



VOTER PURGE PUBLIC RECORDS REQUEST: HOW-TO & SAMPLE

STEPS TO FILE A RECORDS REQUEST

Note: These look like a lot of steps but many of them take just a couple of minutes or less—so, using the template below, you should be able to create an effective public records request tailored to your state or county in just an hour or two.

1. **CHOOSE JURISDICTION.** Decide whether to send a statewide request to your chief elections official (usually the Secretary of State, but sometimes a Board of Elections) or a county-specific request to your local county board of registrars. Then, call or look online to see if the jurisdiction has a specific “custodian of public records” to whom you can address your request; if not you can address it to the head of the office.
2. **FIND RELEVANT STATE LAW.** Look up your state’s open records law so that you can cite it in your request. The Reporters Committee for Freedom of the Press has a user-friendly Open Government Guide organized by state at <https://www.rcfp.org/open-government-guide/>. You can find sample letters that cite the correct open records statute for your state through the National Freedom of Information Coalition at <https://www.nfoic.org/organizations/state-sample-foia-request-letters>.
3. **DEMAND ELECTRONIC RECORDS.** A key goal is to receive any data that is responsive to your records request in a searchable and manipulatable format such as Microsoft Excel, CSV or an equivalent format so that you can easily identify patterns. Getting a huge PDF file with lots of numbers is generally not that useful. The National Voter Registration Act (NVRA) does not require states to provide records in a particular format, but many state statutes (sometimes as interpreted by state courts) require jurisdictions to produce the records in the format you request as long as they have that capability. You can see if your state has such a requirement through the Reporters Committee for Freedom of the Press at <https://www.rcfp.org/open-government-sections/a-can-the-requester-choose-a-format-for-receiving-records/>. In addition, some states specifically require jurisdictions to do custom searches of existing electronic databases, which can also bolster your request. You can find that information at <https://www.rcfp.org/open-government-sections/b-can-the-requester-obtain-a-customized-search-of-computer-databases-to-fit-particular-needs/>.
4. **DETERMINE ACCEPTABLE RESPONSE TIME.** The NVRA provides that the records must be available for inspection but does not provide a specific time for the jurisdiction to send you copies, so it is best to cite to your state law on this topic. State laws vary, and you can find your states rules through the Reporters Committee for Freedom of the Press at <https://www.rcfp.org/open-government-sections/1-statutory-regulatory-or-court-set-time-limits-for-agency-response/>.
5. **DETERMINE YOUR BUDGET.** Jurisdictions typically charge a fee based upon the time required to pull together the records and any copying required. A simple voter maintenance request such as the sample provided typically costs less than \$100. To speed up your request you can pre-authorize the jurisdiction to charge you up to a certain dollar amount and ask them to contact you if it will be

more expensive. If the request comes back over your budget, you may contact voting@demos.org, and we may be able to help you with the cost.

6. DETERMINE THE TIME PERIOD. Based in part on your budget (and perhaps on what you know about the purge timing in your county or state), decide the time period for which you'd like to request your records. More information is better, and a longer period of time can provide more comparative data, but also lead to more pages that cost more. A four-year period is a good starting point, and purges often happen in the months following elections so January 1, 2017 is a good default date.
7. USE SAMPLE REQUEST. Now you're ready to fill in the sample request template provided and customize it using the information you've tracked down.
8. SEND IN REQUEST. Send the request by mail and also by email or through a public portal if possible.
9. FOLLOW UP. If you do not receive any confirmation of receipt of your request within 72 hours (if emailed) or one week (if submitted only by mail), call the agency to confirm that they have received your request and are working on a reply. Try to get an estimated date of delivery for your request. Continue to follow up until you receive your response. Many state laws indicate how quickly a government entity must respond to your records request.
10. SHARE WHAT YOU RECEIVE. Voting rights organizations are working together to identify patterns across states and counties. You can help by sharing the records you receive with us at voting@demos.org. We may also be able to help you analyze your results.

SAMPLE VOTER PURGE RECORDS REQUEST

[PLACE ON ORGANIZATIONAL LETTERHEAD IF APPLICABLE]

VIA FIRST-CLASS MAIL/EMAIL/ONLINE PORTAL

Month XX, 2020

[Secretary of State or County Board of Elections Contact Information; Include Public Records Officer or Custodian if Available]

Re: Request for Information Under National Voter Registration Act and [State Open Records Law]

To Whom it May Concern:

This is a request for public records pursuant to the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20501 *et seq.* (2012), and [State Open Records Law].

Requested Information

We request the following information relating to voter list maintenance.

1. A single electronic spreadsheet, such as an Excel or CSV file, listing the following information for all registrants who have been removed from the voter list or declared inactive or placed on a suspense list since **January 1, 2017**, including each of the following pieces of information about each registrant:
 - a. First Name;
 - b. Last Name;
 - c. Street Address;
 - d. Previous addresses;
 - e. County of residence;
 - f. Assigned precinct;
 - g. Current registration status;
 - h. Reason for removal, assignment to suspense list, or change to inactive status;
 - i. Date of removal, or designation of inactivity or suspense
 - j. Dates and reasons for any previous changes in designation within the covered time period;
 - k. Earliest registration date;
 - l. Most recent registration date;
 - m. Date of most recent voter activity;
 - n. Complete voting history during the covered time period; and

Comment [DS1]: Find this citation here (and use this to put the general name of the law in the bolded line above): <https://www.nfoic.org/organizations/state-sample-foia-request-letters>.

