
Understanding Voter Registration List Maintenance:

How Do Voters Get Removed from the Voter Rolls?

In the 2020 general election, thousands of individuals tried to vote in North Carolina only to be told they were not registered to vote (and we later found out that their names had been removed from the voter rolls). Why did this happen? And how can we ensure both that our voter rolls are accurate and that eligible voters are not removed? Below we provide a summary of North Carolina's voter list maintenance procedures and proposals to ensure that every eligible voter has a fair opportunity to cast their ballot.

What is voter roll list maintenance, and why is it important?

List maintenance is the process states use to maintain accurate and current voter registration lists or "voter rolls." Accurate list maintenance is important because it ensures accurate and efficient election administration by removing voters who become ineligible due to relocation, death or felony conviction. However, list maintenance that is too aggressive or based on faulty information can result in eligible voters being unable to cast a ballot, and therefore threatens free and fair elections.

In 1993, Congress passed the National Voter Registration Act ("NVRA") to limit when, why and how election officials may remove ineligible voters from the voter rolls. Under the NVRA, election officials can only remove voters that (a) have requested to be removed, (b) are convicted of a crime or found mentally incompetent and state law requires them to be removed, (c) have died, or (d) have moved outside the relevant voting jurisdiction.¹ The NVRA also prohibits states from removing voters solely because they have failed to vote or from systematically removing voters less than 90 days before an election.²

¹ 52 U.S.C. § 20507(a)(3).

² 52 U.S.C.A. § 20507(b)(1), (c)(2)(A).



How does North Carolina maintain its voter rolls?

The North Carolina State Board of Elections oversees a program for the County Boards of Elections in each of North Carolina's 100 counties to update the voter rolls and remove ineligible voters. Under state law, this means removing voters who are rendered ineligible by reason of death, conviction of a felony, or change of address.³

Deceased voters and voters with felony convictions

Deceased voters and voters with felony convictions are removed on a rolling basis from the voter rolls. To determine voters who may be deceased, each month the North Carolina Department of Health and Human Services gives the State Board a list of deceased persons who were residents of the State. The State Board then distributes this list to the County Boards for removal from their voter registration records. Similarly, to remove voters with a felony conviction, the State Board distributes a list of individuals convicted of a felony in either North Carolina state or federal court to the County Boards each month, and the Counties provide written notice to those individuals before removing them from the voter rolls.

Voters who have moved address

Identifying voters who may have moved is a bit more complicated. County Boards begin this process by monitoring whether voters have made contact with the County Board (for example, by voting or updating their voter registration information) for a period spanning two statewide elections. Statewide elections take place every two years in even years. If a voter fails to make any contact with their County Board of elections for the period spanning two statewide elections, the County Board will send what is called a "confirmation mailing" to that voter. For instance, if a voter has made no contact with their County Board since October 12, 2018 (when early voting started for the 2018 statewide election), and the voter did not vote in the 2018 or 2020 statewide elections, then that voter will receive a confirmation mailing at their last registered address in early 2021. The State Board estimates that counties will send more than 450,000 of these mailings in 2021.⁴

These confirmation mailings are "forwardable," which means if the voter has moved, they can still receive the confirmation mailing if they have left a forwarding address. These mailings ask for a response from the voter to confirm their current address. If a voter fails to

