

Thursday, June 13, 2024 at 21:00:50 Eastern Daylight Time

**Subject:** New Message :: R001307-050824  
**Date:** Thursday, June 13, 2024 at 4:16:11 PM Eastern Daylight Time  
**From:** NYS SBOE FOIL Records Access Center  
**To:** AO Records

EXTERNAL SENDER

--- Please respond above this line ---



RE: FOIL Records Request of May 08, 2024, Reference # R001307-050824

Dear Emma Lewis,

The NYS Board of Elections received a FOIL request from you on May 08, 2024. You requested:

**Type of Record:** Other Records

**Records Requested:** " Please see the attached request NY-SBE-24-0492."

The NYS Board of Elections has reviewed its files and has located responsive records to your request. Please log in to the FOIL Records Access Center at the following link to retrieve the responsive records.

[FOIL Records Request - R001307-050824](#)

*Please note:*

*There were no responsive documents to part 1 of your request.*

*The documents provided within your portal account are in response to part 2 of your request.*

Sincerely,

NYS Board of Elections

To monitor the progress or update this request please log into the [FOIL Records Access Center](#).





## McGrath, Kathleen (ELECTIONS)

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**From:** Zebrowski.Stavisky, Kristen (ELECTIONS)  
**Sent:** Thursday, February 22, 2024 12:47 PM  
**To:** Susan Lerner  
**Subject:** RE: NY Citizens Audit  
**Attachments:** Letter to NYS Association of Counties with enclosures 11282023.pdf

Yes, see attached.

We also reviewing information provided by a cybersecurity expert. That is being reviewed by our database developer and an independent security consultant. Hopefully, we will be able to disseminate soon.

### **Kristen Zebrowski Stavisky**

Chief Election Official, New York State  
Co-Executive Director



**Board of  
Elections**

40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

(518) 474-8100 | [Kristen.Zebrowski.Stavisky@elections.ny.gov](mailto:Kristen.Zebrowski.Stavisky@elections.ny.gov)  
[www.elections.ny.gov](http://www.elections.ny.gov)

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**From:** Susan Lerner <[slerner@commoncause.org](mailto:slerner@commoncause.org)>  
**Sent:** Thursday, February 22, 2024 12:36 PM  
**To:** Zebrowski.Stavisky, Kristen (ELECTIONS) <[Kristen.Zebrowski.Stavisky@elections.ny.gov](mailto:Kristen.Zebrowski.Stavisky@elections.ny.gov)>  
**Subject:** NY Citizens Audit

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Are there talking points which correct the misinformation that they disseminate?  
Susan

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Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Raymond J. Riley III  
Co-Executive Director



## Board of Elections

40 NORTH PEARL STREET, SUITE 5  
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Douglas A. Kellner  
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Andrew J. Spano  
Commissioner

Kristen Zebrowski Stavisky  
Co-Executive Director

November 28, 2023

Mr. Stephen J. Acquario, Esq., Executive Director  
New York State Association of Counties  
515 Broadway, Suite 402  
Albany, NY 12207

DELIVERED VIA EMAIL

Dear Executive Director Acquario,

Our office writes to you regarding a serious matter impacting local legislatures throughout New York State. You have likely seen recent news coverage of a group of misinformed individuals purporting to have found major deficiencies in New York State's voter registration database. This group has alleged that countless fake voters have been inserted into the registration database in order to create invalid votes to sway elections. They claim that no elections should be certified in New York State because of alleged counterfeit registrations and actions by those who run elections.

Over the last year and a half, the group – New York Citizens Audit – has presented their fabricated claims throughout our state. More recently, they have brought their embellished and misleading reports before local Town Boards and County Legislatures requesting that these bodies take up resolutions to support their cause. The resolutions are framed around their ill-informed reports, misinterpreted passages of state and federal law, and an allegation that the 2020 and 2022 elections were fraudulent.

The group alleges that its resolution has been presented and adopted by fifty-one local legislative bodies. The claims being made by the organization are false. They represent, at best, an ignorance of the voter registration process in New York State, and, at worst, a willful disregard of basic fact. However, when a legislative body is only presented with one side of the story, it is easy to simply agree with the group presenting, without the need to do additional fact-checking.

It is our hope that your organization can assist us in arming your members with information to help dispel these malicious claims. Attached to this letter you will find two pieces of correspondence addressed to County Boards of Elections in New York State. These materials include explanations to many of the claims made by this group. It should be noted that no one has seen the actual data used by this group. Even members of the press have not been privy to the alleged voter list the group is using. We have done our best to address claims for which concrete examples are provided and continue to investigate where misunderstandings of data may be stemming from.

Additionally, on October 29, 2023, the fact-checking website *PolitiFact* issued a ruling of "false" against one of the group's central claims about the New York State voter database. We have included the *PolitiFact* investigation and conclusion in this communication for your review.

Election deniers are prevalent throughout our country, and their efforts to spread mis- and disinformation have unfortunately yielded the intended goal of confusing voters and eroding their trust in our democratic processes. That trust is further eroded with each local legislature that signs onto a resolution which is not based in fact.

Our office stands ready to assist you and your members in dispelling election mis- and disinformation in New York State. Please contact our office with any questions regarding these materials and please encourage your members to do the same.

Sincerely,



Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections



Raymond J. Riley III  
Co-Executive Director  
New York State Board of Elections

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Vacant  
Co-Executive Director



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Douglas A. Kellner  
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Andrew J. Spano  
Commissioner

Kristen Zebrowski-Stavisky  
Co-Executive Director

April 5, 2023

Dear County Board Commissioners, Directors, and Staff,

In recent months, we have been made aware of a group alleging that New York State's voter registration database contains unidentified or "cloned" voters that are casting ballots in elections. We know these claims are unequivocally false, but we recognize the immense pressure the spread of this misinformation places upon your crucial work in conducting elections in New York State.

