



## CITIZEN OUTREACH FOUNDATION

*Putting the Public Back in Public Policy*

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TO: Cisco Aguilar, Nevada Secretary of State  
FROM: Chuck Muth, President, Citizen Outreach Foundation  
DATE: September 3, 2024

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Secretary Aguilar,

The following is provided in response to Memo 2024-026 issued by your office to Nevada's county clerks and registrars on August 27, 2024, as well as our subsequent phone conversation on August 28, 2024.

I'll respond to the substance of Memo 2024-026 later, but in a follow up to our conversation related to communications with your office in general, I have some questions...

- 1.) Why are you fighting so hard to keep voters who no longer live in Nevada on Nevada's voter rolls?
- 2.) Why are you fighting so hard to block my organization from providing assistance to the various county clerks/registrar in carrying out their responsibilities under the NVRA to maintain clean voter files?
- 3.) If your directive regarding my recent voter challenges is followed by a county clerk/registrar, will your office cover the legal fees to defend against any actions we may be forced to take or will the taxpayers of their counties be stuck with the bill?

While we have experienced a high level of cooperation, appreciation, and timely responses from most of the county clerks/registrar we have worked with, the same cannot be said of our experience with your office.

When we began actively assisting the Clark County Registrar of Voters (ROV) with list maintenance in September 2023, election officials were extremely helpful and

responsive to our requests for information as to the statutes, codes, processes, procedures, and forms.

It's been a cooperative and positive relationship.

However, when we began communicating with your office towards the end of last year with questions related to expanding our efforts statewide and working with the new VREMS system, we did not experience the same level of assistance and cooperation.

As such, on January 14, 2024, our Chief Operating Officer and data analyst, Dan Burdish, sent an email to Mark Wlaschin, Deputy Secretary of State for Elections, an email requesting direction on a series of issues that had not been addressed.

The next day, Mr. Burdish received the following response from Mr. Wlaschin...

*“Good afternoon. I apologize for the delay but we’ve been in some lengthy back-and-forth discussions about this with our DAGs and I don’t have a final answer yet. I understand and appreciate what you are doing, but we want to make sure that we’re all complying with the requirements of the National Voter Registration Act and Title 24. I am actively working on this and as soon as I have a clear answer, I will be sure to let you know.”*

“I will be sure to let you know.”

THREE MONTHS later we still had not received a response. So on April 27, 2024, I sent a follow-up email to Mr. Wlaschin inquiring on the status of our requests.

The next day, I received a response from Mr. Wlaschin advising: “Chuck, Good morning. Yes, after a few late week discussions we provided the attached guidance to the county clerks & registrars.”

The document attached – Memo 2024-006, dated April 26, 2024, and addressed to Nevada County Clerks & Registrars – began...

*“In response to further questions following Memo 2024-004, the following is provided for consistent and clear guidance regarding the ability of external parties to contribute to the voter registration list procedures...”*

Not only were we not advised of the issuance of the April 26 memorandum, I was surprised to learn of a previous memorandum.

That memorandum had been issued way back on March 6, 2024, and, again, was not shared with us even though it clearly was in reference to the work we were doing on list maintenance with the various county clerks/registrars and despite Mr. Wlaschin's assurance that "I will be sure to let you know."

The "guidance" provided in the two memos related to how "external parties," such as Citizen Outreach Foundation, were allowed to submit list maintenance information under NRS 293.530 was both questionable and concerning.

Nevertheless, the memo suggested that "external parties may wish to use the challenge processes" under NRS 293.535 and NRS 293.547 "instead of the NRS 293.530 process."

So we researched both types of challenges and submitted a dozen "test" challenges to the Clark County ROV 30 days before the June 11, 2024, primary attesting to our personal knowledge of the data provided by the official voter registration files and the official NCOA data provided by the post office.

Those challenges were subsequently rejected on the basis that we did not have "personal knowledge of the registered voter."

We then researched the requirements for submitting challenges under NRS 293.535 and learned that the "personal knowledge" requirement was different. Rather than having personal knowledge of "the registered VOTER," Section 535 requires that we have "personal knowledge of the FACTS set forth in the affidavit."

On July 29, 2024, almost 4,000 such challenges were filed with the county clerks/registrars in 13 Nevada counties. Mr. Wlaschin was cc'd on every submission.

And the facts we had personal knowledge of, which were set forth in the affidavits, was that, according to the official voter registration lists and the official change of address list, the voters in question had moved out of state and were no longer residents at the address where they were registered to vote in Nevada.

In addition, we were able to confirm through official government records in 15 other states that not only had those challenged voters moved to another state but had re-registered to vote in their new state. And just over 100 of those also appeared to have actually VOTED in the other state.

On August 23, 2024, I submitted via email and “snail” mail public records requests to those 13 county clerks/registrars asking if my challenges had been received and processed. A half-dozen promptly replied and confirmed that the verification letters had been sent out and included copies of them for our reference.