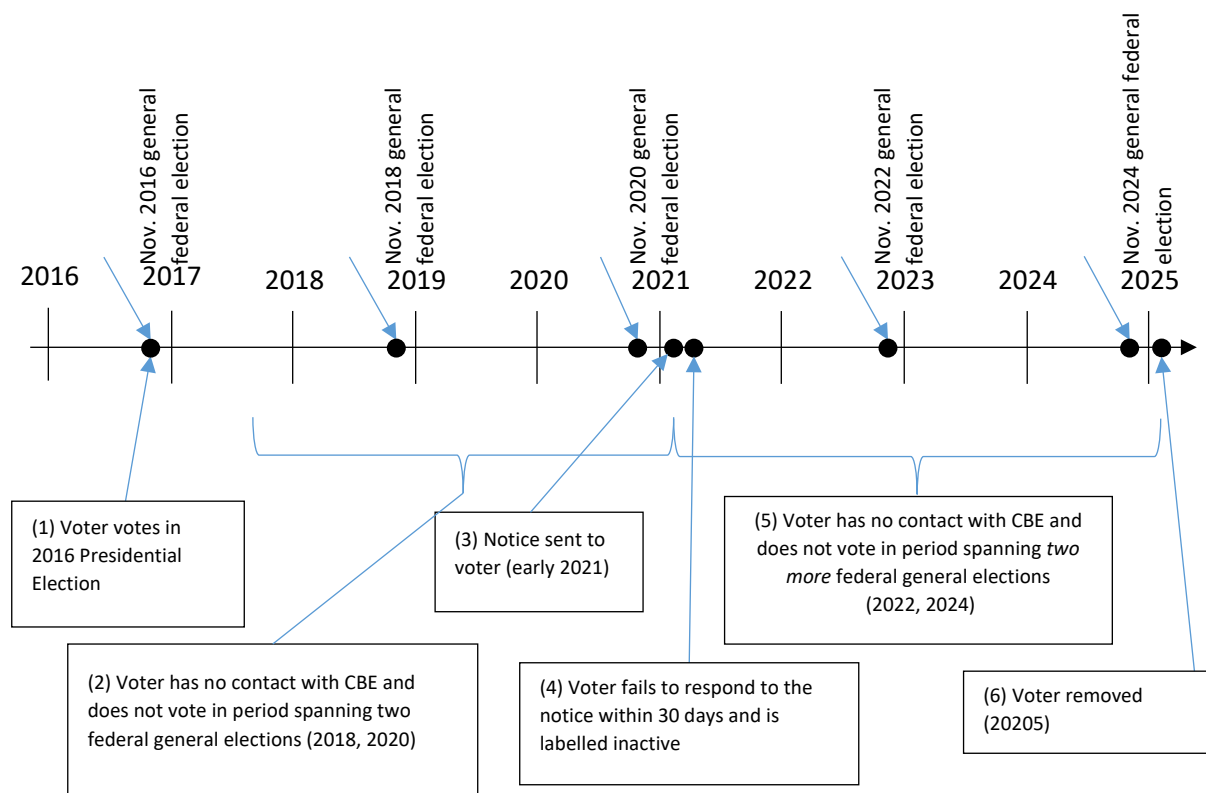
³ N.C. Gen. Stat. § 163-82.14(b)-(d).

⁴<https://www.ncsbe.gov/news/press-releases/2021/01/14/county-boards-elections-begin-regular-voter-list-maintenance>



respond to this confirmation mailing within 30 days, the voter is labelled "inactive."⁵ A voter who is labelled "inactive" can still vote. But if the inactive voter continues to have no contact with the County Board and fails to vote in two more statewide general elections, the voter is removed from the voter rolls. This means that any voter who fails to respond to the confirmation mailings sent in 2021 will be labelled "inactive." If that voter then fails to vote in either the 2022 or 2024 statewide general election or make other contact with their County Board, they will be removed from the voter rolls in 2025.⁶

Timeline of No-Contact Voter Removal Process



Voters can also become "inactive" if other administrative mailings sent from the State Board of Elections, such as the initial verification mailing or a notice of the change in polling

⁵ The National Voter Registration Act does not permit any voter to be made "inactive" within 90 days of the date of a general election.

⁶ N.C. Gen. Stat. § 163-82.14(d). See also "Maintaining the Voter Registration Database in North Carolina," North Carolina State Board of Elections (July 27, 2017), available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_a_ListMaintenancePolicy.pdf



location, are sent undeliverable and the voter then fails to respond to a forwardable confirmation mailing within 30 days. In some instances, confirmation/verification mailings have been returned in error due to a postal service error, and in other instances, voters have reported never receiving confirmation/verification mailings.

Voters who have moved counties or reported a change of address

Counties also have processes for removing duplicate registrations when a voter moves from one county to another, including monthly duplicate checks generated by the State Board by comparing county voter records. The State Board also receives change of address data from the U.S. Postal Service, which the State Board then provides to counties twice a year (January and July). County Boards use this change of address data to send special confirmation mailings to determine whether voters need to change their voter registration address. If a voter fails to respond to the confirmation mailing sent to the new address as identified by the U.S. Postal Service, the county then sends a confirmation notice to the existing registered address. If the voter fails to respond, the voter's registration status is changed to "inactive" and follows the process described above for inactive voters.