We understand how tirelessly you work year round to ensure elections are safe and secure. These baseless claims insult your service to the people of New York and undermine the extensive record keeping processes we know you follow. We want to thank you for that work and remind you that you are an integral part of protecting our democracy from bad actors, including those who create malicious claims to feed a false narrative predicated on a fictional analysis of voter data.

In an effort to dispel this distortion of the truth, our office has compiled explanations for the majority of false claims. It should be noted that no one has seen the actual data used to create the false claims. Even members of the press have not been privy to the alleged voter list the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we have also provided a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful in your efforts to cull the spread of misinformation, and we again thank you wholeheartedly for all that you do to keep elections up and running in New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky", with a long horizontal flourish extending to the right.

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

## **False Claims Explained**

### **1. Duplicated Voter IDs.**

Each voter in New York is assigned both a state voter ID and a county ID. Although the state database is designed to have a single state ID follow a voter as they move from county to county, it is possible for multiple reasons that a voter may have multiple records with different state IDs. For example, if a voter registered more than once using the DMV's online portal creating a duplicate record, their duplicate record may be purged, which would show the same voter and name with two voter IDs. One record would be active and the second would be purged.

Likewise, it's possible for two different voters in two different counties to have the same county ID number since the county systems are independent of one another and the county number serves to differentiate voters within a county.

### **2. More Votes than Registered Voters.**

The statewide registration database reflects voter information as of the moment the data is extracted. The group requested data in October of 2021 and compared it to election results from November of 2020, nearly a year earlier. Any voter that moved would not be accurately represented as voting at the location where they had been registered at the time of the election. A more accurate representation would be to compare the Board's November 2020 enrollment data against the 2020 election results which would show an accurate 13.5 million eligible voters and 8.6 million votes cast.

### **3. Multiple Registrations for a Single Voter**

As noted, the data in the statewide database is continually changing. When a voter moves from one county to another, a transfer process will occur so that the voter's registration moves with them throughout the state. This is required by state law. The examples listed in the group's report showed voters moving through the normal transfer process. Most were purged in one county and active in another. As the transfer happens, the voter is inactive so that the new county can take the data. There were many examples given where the same voter was listed in multiple counties. Again, the group failed to look at the voter's status. There will always be some overlap as a voter moves from one jurisdiction and registers in another. It is a crime to attempt to vote or vote in two places.

### **4. Voters Missing Date of Birth or Having Date of Birth that Seems Implausible**

Voters in New York were not always required to give a date of birth. Prior to 1960, voters registered in person at a Board of Elections office. They did not have the ability to mail their registrations or register online. These voters would give their age but not their date of birth. When electronic registration systems were introduced, some counties used "placeholder dates" for voters who were not legally required to provide this information.

### **5. Voters Missing Identification**

Voters missing data such as a driver license number or social security number are not voting illegally. New York is compliant with the Help America Vote Act as implemented in New York in 2005. To describe the ID requirements of HAVA as required for all voters is incorrect. The ID requirements of Section 303 (b) of HAVA only apply to first time voters who registered after 2005 in New York. Voters

registered before 2006 were not subject to the ID requirements of Section 303(b) of HAVA in New York. In addition, all Military and overseas voters are exempt from the ID requirements of Section 303(b) of HAVA.

New York Election Law mirrors the provisions of Section 303(b) for first-time voters who register by mail which asks for a DMV number or the last 4 digits of an SSN. If the voter does not have either of those, the law allows them to provide an alternative form of ID such as a valid photo ID, a current utility bill, bank statement, paycheck, government check or some other government document that shows the voter's current name and address. If the voter does not provide the alternative ID with the registration form, the voter's poll record is flagged so they must produce one of those pieces of ID before they can vote on a machine. If they don't produce the ID, they must be allowed to vote a provisional ballot, which in New York is called an affidavit ballot, as required by Section 303(b) of HAVA.

#### 6. More Voters than Current Population Size

The group has claimed that several counties have more than 100% registered voters based on voting age population. A simple search of New York's enrollment data and data from the 2020 US Census would show this is not the case. While the report does not cite the statistics used, the census website shows the following:

County	Active Registered Voters (Per Nov 20 Enrollments <sup>1</sup> )	Eligible Voting Age Population (Per 2020 Census) <sup>2</sup>	Percentage of Voters Registered
Allegany	26,197	36,886	71%
Erie	629,676	762,434	82%
Hamilton	4,321	4,443	97%
Westchester	624,871	782,472	80%
Wyoming	24,629	32,911	75%

#### 7. Voters Registered on Federal Holidays

Voters that are pre-registered to vote will have their record activated on the day of their 18<sup>th</sup> birthday regardless of whether that date is a holiday. Additionally, if records did not have a registration date stamp when entering the voter into the electronic system, counties may have used January 1<sup>st</sup> as a placeholder day.

<sup>1</sup> <https://www.elections.ny.gov/EnrollmentCounty.html>

<sup>2</sup> <https://www.census.gov/quickfacts/fact/table/US/PST045222>

## Truths About Voter Registration List Maintenance in New York State

1. **Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
2. **Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offences from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York, are processed, and documented routinely.
3. **County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
4. **County Boards annually compare voter addresses against the National Change of Address database.** In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.
5. **The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, boards of elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
6. **Counties undergo a biannual review of their internal record keeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the state will make recommendations on how to amend their processes.

