights Form.

In processing felony conviction information, please note the following:

- The information concerning a felony conviction is not always accurate. Wrongful felony convictions, identity theft, or felony charges that should have been reduced to misdemeanors account for most of the errors. Individuals have the right to challenge the record. [§ 2.2-3806](#).
- Should the individual wish to challenge the record, the Virginia State Police should be contacted. Call (804-674-2000) to obtain information on the procedures to challenge identity information on record.
- A criminal history search can be requested by filing a *Criminal Record Name Search* (Form SP-167) with the Virginia State Police. The fee for filing this request is \$15.00.
- Upon request from the GR, SBE will research to confirm accuracy of the conviction information.
- Once an error has been corrected through State Police procedures, the individual will receive notification of the correction from the State Police or appropriate authority. This documentation should be provided to the GR in order to reinstate the voter.

### **7.3.1.3 Adjudicated Incapacitated**

The name of a person who has been adjudicated incapacitated must be removed from the lists of eligible registered voters. [42 USC 1973gg-6\(a\)\(3\)\(B\)](#), [§ 24.2-427\(B\)](#).

Adjudications for Incapacity can only be ordered by a Circuit Court which may recognize an order from another state. Simple commitment to an institution for treatment does not constitute an adjudication of mental incompetence or incapacity. The Circuit Court Clerks are required to send SBE monthly reports of all persons adjudicated incapacitated. [§ 24.2-410](#). This includes persons in other states and countries under the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. [§ 37.2-1031 et seq.](#) SBE forwards these reports to GR's who are responsible for entering relevant data into VERIS. The following steps should be taken:

- Review the terms of each adjudication order to ensure there is no provision preserving voting rights. [§ 37.2-1000](#). Unless the retention of voting rights is clearly stated in the Adjudication Order, the right to vote is removed. Adjudications where voting rights are retained are the exception.
- Enter relevant information into VERIS by completing all required fields on the "Agency Update Maintain" page. This information must be entered even if the voter has already been cancelled and is not an active or inactive registrant in the GR's locality. Entering this information will allow the system to automatically search for potential matches, which will appear in the "Hopper" for the appropriate locality.
- Process all potential matches through the "Hopper" that appear for the locality. The GR must determine if a registered voter matches the adjudication

- information. If so, approve the match to cancel the voter's registration. Individual voters may also be cancelled through the "Change Status" screen. On the "Change Status" screen, select "Mentally Incapacitated" as the NVRA reason and place important supporting information in the "Comment" section.
- Mark the box provided for "Adjudicated Incapacitated" on the back of the application. Include the date of the adjudication and the Circuit Court case number.
  - If a box is not provided, record the information on the lower right corner on the back of the application.
  - Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
  - File the application in the Deleted file.
  - Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
  - Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

**i** A legal representative of a person under an adjudication of incapacity may petition the circuit court to make provision for voting rights. If the order is silent regarding voting rights, the person is deemed disqualified. See GREB 9.1.4.

#### **7.3.1.4 Personal Request**

Anyone who wishes to cancel their voter registration for personal reasons may submit a written request that is signed either by mail, fax or in person. [42 USC 1973gg-68\(d\)\(1\)\(A\)](#), [§ 24.2-427\(A\)](#). Within 10 days of receiving a notice of cancellation, the GR must send a letter or card confirming the voter's removal. The following steps should be taken:

- Process a "Personal Request" cancellation using the VERIS "Change Status" screen. Selecting "Per Choice" as the reason to cancel the voter. Place important supporting information in the "Comment" section. Cancelling a voter's record through VERIS will automatically generate the required correspondence, which must be sent within ten (10) days of receipt of the request for cancellation.
- i** To cancel registration during the twenty-nine (29) days before an election, the voter must make the request in person at the registrar's office, or submit a written notarized request. [§ 24.2-427](#). Voters who mail a personal request cancellation notice during the twenty-nine (29) days before an election may not be cancelled for that election unless the mailed request is notarized. [§ 24.2-427](#).
- Mark the box provided for "Personal Request" on the back of the application.