Provisional ballots – a "fail safe"

What happens if a voter shows up to their polling place and finds they are not on the voter roll, or they have given an address different from their registered address on file? That voter may complete a provisional ballot, which includes an application in which the voter affirms in writing they are a registered voter in that jurisdiction. County Boards must count these provision ballots absent evidence the voter actually resides somewhere else. The voter's written or verbal affirmation of their continuous residency is sufficient to confirm ongoing eligibility (absent evidence to the contrary).⁷

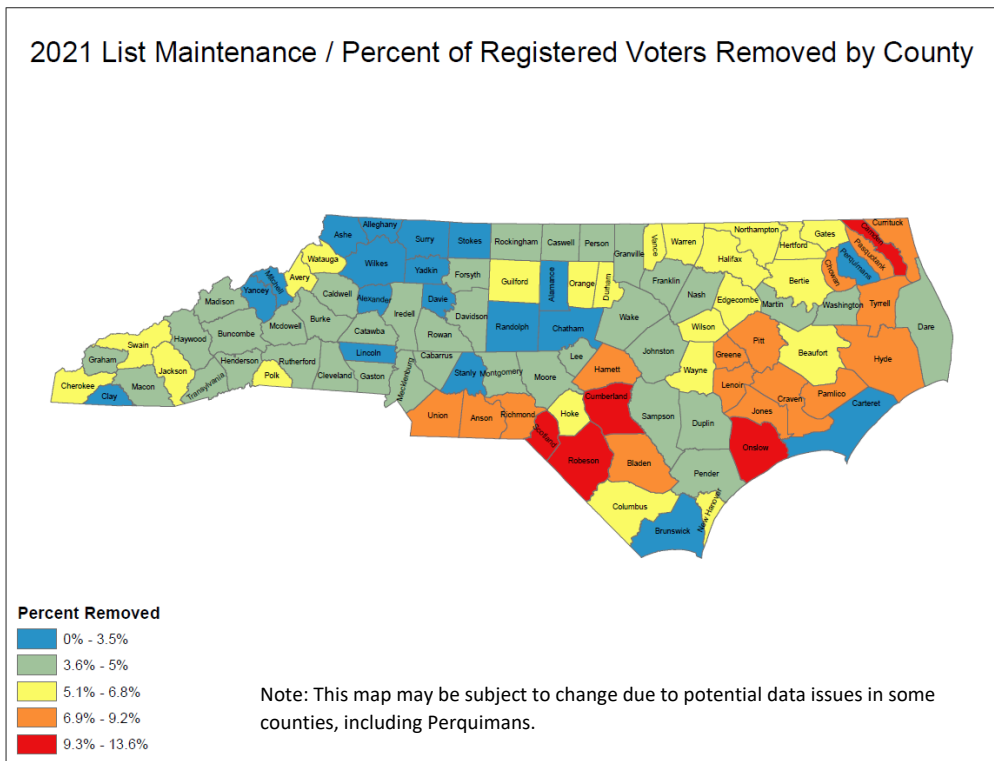
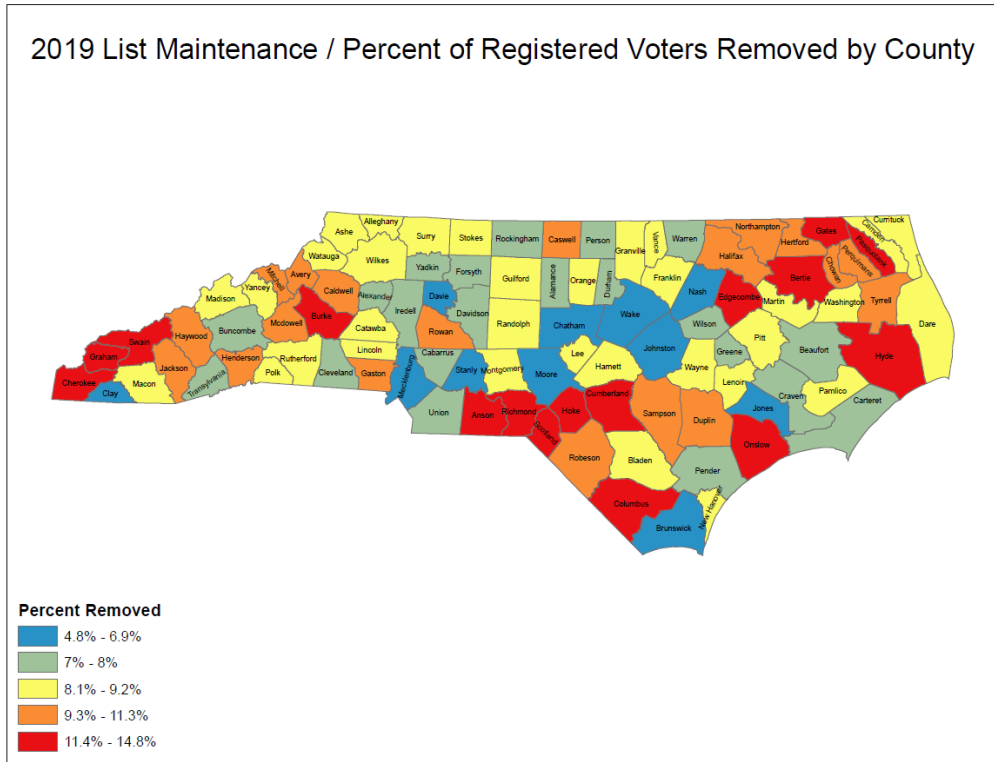
North Carolina Must Improve its List Maintenance Processes