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Raymond J. Riley III  
Co-Executive Director



## Board of Elections

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Andrew J. Spano  
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Kristen Zebrowski Stavisky  
Co-Executive Director

October 5, 2023

Dear County Board Commissioners, Directors, and Staff,

Earlier this year, the Board of Elections sent a letter to County Board Commissioners and staff addressing claims of voter fraud being made by a fringe organization in New York State about the 2020 General Election. Our letter provided reasonable explanations and hard truths about voter list maintenance in an effort to combat the group's misinformation campaign. More recently, the same group has issued a new report making similar accusations about the 2022 General Election. We again write to your offices with the hope of assisting you in your work to dispel inaccuracies about the state and county voter registration databases.

The importance of our correspondence is made further pressing after recent reports of individuals impersonating Board of Elections' employees, and confronting voters at their homes about the status of their registration. We are extremely alarmed by these actions. These individuals are impersonating government officials in an effort to intimidate voters based on inaccurate and/or misleading information. We continue to encourage you to collect as much information about these incidents as possible, and to communicate with your local law enforcement whenever necessary.

Our office has compiled explanations for a number of the group's new claims. We intend to do an even deeper dive of this new report and will issue additional guidance documents as necessary. As was noted in our previous letter, no one has seen the actual raw data used to create these allegations. Even members of the press have not been privy to the voter lists the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we continue to provide a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful as you continue to work to cull the spread of misinformation in your County. Please don't hesitate to contact us for further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky".

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

A handwritten signature in black ink, appearing to read "Raymond J. Riley III".

Raymond J. Riley III  
Co-Executive Director  
New York State Board of Elections

## False Claims Explained

### 1. Counterfeit Registrations

The Board of Elections has not seen the full dataset which the group claims to be using, however, the limited examples provided within the reports don't yield the unsavory outcomes claimed. The most recent report cites a voter registered eleven times and alleges that all registrations are active. The voter's last name and first initial are provided.

It is not a crime for a voter to register multiple times and it is up to the Board to ensure duplicate records are purged. In looking at the record of this voter, the New York City Board has done their due diligence and all duplicate records are marked as purged.

County County ID	Name	Status
Kings 413656593	PIAMENTA, A	A
Kings 413656594	PIAMENTA, A	P DUPLICATE
Kings 413656595	PIAMENTA, A	P DUPLICATE
Kings 413656596	PIAMENTA, A	P DUPLICATE
Kings 413656597	PIAMENTA, A	P DUPLICATE
Kings 413656598	PIAMENTA, A	P DUPLICATE
Kings 413656599	PIAMENTA, A	P DUPLICATE
Kings 413656600	PIAMENTA, A	P DUPLICATE
Kings 413657375	PIAMENTA, A	P DUPLICATE
Kings 413657376	PIAMENTA, A	P DUPLICATE
Kings 413657497	PIAMENTA, A	P DUPLICATE

While only one example was provided, it is likely that other supposed "counterfeit" registrations are also easily debunked. As has been explained in our previous letter, although the intent of the state database is to have a singular voter ID follow the voter through the state, instances can occur where a voter may have more than one state ID. One record would be active and the second would be purged. This does not signal that the voter is attempting to register more than once, it simply shows that they are completing a transfer process. Having more than one state ID is not a counterfeit registration.

### 2. Purged Records

A. Piamenta is not the only instance of election deniers misreading or misinterpreting purged records. Voters can be purged for several reasons – at the request of the voter, death, moving out of state, not voting in two federal election cycles, being judged mentally incompetent, or being incarcerated for a felony.

The group alleges that there are purged records in the voter rolls with no active date. The case of A. Piamenta's multiple purged registration is the perfect example to explain the anomaly of purged records that were never active. There are many opportunities for a voter to update their registration or register for the first time. Each time a person interacts with a designated National Voter Registration Act agency such as the DMV, Department of Social Services, or other state agency, they have the opportunity to register. They can also register in person at registration drives, or online through the DMV or State or City Boards' online portals. If a voter submits multiple registrations at once, the Board may document those prior registrations, as all voter registration forms are considered legal documents. The Board will use the most current form for the voter's registration and mark the others as purged duplicated, if entered into the state voter database.

### ***3. Inexplicable Changes to the Voter Rolls***

New York State currently has more than 13 million voters, 157,820 alterations to voter records represents changes to around 1% of records statewide over the course of a full year. 680 changes per day only proves one thing: Boards of Elections do their job in maintaining the voter rolls.

Voter registrations in New York State are logged manually, using bipartisan checks. With any system that requires both manual data entry and human verification, room for data entry error exists. Almost 50% of registrations are submitted on paper filled out by voters, a majority of which do so by hand. Not all voters boast perfect penmanship. While election clerks may be reading the form correctly, poor handwriting can result in a voter's name being misspelled or a date of birth being entered with the incorrect date.

Luckily, the Boards mail out confirmation notices upon registering a voter to confirm the information is true and correct. Additionally, all Boards undertake an annual mail check process. Amendments to the spelling of a voter's first or last name are not uncommon and not inexplicable by any stretch of the imagination. Marriages and divorces are also a common reason for a voter's name being updated. Unless the group researched every voter whose last name changed, there would be no way to prove whether the voter's name was changed because of a marriage or divorce, as submitting a marriage certificate to effectuate a name change is not required in New York State.

Additionally, the group cites a high number of changes happening between October and December. This is easily explainable as the election itself results in many changes to records. Voters may notice that their name or date of birth is incorrect when going to vote and request an amendment. A voter may vote by affidavit and reactivate their registration after being marked as inactive or purged. A voter may have been previously registered but voted by affidavit using a new name or address. This is also the period where the federal required list maintenance blackout period ends and voters who may have had mail returned without a forwarding address can be inactivated.

