

MEMORANDUM OF UNDERSTANDING

Creation of System for Sharing of Lists of Registered Voters and Those Who Voted for Maintenance of Voter Registration Systems

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made between the Commissioner of the Virginia Department of Elections and the Ohio Secretary of State.

This MOU constitutes the terms by which the Commonwealth of Virginia, through the Virginia Department of Elections, and the Ohio Secretary of State (collectively referred to as “the States”) will establish a system to share lists of registered voters and those who voted (“the Lists”) for the purpose of maintenance of the States’ voter registration systems.

Legal Authority

Federal Law

1. **Public Law 107-252, the Help America Vote Act of 2002, which required a variety of changes to election processes, among those changes being the implementation of a centralized, interactive, computerized statewide voter list.**
2. **52 U.S.C. 20504(d) which states that “[any] change of address form submitted in accordance with State law for purposes of a State motor vehicle driver’s license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.”**
3. **18 U.S.C. 2721-2725 (federal Driver’s Privacy Protection Act (DPPAs) which prohibit bureaus of motor vehicles (BMVs) from disclosing or making available to any person or entity any personal information about an individual that the BMVs obtained in connection with a motor vehicle record unless the person or entity qualifies for that information under one of the enumerated exceptions to the DPPAs. The parties agree that, for purposes of this MOU, the chief election officer of each state qualifies as a “government agency carrying out its functions” pursuant to the exceptions contained in 18 U.S.C. 2721(b)(1) and (a)(2), or any other analogous state statute, and therefore, may lawfully receive “personal information” and “highly sensitive personal information” as those terms are defined in 18 U.S.C. 2725(3) and (4).**

Virginia

1. **Pursuant to the Code of Virginia § 24.2-404, the Virginia Department of Elections must operate and maintain a voter registration system, which includes the cooperation with other states and jurisdictions to develop systems to compare voters, voter history, and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters whose addresses have changed, to prevent duplication of registration in more than one state or jurisdiction, and to determine**

eligibility of individuals to vote in Virginia.

Ohio

Pursuant to:

- 1. Ohio Revised Code 3503.15, which authorizes the Secretary of State to provide such otherwise confidential information or data to persons or organizations that are engaging in legitimate governmental purposes related to the maintenance of the statewide voter registration database.**
- 2. Ohio Administrative Code 111:3-4-06 which authorizes the Secretary of State to enter into agreements with persons or organizations engaging in legitimate governmental purposes to share information or data as necessary for maintenance of the statewide voter registration database, including election officials of other states, territories, or local political subdivisions of other states or territories who administer elections, for the purpose of comparing voter registration records to assist in identifying duplicate registrations and confirming accurate voter registration information.**
- 3. Ohio Revised Code Chapter 3599 which sets forth penalties for criminal voting offenses including but not limited to False voter registration, illegal voting, and impersonating another to obtain an absent voter's ballot.**

List of Registered Voters

Under this MOU the States will provide each other with a list of registered voters on an agreed upon frequency for the purpose of maintaining voter registration systems.

The list of registered voters will include the following data elements: full name, residence and mailing addresses, gender, date of birth, registration date, date last registration form was received, current registration status, and the voter's jurisdiction, precinct and voting districts.

List of Those Who Voted

Under this MOU, the States will provide each other with voter history lists following the federal general elections in 2024 and 2026.

The list of those who voted will include the following data elements: full name, residence and mailing addresses, date of birth, registration date, date last registration form was received, current registration status, the locality, precinct and voting districts, voter identification number, election date and type, and whether the voter voted in-person or absentee.

List Transfer

The States acknowledge that the Lists will be provided by electronic means and will be encrypted, using a mutually agreed upon method in accordance with the National Institute of Standards and

Technology (NIST) cryptographic standards and guidelines, to ensure security and integrity of the data.

Data Use Limitations

The States agree that the use of data received pursuant to this MOU is limited solely to the maintenance of voter registration systems and records and agree that the data will be used for no other purpose.

Subject to applicable state and federal law, the States agree to refrain from (1) releasing the information contained on the Lists, and (2) publishing any of the information contained in the Lists online in any searchable form or providing information contained in the Lists to a third party for such purpose. The States acknowledge that the failure to comply with these prohibitions may result in the immediate termination of this MOU. The States agree to promptly notify each other upon receipt of a request for records that may include data from the Lists, as well as written notice of any response to the records request.

Secure Storage, Destruction, and Confirmation

The States shall demonstrate the successful implementation of physical, technical, administrative, and managerial security controls to restrict access to data from the Lists to only authorized officials with a legitimate business need to access the data to maintain voter registration lists.

The States agree to confidential destruction of voter data from the Lists after the original data has been used for the match analysis, or within 60 days of receipt, whichever is shorter, except for the data associated with a flagged match. The States acknowledge this obligation and understand the requirement to confidentially destroy the data after use, or within 60 days of receipt, whichever is shorter, except for the data associated with a flagged match using sanitation methods that purge or destroy the data in compliance with applicable NIST standards.

The States shall provide each other written confirmation of confidential destruction through a mutually agreed upon methodology within 60 days of receiving the list.

Disclosure

The States agree to provide to each other immediate notice of any incident or data breach involving the impermissible disclosure of or access to data from the Lists for any other reason than maintenance of voter registration systems. If an incident or data breach occurs, the States agree to provide a written description of the incident, and how it was cured or mitigated, within 90 days of the incident or data breach.

Effective Date and Termination

This MOU is effective upon signature of the representatives of the States, and shall remain in effect, unless it is amended or rescinded, until January 1, 2028. Either state may terminate this

MOU upon providing written notice of its intent to terminate at least thirty (30) days before the desired termination date. Upon such termination, the States shall be relieved of all further obligations and liabilities under this MOU. Either of the States that terminates this MOU ("Terminating State") shall provide confirmation of destruction in a mutually agreed upon method of any data that did not originate within the Terminating State within fourteen (14) days or at the earliest possible time pursuant to that state's public records law, whichever is sooner.

Waiver and Modification

A state's waiver of any breach of the provisions of this MOU shall not be deemed a waiver of any preceding or succeeding breach of the same or any other provisions hereof. No such waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

The States may amend or modify this MOU at any time through an agreement in writing with the written concurrence of the other state, signed by a duly authorized representative.

Notices

All notices permitted or required hereunder shall be in writing and shall be transmitted either: via certified or registered United States mail, return receipt requested; by personal delivery; by expedited delivery service; or by e-mail with acknowledgement of receipt of the notice.

Such notices shall be addressed as follows or to such different addresses as the States may from time-to-time designate:

Commonwealth of Virginia

Name: DJ Geiger
Title: Director of Operations
Address: 1100 Bank Street, Richmond, VA 23219
Phone: (804) 863-8904
E-Mail: dj.geiger@elections.virginia.gov

Ohio

Name: Paul Disantis
Title: Chief Legal Counsel
Address: 22 N. Fourth Street, Columbus, OH 43215
Phone: 614-728-9504
E-Mail: pdisantis@ohiosos.gov

COMMONWEALTH OF VIRGINIA

By: Susan Beals

Name: Susan Beals

Title: Commissioner

Date: 9/13/23

STATE OF OHIO

By: Frank LaRose

Name: Frank LaRose

Title: Secretary of State

Date: 13 September 2023