In January 2019, North Carolina removed 574,396 voters who were inactive since August 10, 2016, and remained inactive during the 2016 and 2018 general elections. In January 2021, North Carolina removed 391,415 voters who were inactive since August 8, 2018, and remained inactive during the 2018 and 2020 general statewide elections.

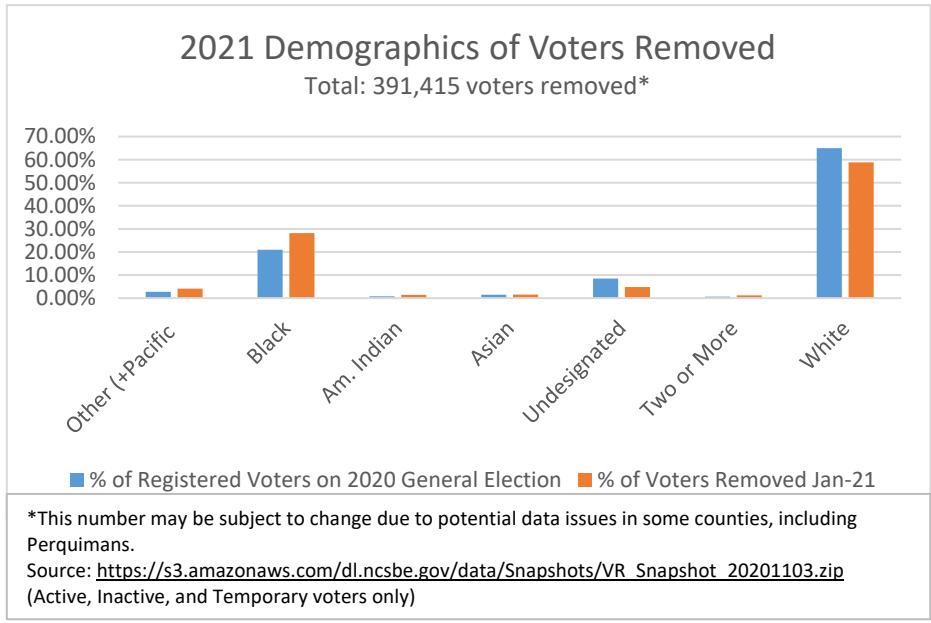
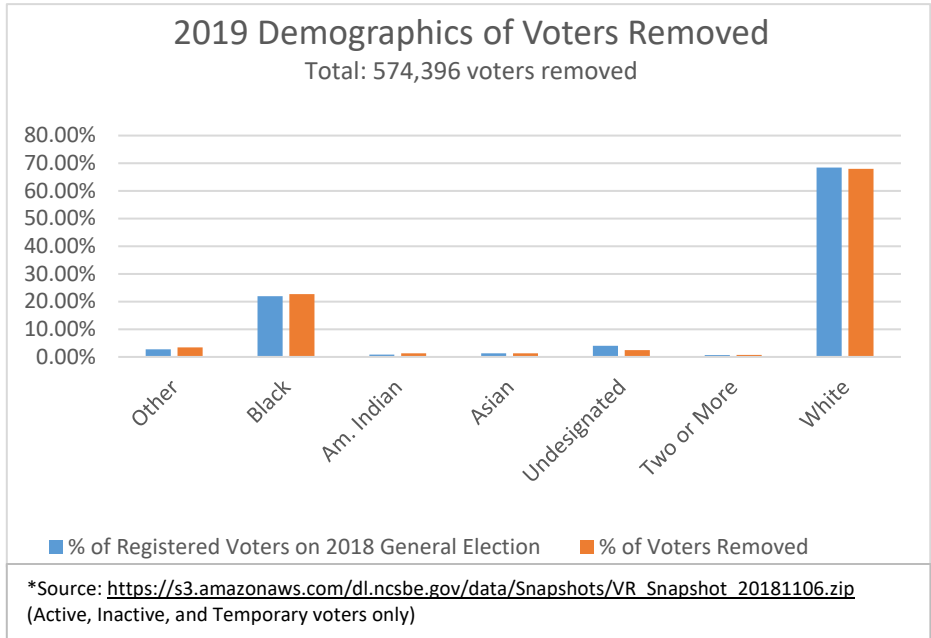
⁷ N.C.G.S. § 163-82.14(d)(3). *See also*, N.C. State Board of Elections, Numbered Memo 2018-05 at 6, "Canvass Procedures and Provisional Ballots," (May 17, 2018), *available at* <https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2018/Numbered%20Memo%202018-05.pdf>.