### ***4. Registration Dates After Cut-Off Dates***

Voter history, as compiled by the NYSVoter database, serves as a compilation of all elections a voter has participated in. This data is transmitted from the County Boards' voter registration systems to NYSVoter. When transmitting this compiled data to the public, the file does not specify the jurisdiction where a voter cast their ballot. This is due to the intended purpose of traditional voter history requests: to ascertain the likelihood of future voter participation for various Get-Out-The-Vote efforts. In order to facilitate this, when a record is purged from a particular county and activated in a new county, their voter history is

duplicated and travels with them. This does not indicate a voter participated twice in one election. It indicates that the voter has history for those elections on both the active (for past and present) county record and the purged county record.(for past elections).

Additionally, voters who move and were previously registered in another county in New York State may vote by affidavit ballot on Election Day. Voters also have the option of seeking a court order to vote. This process involves appearing in front of a judge to seek the right to vote on the election tabulator. Missing the registration cut-off is one reason an individual could seek a court order. He or she may wish to explain the extenuating circumstances related to the missed deadline. The affidavit ballot or court order would then serve to transfer their registration to the new county or effectuate a new registration. This would be processed after the vote was cast, but still be perfectly within existing law and procedures.

### **5. *Missing and Blank Votes***

A new focus in the report is on potential missing votes in New York City after the 2020 election. The lack of concrete examples makes this claim difficult to investigate. A simple explanation could be that these voters are not the same voter and just share the same name, or these voters do have voter history and the group is misreading the data – as they have done previously. Regardless of the explanation, a change to a voter's voter history would in no way disenfranchise them as the voter database and the voting machines which tally ballots are not connected.

When a voter casts a ballot, either at a poll site or via absentee ballot, it does not automatically trigger their voter record to update. The updating of records is a separate process based on who has signed in on a poll book, who has returned a valid absentee ballot, and who has submitted a valid affidavit ballot. Election results are extracted from the ballots themselves, not the state voter database which is why results and voter history may not always match.

A voter may sign-in on a poll pad but only partially complete their ballot or spoil their ballot by marking their ballot incorrectly. New York State voting machines that tally voters' hand-marked ballots can detect when a voter may have made a mistake on their ballot by marking more than one candidate when not applicable. In these instances, the ballot may be pushed back out, and a warning will display telling the voter to check the ballot. Voters can choose to submit that ballot and not have that particular race counted. Voters also have every right to skip certain races and not cast a vote.

### **6. *Missing, Similar, or Improbable Dates of Birth***

Prior to 1977, New York State Election Law did not require a specific date of birth from an individual when registering to vote. The applicant could simply provide a year of birth or state they were over the age required. Beginning in 1977, when voter registration forms began to require a specific date of birth from applicants, existing registrations were not affected. As such, voter rolls started to have voters with dates of birth and voters without dates of birth.

As an example, below is a registration form from a voter. She registered to vote in 1964 and listed her date of birth simply as "21+". At the time, this was acceptable, and this voter remains an active registered voter in New York State to date. Since there was no date of birth on the original voter registration, her date of birth is listed in the database as January 1, 1900, only as a placeholder.



## Truths About Voter Registration List Maintenance in New York State

- 1. Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
- 2. Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offenses from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York are processed, and documented routinely.
- 3. County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
- 4. County Boards annually compare voter addresses against the National Change of Address database.** In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.
- 5. The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, Boards of Elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
- 6. Counties undergo a biannual review of their internal recordkeeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the State Board will make recommendations on how to amend their processes.
- 7. NYSVoter is a repository for County Board data.** Prior to 2007, no central system of aggregating voter registration data existed in New York State. When NYSVoter was brought online in 2007, its purpose was, and is, to act as a central repository for the 62 counties' registration databases. When this initial upload took place, voter data for both active and inactive (and in some cases, purged) voters, were uploaded in an initial upload county by county.
- 8. Voters can, and will, have multiple state IDs.** Several factors can explain why a voter would have multiple state IDs. If a voter moves out of state, their New York State record is purged. If they then move back into the state, a new record would be created, as required by existing procedure. The County Boards of Elections do not reactivate a properly purged record. This is done to ensure that the gap in registration is properly documented. Moving out of state is one example of this. There are several other valid reasons why a voter would have more than one state ID.

# No, difference in voter roll data and election results does not indicate crime

By [Jill Terreri Ramos](#) October 29, 2023

## IF YOUR TIME IS SHORT

- New York Citizens Audit is comparing certified election results to a voter file that was not complete.
- A difference in the number of votes in a certified election result and the number of voters who voted, according to their voter history in a different data set, is not evidence of a federal crime.

## [See the sources for this fact-check](#)

The claim is startling: New York's election results in 2022 might not be trustworthy because there were more votes than voters.

In a [report](#) on the 2022 election, New York Citizens Audit, a group of people who have cast doubt on election administration, claimed there were 35,312 more votes cast than there were voters who voted.

"Certification of New York's 2022 general election appears to be a federal crime; a civil rights violation acting under color of law. Why?" the group wrote.

New York Citizens Audit has [questioned the results](#) of the 2020 and 2022 elections in appearances [around the state](#), and its findings have been rebutted by state and county elections officials.

To arrive at the supposed discrepancy, the report's authors compared all the votes cast in the U.S. Senate race in 2022, numbering 5,965,684, with the voter roll database that showed who voted in the 2022 election, some 5,930,372 in all.

The group submitted a Freedom of Information Law request to the state Board of Election for the voter roll.

We asked Marly Hornik, the group's executive director, about the claim that certification of the results might be unlawful. She said that a U.S. Justice Department [publication](#) states that it is misconduct to certify something that is neither accurate nor compliant. "Because every American has a fundamental civil right to an accurate and compliant election, that constitutes a deprivation of rights acting under color of law," Hornik said.

The Justice Department publication states broadly that election fraud can involve the counting of ballots and certification of results, and that voters have a right to have their vote counted "fairly and honestly." But the claim New York Citizens Audit makes, that a ballot count from one dataset should always match up to a voter tally from another data set, is not mentioned in the Justice Department document as an example of voter fraud.