- If a box is not provided, record the information in the lower right corner on the back of the application.
- Attach the documentation for the removal to the back of the application form or keep this information in a separate file.
- File the application in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

### 7.3.1.5 Error

A general registrar on occasion may need to cancel voter registrations in VERIS to correct administrative error. Administrative corrections that do not actually cancel a voter do not require notice. When making corrections, please note the following types of cancellations:

- If, after approving registration, the GR discovers they overlooked evidence of ineligibility such as omission of citizenship or a felony conviction without restoration, and if a voter card has *not* been issued, the GR may cancel a voter and re-enter the information correctly using the following steps:
  - Delete the voter using the VERIS “Change Status” screen. Select cancel for the reason of “Registrar Error,” or “Ineligible”. Important supporting information can be entered in the “Comment” section.
  - Re-enter the voter’s information into VERIS and deny for the appropriate reason. This action will automatically generate the required correspondence to be sent to the voter listing the reason for the denial.
  - Mark the box provided for “Denied” on the back of the application.
  - If a box is not provided, record the information on the lower right corner on the back of the application.
  - Attach the documentation for the removal to the back of the application form or keep this information in a separate file.
  - File the application in the “Denied” file.
  - Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
  - Mail the notice of denial generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.
- If, after approving the registration and mailing the voter card, the GR discovers he/she overlooked evidence of ineligibility such as an omission of citizenship or a felony without restoration, then the regular cancellation process under [§ 24.2-427](#) would be followed. This requires the General Registrar to mail notice of cancellation and the right of appeal to the voter. Follow these steps:

- Remove the voter using the VERIS “Change Status” screen. Select “Registrar Error,” or “Ineligible” as the reason to cancel the voter. Important supporting information can be entered in the “Comment” section.
  - Mark the “Error Deleted” back of the application in the box provided for.
  - If a box is not provided, record the information in the lower right corner on the back of the application.
  - File the application in the “Deleted” file.
  - Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
  - Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
  - Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation
- If, after approving the registration and mailing the voter card, the GR discovers they overlooked information warranting inquiry as to residence, then the GR may request a confirmation mailing or initiate the hearing procedure under [§ 24.2-429](#), which is appealable to the circuit court under [§ 24.2-430](#).

#### **7.3.1.6 Out-of-State**

When the GR receives a confirmed notice either from the voter, SBE, or the voter registration official of another state that the voter has registered in that state, pursuant to 42 USC 1973gg-6(a)(4), Va. Code § 24.2-427(B) requires that the voter registration in Virginia must be cancelled. These notices require the following actions:

- Process all Out-of-state cancellations on the “Change Status” screen. Select the “Out of State” box and place important supporting information in the “Comment” section.
- Mark the back of the application in the box provided for out-of-state.
- If a box is not provided, record the information in the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the “Deleted” file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

#### **7.3.1.7 Non-Citizen**

In accordance with [§ 24.2-410.1\(B\)](#), each month the Division of Motor Vehicles is required to furnish to SBE a complete list of all persons who have indicated that they are

not a United States citizen to DMV. SBE will transmit that information to the appropriate GR. When notification is received, the following steps should be taken in accordance with [§ 24.2-427\(B1\)](#):

- The GR is required to mail a notice of pending cancellation to each registered voter identified by DMV as a non-citizen. The voter is given 14 days from the date the notice was mailed to return a signed statement affirming citizenship.
- The GR is required to cancel the registration of any voter who does not respond to the notice within 14 days.
- Non-citizen cancellations are processed through the “Hopper.” Determine if a registered voter matches the non-citizen information provided by SBE. If so, use “Cancel Voter” to approve the match and cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status” screen. On the “Change Status” screen, select “Declared Non-Citizen” for the reason and place important supporting information in the “Comment” section.
- Record the reason for the cancellation under “Notes” on the back of the application.
- If a box is not provided, record the information in the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- Retain and destroy the application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

### **7.3.2 Voter Address Confirmation Program**

The National Voter Registration Act (NVRA) requires each state to set up maintenance programs to identify voters who may have moved from their address of registration [42 USC 1973gg-6\(b\)\(c\)](#). Annually, but no later than 90 days prior to the date of a Federal Primary or General Election, the State must perform a systematic analysis of the voter registration records to identify voters who may have moved without notifying the GR. This analysis process will not cancel the voter from the registration rolls, but will initiate the process for confirming residence addresses.

