



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

Electoral Board

September 16, 2024

Hon. Katherine K. Hanley
Chairman

Jeffrey K. Shapiro
Vice Chairman

**Amb. (ret.)
Christopher P. Henzel**
Secretary

Mr. Steve T. Descano
Fairfax County Commonwealth's Attorney
4110 Chain Bridge Road
Suite 114
Fairfax, VA 22030

Eric L. Spicer
General Registrar/
Director of Elections

Mr. Jason Miyares
Attorney General, Commonwealth of Virginia
202 North Ninth Street
Richmond, VA 23219

Dear Messrs. Descano and Miyares,

I am writing to refer the attached list of individuals to you for possible unlawful elections conduct in accordance with Va. Code § 24.2-1019. These individuals were removed from the voter rolls after being identified by the Virginia Department of Elections (ELECT) as non-citizens, in accordance with the procedures of Va. Code § 24.2-427. It appears that the individuals on this list may have violated Virginia elections law.

Please let me know if you have any questions or if you need any additional information concerning this referral.

Sincerely,

Eric Spicer
General Registrar/Director of Elections

Voter Services
Phone: 703-222-0776
Fax: 703-324-2205
TTY: 711 (Virginia Relay)
Email: voting@fairfaxcounty.gov

Election Administration
Phone: 703-324-4735
Fax: 703-324-4706
TTY: 711 (Virginia Relay)
Email: elect@fairfaxcounty.gov

Fairfax County Office of Elections
12000 Government Center Parkway
Suite 323
Fairfax, Virginia 22035
www.fairfaxcounty.gov/elections

Fairfax County Office of Elections – September 16, 2024

Policy for Referring Individuals who were Removed from the Voter Rolls

Background:

As required by Va. Code § 24.2-410.1, the DMV regularly provides the Virginia Department of Elections (ELECT) with lists of individuals who indicated a non-citizen status while completing transactions at the DMV. ELECT uses this information in addition to other sources including the Systematic Alien Verification for Entitlements Program (SAVE) to identify possible non-citizens who may have purposefully or accidentally registered to vote. Voters are given the opportunity to confirm their citizenship in case a mistake was made. According to data from ELECT, between January 2022 and July 2024, 6,303 individuals in Virginia had their voter registrations cancelled based on this information. This includes 985 individuals who were removed in Fairfax County.

ELECT regularly provides the names of individuals that they have identified as non-citizens to General Registrars through the non-citizen hopper in VERIS. General Registrars are responsible for printing and mailing Affirmation of Citizenship notices to these individuals. Voters whose citizenship has been challenged have 14 days from the date the notice is generated to sign and return the notice to the General Registrars. This includes the time that it takes to mail the notice to the voter, for the voter to complete the notice, then for it to transit the USPS system back to the General Registrar. As required by Va. Code § 24.2-427, any voter who fails to return the signed notice within 14 days is automatically removed from the voter rolls.

Under Va. Code § 24.2-1019, General Registrars have the authority to report unlawful elections conduct to the Commonwealth's Attorney. Making this referral does not require "evidence," but rather a good faith conclusion that unlawful conduct may have occurred. It is not unusual for individuals whose voter registration in Fairfax County was cancelled to later re-register and through the application affirm their citizenship.

It is possible that some voters who do not respond or re-register were not citizens when they were on the voter rolls and that they voted unlawfully. However, the General Registrar does not have the discretion to share voting history information with outside parties including the Commonwealth's Attorney and the Attorney General. Per ELECT guidance, only ELECT has the authority to share voting history information with outside parties. GREB Handbook, § 9.1.2.

Policy:

The General Registrar shall refer all individuals who were removed from the voter rolls pursuant to Va. Code § 24.2-427(C), after being identified by ELECT as non-citizens, to the Commonwealth's Attorney and the Attorney General to determine if they have violated Virginia elections law.