Another federal document, the [Guide to the Canvass](#), warns against using the voter roll records as proof that a voter voted, warning that the counts of voters who voted can be higher than the number of ballots cast, the opposite issue of what New York Citizens Audit claims.

The state Board of Elections explained why the election tally and voter roll number could be different. The voter roll captures voter history as recorded in a moment in time, while certified results capture all of the ballots cast during a voting period, including early voting and the tabulation of ballots cast by overseas or military voters, or voters who filed an affidavit ballot.

The group received the voter file on Dec. 19, 2022, four days after the results were certified. The state board does not know when the group requested the file, because the request must have been made under a different name.

The board extracts the statewide voter file, which contains millions of data points, each Monday, which is used to fill all the requests for that data that week. It is then sent on a disc to the requester in the mail. Based on when the data was received, the file could reflect the voter roll from three days before the results were certified, or even more than a week earlier, state election officials said. During the days before certification, counties are still uploading their election data into the statewide database, such as those from military or affidavit ballots. In the 2022 general election, there were more than 401,000 absentee ballots cast, and more than 65,000 affidavit ballots.

The group has a voter roll from before all ballots were processed, and it is comparing that to certified results.

Also, voters who cast ballots might move or die, which can affect whether their voting history records are contained in the voter roll at the time it was requested. There are also different data sources maintained by counties and the state, and there could be problems synchronizing them.

The statewide database is a repository of information as provided by and edited by the county boards, said Kathleen R. McGrath, public information director at the state Board of Elections. "For that reason, it may be best to go county-by-county to get the complete voter participation for a particular election," McGrath said.

We asked Republican officials at the Erie County Board of Elections about New York Citizens Audit's claims. Commissioner Ralph Mohr and Registration Supervisor Gabriel Chen met with the group to explain how elections are conducted, and both were familiar with the group's claim.

They confirmed that county boards of election submit records of each voter who cast a ballot to the state board within days of an election. But new data is uploaded as other votes are tabulated, such as overseas ballots and affidavit ballots.

Erie County has nearly 618,000 active registered voters, and in the last five years, there have been four cases of people voting twice, and the cases usually involved a college student who was registered at their home address and at their student housing, Mohr said.

"The number is minuscule," he said.

### **Our ruling**

New York Citizens Audit claims that a count of 35,312 more ballots cast than voters who voted in the 2022 general election, when two different data sets are compared, is evidence the certification appears to be a federal crime.

It is possible that the number of ballots certified in the election and the number of voters who are listed as participating in the 2022 election in a statewide voter file is different. The voter roll is a list of voters in the

state at one point in time, and may not match up with the total number of ballots cast in an election. This does not prove the certification of the 2022 election results is a civil rights violation.

The burden of proof in our rating system is on the speaker. New York Citizens Audit did not prove that differing data sets is evidence of a crime. We rate this claim False.

### Our Sources

Email interview, Marly Hornik, executive director, New York Citizens Audit, Sept. 21, 2023.

Email interview, Kathleen McGrath, director of public information, New York State Board of Elections, Oct. 5, 2023.

Email interview, Jennifer Wilson, spokesperson, New York State Board of Elections, Sept. 26, 2023.

New York Citizens Audit, report, "New York's 2022 General Election & The Reign of Error: Apathy, Incompetence, or Malfeasance?" August 2023.

New York State Board of Elections, 2022 general election certified results, U.S. Senate race.

Interview with Marly Hornik, executive director, New York Citizens Audit, on Talk! 100.7FM, via Rumble, Sept. 7, 2023.

U.S. Department of Justice, "Federal Prosecution of Election Offenses, Eighth Edition" December 2017.

Phone interview, Erie County Republican Election Commissioner Ralph Mohr, Oct. 16, 2023.

Phone interview, Erie County Republican Registration Supervisor Gabriel Chen, Oct. 16, 2023.

U.S. Election Assistance Commission, Guide to the Canvass, March 2022.

Article link: <https://www.politifact.com/factchecks/2023/oct/29/new-york-citizens-audit/no-difference-in-voter-roll-data-and-election-resu/>

## McGrath, Kathleen (ELECTIONS)

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**From:** Lovullo, Brendan (ELECTIONS)  
**Sent:** Tuesday, December 19, 2023 12:44 PM  
**To:** Terry Blosser-Bernardo  
**Subject:** Info  
**Attachments:** Letter to NYS Association of Counties with enclosures 11282023.pdf

Per our conversation.

We sent info to Commissioners on April 5, 2023, October 5, 2023 and also this attachment which included to the previous letters, along with an update which was sent to:

- NYS Association of Counties
- NYS Conference of Mayors
- Association of the Towns
- NYS Sheriffs Association
- NYS Town Clerks Association
- NYS Association of City & Village Clerks
- District Attorneys Association of the State of New York

B

Brendan Lovullo  
Deputy Executive Director  
New York State Board of Elections  
518-473-5086

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Raymond J. Riley III  
Co-Executive Director



## Board of Elections

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<http://www.elections.ny.gov>

Douglas A. Kellner  
Co-Chair

Andrew J. Spano  
Commissioner

Kristen Zebrowski Stavisky  
Co-Executive Director

November 28, 2023

Mr. Stephen J. Acquario, Esq., Executive Director  
New York State Association of Counties  
515 Broadway, Suite 402  
Albany, NY 12207

DELIVERED VIA EMAIL

Dear Executive Director Acquario,

Our office writes to you regarding a serious matter impacting local legislatures throughout New York State. You have likely seen recent news coverage of a group of misinformed individuals purporting to have found major deficiencies in New York State's voter registration database. This group has alleged that countless fake voters have been inserted into the registration database in order to create invalid votes to sway elections. They claim that no elections should be certified in New York State because of alleged counterfeit registrations and actions by those who run elections.