#### **7.3.2.1 U.S. Postal Service's “National Change of Address”**

Many states, including Virginia, use the U.S. Postal Service's National Change of Address (NCOA) program to systematically analyze their voter registration records. Virginia’s procedures are defined in [§ 24.2-428](#). Once a year, SBE uses the information in the National Change of Address (NCOA) system registry to match the voter registration addresses of all “Active” registrants on VERIS with USPS addresses. Any voter whose residence address listed in VERIS does not match the address listed with

USPS, is then scheduled to be sent a “Confirmation Notice” to confirm his/her residence address information.

### **7.3.2.2 DMV Notification of Out-of-State**

In addition to the NCOA postal match confirmation process, several other activities provide reasons to request a confirmation notice be sent to a voter. One such reason is notification that the voter has relocated.

Each month VERIS receives an updated electronic file from DMV of persons who have surrendered their Virginia driver’s license indicating relocation to another state. VERIS will automatically search for any potential matches of registered voters in the electronic file from DMV. The potential matches will appear in the VERIS “Hopper” for the locality. After reviewing the record, the GR may select the record that is a match. This will initiate a request for a “Confirmation Notice” to be sent to the voter.

### **7.3.2.3 Information Indicating Address Discrepancy**

Another reason to request confirmation of a voters address is the indication of an address discrepancy. General Registrars can request a confirmation notice be sent to a registrant based upon reliable information indicating that the registrant has moved. This includes information such as official mail returned as undeliverable or an address on a candidate petition that differs from the address of voter registration. The GR may also request a confirmation if it is discovered that information warranting inquiry as to residence was overlooked.

### **7.3.2.4 Confirmation Mailing**

The SBE initiates an annual “Confirmation Mailing” using the information in VERIS from the NCOA postal match and GR confirmation requests. [42 USC 1973gg-6\(c\)\(B\)](#). The steps of the “Confirmation Mailing” process are as follows:

- The program provides a data file for each identified registrant whose address does not match the Postal Service.
- The data file is imported into VERIS and “Confirmation Mailing” is recorded in the registrant’s record. The data file is sent to the mail vendor. (The data file will also include registrants who were set for confirmation mailing by the GR). The mail vendor prepares and mails the Confirmation Notice to registrants.
- The Confirmation Notice contains a return, postage paid card and instructions for completing the card. The notices must be sent by mail that can be forwarded and must provide the voter an opportunity to confirm or change their information.
- Responses to Confirmation Notices are entered into VERIS. The GR can use the response information to update the voter’s address information, send the voter’s

information to another Virginia locality, cancel the registration of a voter who has moved outside Virginia, or any other action necessary to update the registration list.

- Certain records of the confirmation program are open for public inspection. Registrars receive two copies of the list. One of the lists has social security numbers (the official working document) and the other is printed for public inspection without social security numbers. See, GREB 6 for details on records available for public inspection.
- VERIS generates two Confirmation Notice Reports: one for the confirmations generated by the GR, and one for those based on NCOA. VERIS also generates a report listing all current registrants identified as having moved within the same city or county. If the GR is satisfied that the voter has moved to a new precinct in the same locality, the GR is authorized to transfer the voter to the new precinct and issue a new voter card. [§ 24.2-424\(B\)](#).

### **7.3.2.5 NVRA Cancellation Program**

The Code details the provisions of Virginia's cancellation program. [42 USC 1973gg-6\(d\)](#), [§ 24.2-428](#). After thirty (30) days without a response to a "Confirmation Notice," a voter identified as having moved outside their locality of registration is placed on inactive status. This applies to registrants that were either identified by the GR, processed from data received from DMV, or identified through the NCOA match as having moved outside their locality of registration. Voters identified as having moved within their locality of registration are to be sent a new voter registration card showing their new address which they can correct if needed.

Voters on "Inactive" status in VERIS can be returned to "Active" status at any time there is a voter initiated action. Actions such as change of address, re-registration, or voting in an election can reactivate the voter.

Voters who fail to respond to an address confirmation request and fail to take any voter initiated action for two federal elections, will have their voter registration cancelled in the NVRA cancellation program. This cancellation function is automated in VERIS and occurs after each November Federal Election.

Lists of voters whose registration have been cancelled under this program are made available for public inspection. The GR must post the list at the courthouse, or have it published in a newspaper of general circulation, in the GR's community. The GR must provide a certified copy of the list to the chairman of each political party in the locality.