The following maps show the distribution in North Carolina's 100 counties of voters removed, and specifically the percent of registered voters removed in each county:



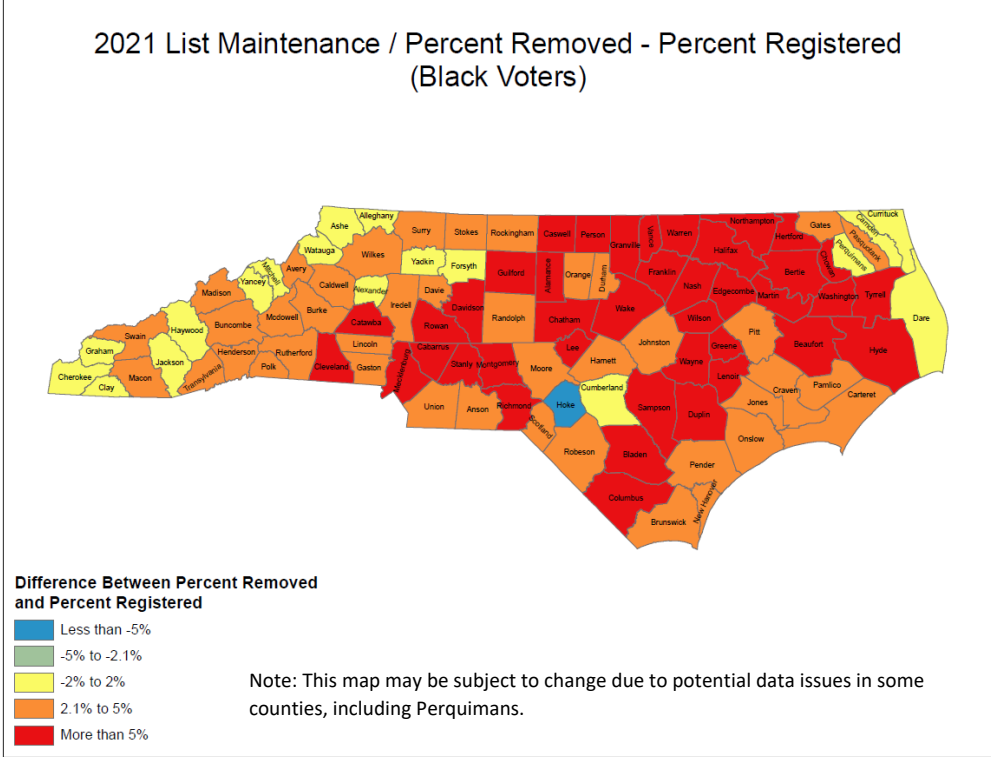
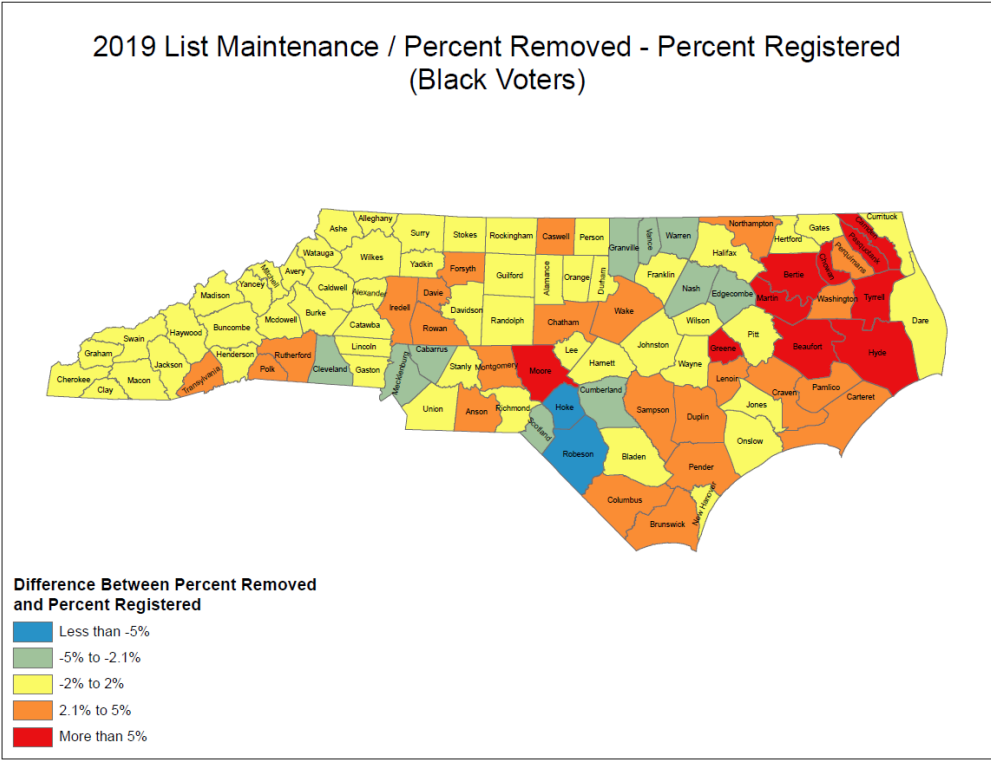
When looking at the 2019 and 2021 list maintenance data, the racial breakdown shows a dramatic increase in the overrepresentation of Black voters, while White voters became increasingly underrepresented among those who were removed when compared to their share of the electorate during the prior general election:



As these graphs show, in relation to the percentage they represented in the prior general election, Black voters went from being +0.75% overrepresented among voters removed in 2019 to +7.21% overrepresented in 2021. By contrast, White voters went from being -0.45% underrepresented among voters removed in 2019 to -6.17% underrepresented in 2021.



The following maps also reveal that the overrepresentation of Black voters removed from voter rolls was not uniform and occurred more often in the eastern part of the state:



There are further indications that North Carolina's list maintenance process could be improved. In the 2020 general election, at least 2,280 of the voters removed from the North Carolina voter roll tried to vote and were forced to cast a provisional ballot. This list was created by matching the 2020 provisional ballot file with the State Board's 2019 list of removed voters using combinations of county name, voter name, and address. 1,958 of these ballots were fully or partially counted in the election, and 322 were not counted. Although more investigation is needed, these provisional ballots indicate it is possible some individuals were removed from North Carolina's voter rolls when they were, in fact, eligible voters.

What can be done to ensure list maintenance is accurate and does not disenfranchise voters?

Investigation

The Southern Coalition for Social Justice and its partners are investigating why the list maintenance in 2021 disproportionately impacted registered voters of color, especially Black voters. This will include follow-up with individual voters who were removed.

Voter Education

Voter education is also crucial to ensure voters are aware of list maintenance and know how to keep themselves registered and how to vote if they are mistakenly taken off the voter registration rolls. Specifically, voters need to understand why responding to the confirmation mailing within 30 days is essential to ensure they are not disenfranchised.

Furthermore, voters need to know of their right to cast a provisional ballot if they show up to vote and are not registered, and that they can register again during early voting as well.

Improving Voter Outreach by Counties

Some voters whose names were removed from the voter rolls in 2019 reported that they never received a confirmation mailing from their County Board. There must be accountability for these processes, and the confirmation mailings need to be designed in a way that will encourage attention and response.

Improving Transparency

SCSJ will be advocating for more transparency in the inter-agency processes for identifying voters for removal from voter rolls.

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