Over the last year and a half, the group – New York Citizens Audit – has presented their fabricated claims throughout our state. More recently, they have brought their embellished and misleading reports before local Town Boards and County Legislatures requesting that these bodies take up resolutions to support their cause. The resolutions are framed around their ill-informed reports, misinterpreted passages of state and federal law, and an allegation that the 2020 and 2022 elections were fraudulent.

The group alleges that its resolution has been presented and adopted by fifty-one local legislative bodies. The claims being made by the organization are false. They represent, at best, an ignorance of the voter registration process in New York State, and, at worst, a willful disregard of basic fact. However, when a legislative body is only presented with one side of the story, it is easy to simply agree with the group presenting, without the need to do additional fact-checking.

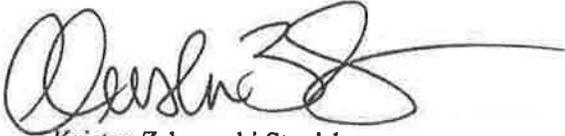
It is our hope that your organization can assist us in arming your members with information to help dispel these malicious claims. Attached to this letter you will find two pieces of correspondence addressed to County Boards of Elections in New York State. These materials include explanations to many of the claims made by this group. It should be noted that no one has seen the actual data used by this group. Even members of the press have not been privy to the alleged voter list the group is using. We have done our best to address claims for which concrete examples are provided and continue to investigate where misunderstandings of data may be stemming from.

Additionally, on October 29, 2023, the fact-checking website *PolitiFact* issued a ruling of "false" against one of the group's central claims about the New York State voter database. We have included the *PolitiFact* investigation and conclusion in this communication for your review.

Election deniers are prevalent throughout our country, and their efforts to spread mis- and disinformation have unfortunately yielded the intended goal of confusing voters and eroding their trust in our democratic processes. That trust is further eroded with each local legislature that signs onto a resolution which is not based in fact.

Our office stands ready to assist you and your members in dispelling election mis- and disinformation in New York State. Please contact our office with any questions regarding these materials and please encourage your members to do the same.

Sincerely,



Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections



Raymond J. Riley III  
Co-Executive Director  
New York State Board of Elections

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Vacant  
Co-Executive Director



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Douglas A. Kellner  
Co-Chair

Andrew J. Spano  
Commissioner

Kristen Zebrowski-Stavisky  
Co-Executive Director

April 5, 2023

Dear County Board Commissioners, Directors, and Staff,

In recent months, we have been made aware of a group alleging that New York State's voter registration database contains unidentified or "cloned" voters that are casting ballots in elections. We know these claims are unequivocally false, but we recognize the immense pressure the spread of this misinformation places upon your crucial work in conducting elections in New York State.

We understand how tirelessly you work year round to ensure elections are safe and secure. These baseless claims insult your service to the people of New York and undermine the extensive record keeping processes we know you follow. We want to thank you for that work and remind you that you are an integral part of protecting our democracy from bad actors, including those who create malicious claims to feed a false narrative predicated on a fictional analysis of voter data.

In an effort to dispel this distortion of the truth, our office has compiled explanations for the majority of false claims. It should be noted that no one has seen the actual data used to create the false claims. Even members of the press have not been privy to the alleged voter list the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we have also provided a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful in your efforts to cull the spread of misinformation, and we again thank you wholeheartedly for all that you do to keep elections up and running in New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky", with a long horizontal flourish extending to the right.

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

## **False Claims Explained**

### **1. Duplicated Voter IDs.**

Each voter in New York is assigned both a state voter ID and a county ID. Although the state database is designed to have a single state ID follow a voter as they move from county to county, it is possible for multiple reasons that a voter may have multiple records with different state IDs. For example, if a voter registered more than once using the DMV's online portal creating a duplicate record, their duplicate record may be purged, which would show the same voter and name with two voter IDs. One record would be active and the second would be purged.

Likewise, it's possible for two different voters in two different counties to have the same county ID number since the county systems are independent of one another and the county number serves to differentiate voters within a county.

### **2. More Votes than Registered Voters.**

The statewide registration database reflects voter information as of the moment the data is extracted. The group requested data in October of 2021 and compared it to election results from November of 2020, nearly a year earlier. Any voter that moved would not be accurately represented as voting at the location where they had been registered at the time of the election. A more accurate representation would be to compare the Board's November 2020 enrollment data against the 2020 election results which would show an accurate 13.5 million eligible voters and 8.6 million votes cast.

### **3. Multiple Registrations for a Single Voter**

As noted, the data in the statewide database is continually changing. When a voter moves from one county to another, a transfer process will occur so that the voter's registration moves with them throughout the state. This is required by state law. The examples listed in the group's report showed voters moving through the normal transfer process. Most were purged in one county and active in another. As the transfer happens, the voter is inactive so that the new county can take the data. There were many examples given where the same voter was listed in multiple counties. Again, the group failed to look at the voter's status. There will always be some overlap as a voter moves from one jurisdiction and registers in another. It is a crime to attempt to vote or vote in two places.

### **4. Voters Missing Date of Birth or Having Date of Birth that Seems Implausible**

Voters in New York were not always required to give a date of birth. Prior to 1960, voters registered in person at a Board of Elections office. They did not have the ability to mail their registrations or register online. These voters would give their age but not their date of birth. When electronic registration systems were introduced, some counties used "placeholder dates" for voters who were not legally required to provide this information.