- o. Voter ID number or numbers (include all that apply and specify if a statewide and / or county-specific ID number).
- 2. Any keys, codes, manuals or other records necessary to define or understand any of information provided in the fields described above.
- 3. Any information regarding policies and procedures used, provided or consulted since January 1, 2017, with respect to voter file maintenance.

We request that these records be produced in electronic format by email attachment to the following recipients: [ORGANIZATION CONTACT and CONTACT INFORMATION]. We request that you produce copies of the requested materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. As noted, we request that responses to item 1 above be provided in searchable, manipulatable electronic format such as Microsoft Excel or the equivalent. In our experience, state voter registration databases are capable of readily producing the requested information in one spreadsheet. To the extent that you are unsure how to do this or have concerns about your technical ability to do so, we are happy to work together to find a feasible solution.

Legal Requirements

Section 8 of the NVRA requires the public disclosure of state voter-list maintenance activities. It mandates: “Each State shall maintain . . . and shall 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).

Courts generally construe “all records” broadly. *See, e.g., Project Vote, Inc. v. Kemp*, 208 F. Supp. 3d 1320, 1336 (N.D. Ga. 2016); *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 720 (S.D. Miss. 2014); *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 336 (4th Cir. 2012). Such records include electronic information contained in a state’s computerized voter registration databases, and such information must be produced regardless of whether state law treats it as a public record. *Project Vote*, 208 F. Supp. 3d at 1336. Such records also include but are not limited to “lists of the names and addresses of all persons to whom notices [regarding a registrant’s possible change of address], and information concerning whether or not each such person has responded to the notice.” 52 U.S.C. 20507(i)(2).

For the purposes of this request, “record” means any information related to efforts by [STATE] and its subdivisions to maintain accurate voter lists, such as changes to individuals’ registration status.

A state’s failure to disclose relevant information requested under Section 8 constitutes a violation of the NVRA and provides a cause of action for the requestor to sue the state. 52 U.S.C. 20510(b); *see Project Vote*, 208 F. Supp. 3d at 1351-52 (ordering state defendant provide voter-list maintenance records withheld in violation of NVRA).

To the extent relevant, this also constitutes a request under [State Law], which similarly provides access to the records requested below. [State Law] provides that requestors may seek data in the electronic format of their preference, as noted below. *See* [CITATION].

[STATE] law requires your prompt response to this request. *E.g.,* [Cite state law]. Please provide all responsive materials by [DATE], 2020. If you are unable to provide responsive materials in this timeframe, please inform us by [Date], 2020, of the date by which you will provide responsive materials.

Comment [DS2]: If you are sending the records request to a STATE official or to a county official where no statewide request has been made, use the language provided in the body of draft.

If you have already sent a request to a state official (or know that someone else has) and are now sending a separate request to a LOCAL official (e.g., county or parish elections commissioner), please consider using the following language for that local records request:

“Any information regarding policies and procedures used, provided or consulted since January 1, 2017, that were created by your office and/or were NOT provided by state elections officials (e.g., the Secretary of State).”

This language will help ensure that you do not receive files that merely replicate the state officials’ list-maintenance policies.

Comment [DS3]: Add this sentence if your state has a law or court case that requires this. You can find this information at <https://www.rcfp.org/open-government-sections/a-can-the-requester-choose-a-format-for-receiving-records/>. You may find additional information to bolster your request under state law here: <https://www.rcfp.org/open-government-sections/b-can-the-requester-obtain-a-customized-search-of-computer-databases-to-fit-particular-needs/>.

Comment [DS4]: Find state rules for acceptable response time here: <https://www.rcfp.org/open-government-sections/1-statutory-regulatory-or-court-set-time-limits-for-agency-response/>.

Fee Waiver Request

[ORGANIZATION] requests a waiver of all fees because this request will serve a public purpose. [Cite state law.] [ORGANIZATION] is a not-for-profit organization dedicated to fostering civic engagement and voter participation in [STATE OR LOCALITY] and across the country.

If you determine that the incurred fees will exceed [DOLLAR LIMIT], please contact me at [EMAIL] before charges are incurred.

Conclusion

If you are not the custodian of responsive materials, please provide the name, address, and email address of the governmental entity that has legal custody or control. If any portion of this request is denied, please justify all denials or deletions by reference to specific statutory exemptions and release all segregable portions or redacted versions of otherwise exempted materials. We reserve the right to appeal a decision to withhold any requested records.

Should you have any questions pertaining to this request, please do not hesitate to reach out to me at [EMAIL & PHONE]. In addition, I would appreciate an email confirming that you have received this request and are working on the response. Thank you for your attention to this matter.

Sincerely,

CONTACT
ORGANIZATION
ADDRESS
PHONE
EMAIL

Comment [DS5]: Include this paragraph only if relevant. Some states explicitly provide for fee waivers for nonprofits requesting the information for a public purpose: <https://www.rcfp.org/open-government-sections/3-provisions-for-fee-waivers/>.