However, on August 27, 2024, one of the county clerks responded and advised that my challenges had been received but not acted upon and cited the March memo from your office related to list maintenance requests.

I replied the same day pointing out that the July 29 submissions were under the challenge provisions of NRS 293.535, per your April directive, not under the list maintenance provisions of NRS 293.530. I again requested that the challenges be processed, and Mr. Wlaschin was cc'd on all correspondence.

On August 30, 2024, the Clerk replied and again rejected my challenge submissions, maintaining that the “the affidavits at issue” did not meet the personal knowledge requirement. She added: “Please see the attached guidance on this topic.”

When I opened the attached document and read it, I was shocked.

The guidance from your office to the county clerks/registrars – “Memo 2024-026 – Personal Knowledge” – had been issued under your name by Mr. Wlaschin on August 27, 2024. In it you specifically advised the county clerks/registrars to “reject” my challenges.

I was never advised in advance of the issuance of this memorandum, let alone consulted on it or afforded an opportunity to discuss it. So much for transparency.

Worse, when you and I spoke in person before the Nevada Republican Club luncheon on August 6, 2024, in Las Vegas, I specifically requested a meeting with you and Mr. Wlaschin to discuss this very subject. You agreed and assured me that you had my contact information to arrange such a meeting.

I made the same request the very next night at the forum on election security that we both attended at UNLV. But instead of arranging a meeting, Memo 2024-026 was privately and secretly issued without our knowledge.

In the meantime, we waited until AFTER the updated voter registration lists were announced on or around August 7, 2024, before submitting additional challenges based on current NCOA data.

On August 18, 2024, I sent an email to Mr. Wlaschin inquiring as to where to submit those additional challenges following the announcement that VREMS was now online. His response: "Still the counties please, but please CC me if possible."

So on August 28, 2024, we submitted to the county clerks/registrars 34,222 additional challenges of potentially ineligible "moved" voters who appeared to have been missed in the "routine list maintenance" process and remained on the Active registration rolls.

They included...

- 14,883 who appear to have moved within their current county but into a different precinct
- 1,755 who appear to have moved to a different county in Nevada
- 13,629 who appear to have moved out of state
- 3,853 who appear to have moved out of state and re-registered to vote in a new state
- 102 who appear to have moved out of state, re-registered to vote in a new state, and have actually voted in their new state

In addition, those submissions didn't include thousands of "never voters" – some of whom haven't voted in 10, 20, or even more years yet remain on the Active voter list and don't appear in the NCOA database. Many, if not most, likely no longer live where their ballot is being sent and have somehow been missed in the "routine list maintenance" process for years.

We have since been advised by a couple of clerks/registrars, who had previously processed my challenges, that in light of your August 27 memo they would not process the additional submissions.

While the problem of "dirty" voter lists in Nevada has existed for decades, the importance of cleaning them up became critical after the Legislature mandated in 2021 that a ballot be automatically mailed to every Active voter.

The truth is, while the data and technology exist for local county clerks/registrars to do the same kind of research we've been doing for over a year now is available to them, they have neither the time, the resources, nor the staff to do so, especially in an election year in which they are conducting three major elections.

So it's a mystery to me why you refuse to allow us to help them.

If there's a question as to whether our data and reports are reliable, you can quickly and easily double-check our submissions since we're using the exact voter registration lists and change-of-address lists that you have access to and use.

When you were running for Secretary of State in 2022, you said in one of your campaign ads that the job of the SOS was to "protect democracy by keeping our elections fair and transparent." And in an interview with the Nevada Independent in September of that year, you said that "the more transparent and open we can be about our elections, I'm all for it."

In addition, as recently as February of this year your office issued a press release in which you maintained that "Nevada runs some of the most secure, accessible and transparent elections in the country, and we're dedicated to ensuring voters are confident in that."

The fact that tens of thousands of voters who likely no longer live at the address where they are registered remain on Active voter rolls while your office is actively working to block our efforts to assist the county clerks/registrars in fixing the problem with secret memos is neither transparent nor giving voters confidence in the security of our elections.

And I'll close by asking this obvious question: If responsible "external parties" such as ours are prohibited from using Section 530, Section 547, or Section 535 to "to contribute to the voter registration list procedures" involved in cleaning up our dirty voter rolls, how DO we do so?

Or is it your position that we should just pound sand?

P.S. If any memos have been issued by your office related to these matters – other than the three referenced above - please forward them to my attention.

cc: Nevada County Clerks & Registrars  
Dan Burdish, COO, Citizen Outreach Foundation  
David O'Mara, Esq.  
Brian Hardy, Esq.  
Nevada Gov. Joe Lombardo  
Nevada State Sen. Jeff Stone (legislative adviser)  
Nevada State Assemblywoman Jill Dickman (legislative adviser)