### **5. Voters Missing Identification**

Voters missing data such as a driver license number or social security number are not voting illegally. New York is compliant with the Help America Vote Act as implemented in New York in 2005. To describe the ID requirements of HAVA as required for all voters is incorrect. The ID requirements of Section 303 (b) of HAVA only apply to first time voters who registered after 2005 in New York. Voters

registered before 2006 were not subject to the ID requirements of Section 303(b) of HAVA in New York. In addition, all Military and overseas voters are exempt from the ID requirements of Section 303(b) of HAVA.

New York Election Law mirrors the provisions of Section 303(b) for first-time voters who register by mail which asks for a DMV number or the last 4 digits of an SSN. If the voter does not have either of those, the law allows them to provide an alternative form of ID such as a valid photo ID, a current utility bill, bank statement, paycheck, government check or some other government document that shows the voter's current name and address. If the voter does not provide the alternative ID with the registration form, the voter's poll record is flagged so they must produce one of those pieces of ID before they can vote on a machine. If they don't produce the ID, they must be allowed to vote a provisional ballot, which in New York is called an affidavit ballot, as required by Section 303(b) of HAVA.

#### 6. More Voters than Current Population Size

The group has claimed that several counties have more than 100% registered voters based on voting age population. A simple search of New York's enrollment data and data from the 2020 US Census would show this is not the case. While the report does not cite the statistics used, the census website shows the following:

County	Active Registered Voters (Per Nov 20 Enrollments <sup>1</sup> )	Eligible Voting Age Population (Per 2020 Census) <sup>2</sup>	Percentage of Voters Registered
Allegany	26,197	36,886	71%
Erie	629,676	762,434	82%
Hamilton	4,321	4,443	97%
Westchester	624,871	782,472	80%
Wyoming	24,629	32,911	75%

#### 7. Voters Registered on Federal Holidays

Voters that are pre-registered to vote will have their record activated on the day of their 18<sup>th</sup> birthday regardless of whether that date is a holiday. Additionally, if records did not have a registration date stamp when entering the voter into the electronic system, counties may have used January 1<sup>st</sup> as a placeholder day.

<sup>1</sup> <https://www.elections.ny.gov/EnrollmentCounty.html>

<sup>2</sup> <https://www.census.gov/quickfacts/fact/table/US/PST045222>

## Truths About Voter Registration List Maintenance in New York State

- 1. Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
- 2. Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offences from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York, are processed, and documented routinely.
- 3. County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
- 4. County Boards annually compare voter addresses against the National Change of Address database.** In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.
- 5. The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, boards of elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
- 6. Counties undergo a biannual review of their internal record keeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the state will make recommendations on how to amend their processes.

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Raymond J. Riley III  
Co-Executive Director



## Board of Elections

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Douglas A. Kellner  
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Andrew J. Spano  
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Kristen Zebrowski Stavisky  
Co-Executive Director

October 5, 2023

Dear County Board Commissioners, Directors, and Staff,

Earlier this year, the Board of Elections sent a letter to County Board Commissioners and staff addressing claims of voter fraud being made by a fringe organization in New York State about the 2020 General Election. Our letter provided reasonable explanations and hard truths about voter list maintenance in an effort to combat the group's misinformation campaign. More recently, the same group has issued a new report making similar accusations about the 2022 General Election. We again write to your offices with the hope of assisting you in your work to dispel inaccuracies about the state and county voter registration databases.

The importance of our correspondence is made further pressing after recent reports of individuals impersonating Board of Elections' employees, and confronting voters at their homes about the status of their registration. We are extremely alarmed by these actions. These individuals are impersonating government officials in an effort to intimidate voters based on inaccurate and/or misleading information. We continue to encourage you to collect as much information about these incidents as possible, and to communicate with your local law enforcement whenever necessary.

Our office has compiled explanations for a number of the group's new claims. We intend to do an even deeper dive of this new report and will issue additional guidance documents as necessary. As was noted in our previous letter, no one has seen the actual raw data used to create these allegations. Even members of the press have not been privy to the voter lists the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we continue to provide a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful as you continue to work to cull the spread of misinformation in your County. Please don't hesitate to contact us for further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky".

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

A handwritten signature in black ink, appearing to read "Raymond J. Riley III".

Raymond J. Riley III  
Co-Executive Director  
New York State Board of Elections

## False Claims Explained

### 1. Counterfeit Registrations

The Board of Elections has not seen the full dataset which the group claims to be using, however, the limited examples provided within the reports don't yield the unsavory outcomes claimed. The most recent report cites a voter registered eleven times and alleges that all registrations are active. The voter's last name and first initial are provided.

It is not a crime for a voter to register multiple times and it is up to the Board to ensure duplicate records are purged. In looking at the record of this voter, the New York City Board has done their due diligence and all duplicate records are marked as purged.

County County ID	Name	Status
Kings 413656593	PIAMENTA, A	A
Kings 413656594	PIAMENTA, A	P DUPLICATE
Kings 413656595	PIAMENTA, A	P DUPLICATE
Kings 413656596	PIAMENTA, A	P DUPLICATE
Kings 413656597	PIAMENTA, A	P DUPLICATE
Kings 413656598	PIAMENTA, A	P DUPLICATE
Kings 413656599	PIAMENTA, A	P DUPLICATE
Kings 413656600	PIAMENTA, A	P DUPLICATE
Kings 413657375	PIAMENTA, A	P DUPLICATE
Kings 413657376	PIAMENTA, A	P DUPLICATE
Kings 413657497	PIAMENTA, A	P DUPLICATE

While only one example was provided, it is likely that other supposed "counterfeit" registrations are also easily debunked. As has been explained in our previous letter, although the intent of the state database is to have a singular voter ID follow the voter through the state, instances can occur where a voter may have more than one state ID. One record would be active and the second would be purged. This does not signal that the voter is attempting to register more than once, it simply shows that they are completing a transfer process. Having more than one state ID is not a counterfeit registration.

### 2. Purged Records

A. Piamenta is not the only instance of election deniers misreading or misinterpreting purged records. Voters can be purged for several reasons – at the request of the voter, death, moving out of state, not voting in two federal election cycles, being judged mentally incompetent, or being incarcerated for a felony.

The group alleges that there are purged records in the voter rolls with no active date. The case of A. Piamenta's multiple purged registration is the perfect example to explain the anomaly of purged records that were never active. There are many opportunities for a voter to update their registration or register for the first time. Each time a person interacts with a designated National Voter Registration Act agency such as the DMV, Department of Social Services, or other state agency, they have the opportunity to register. They can also register in person at registration drives, or online through the DMV or State or City Boards' online portals. If a voter submits multiple registrations at once, the Board may document those prior registrations, as all voter registration forms are considered legal documents. The Board will use the most current form for the voter's registration and mark the others as purged duplicated, if entered into the state voter database.

### ***3. Inexplicable Changes to the Voter Rolls***

New York State currently has more than 13 million voters, 157,820 alterations to voter records represents changes to around 1% of records statewide over the course of a full year. 680 changes per day only proves one thing: Boards of Elections do their job in maintaining the voter rolls.

Voter registrations in New York State are logged manually, using bipartisan checks. With any system that requires both manual data entry and human verification, room for data entry error exists. Almost 50% of registrations are submitted on paper filled out by voters, a majority of which do so by hand. Not all voters boast perfect penmanship. While election clerks may be reading the form correctly, poor handwriting can result in a voter's name being misspelled or a date of birth being entered with the incorrect date.

Luckily, the Boards mail out confirmation notices upon registering a voter to confirm the information is true and correct. Additionally, all Boards undertake an annual mail check process. Amendments to the spelling of a voter's first or last name are not uncommon and not inexplicable by any stretch of the imagination. Marriages and divorces are also a common reason for a voter's name being updated. Unless the group researched every voter whose last name changed, there would be no way to prove whether the voter's name was changed because of a marriage or divorce, as submitting a marriage certificate to effectuate a name change is not required in New York State.

Additionally, the group cites a high number of changes happening between October and December. This is easily explainable as the election itself results in many changes to records. Voters may notice that their name or date of birth is incorrect when going to vote and request an amendment. A voter may vote by affidavit and reactivate their registration after being marked as inactive or purged. A voter may have been previously registered but voted by affidavit using a new name or address. This is also the period where the federal required list maintenance blackout period ends and voters who may have had mail returned without a forwarding address can be inactivated.

### ***4. Registration Dates After Cut-Off Dates***

Voter history, as compiled by the NYSVoter database, serves as a compilation of all elections a voter has participated in. This data is transmitted from the County Boards' voter registration systems to NYSVoter. When transmitting this compiled data to the public, the file does not specify the jurisdiction where a voter cast their ballot. This is due to the intended purpose of traditional voter history requests: to ascertain the likelihood of future voter participation for various Get-Out-The-Vote efforts. In order to facilitate this, when a record is purged from a particular county and activated in a new county, their voter history is

duplicated and travels with them. This does not indicate a voter participated twice in one election. It indicates that the voter has history for those elections on both the active (for past and present) county record and the purged county record.(for past elections).

Additionally, voters who move and were previously registered in another county in New York State may vote by affidavit ballot on Election Day. Voters also have the option of seeking a court order to vote. This process involves appearing in front of a judge to seek the right to vote on the election tabulator. Missing the registration cut-off is one reason an individual could seek a court order. He or she may wish to explain the extenuating circumstances related to the missed deadline. The affidavit ballot or court order would then serve to transfer their registration to the new county or effectuate a new registration. This would be processed after the vote was cast, but still be perfectly within existing law and procedures.

### **5. *Missing and Blank Votes***

A new focus in the report is on potential missing votes in New York City after the 2020 election. The lack of concrete examples makes this claim difficult to investigate. A simple explanation could be that these voters are not the same voter and just share the same name, or these voters do have voter history and the group is misreading the data – as they have done previously. Regardless of the explanation, a change to a voter's voter history would in no way disenfranchise them as the voter database and the voting machines which tally ballots are not connected.

When a voter casts a ballot, either at a poll site or via absentee ballot, it does not automatically trigger their voter record to update. The updating of records is a separate process based on who has signed in on a poll book, who has returned a valid absentee ballot, and who has submitted a valid affidavit ballot. Election results are extracted from the ballots themselves, not the state voter database which is why results and voter history may not always match.

A voter may sign-in on a poll pad but only partially complete their ballot or spoil their ballot by marking their ballot incorrectly. New York State voting machines that tally voters' hand-marked ballots can detect when a voter may have made a mistake on their ballot by marking more than one candidate when not applicable. In these instances, the ballot may be pushed back out, and a warning will display telling the voter to check the ballot. Voters can choose to submit that ballot and not have that particular race counted. Voters also have every right to skip certain races and not cast a vote.

### **6. *Missing, Similar, or Improbable Dates of Birth***

Prior to 1977, New York State Election Law did not require a specific date of birth from an individual when registering to vote. The applicant could simply provide a year of birth or state they were over the age required. Beginning in 1977, when voter registration forms began to require a specific date of birth from applicants, existing registrations were not affected. As such, voter rolls started to have voters with dates of birth and voters without dates of birth.

As an example, below is a registration form from a voter. She registered to vote in 1964 and listed her date of birth simply as "21+". At the time, this was acceptable, and this voter remains an active registered voter in New York State to date. Since there was no date of birth on the original voter registration, her date of birth is listed in the database as January 1, 1900, only as a placeholder.



## Truths About Voter Registration List Maintenance in New York State

- 1. Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
- 2. Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offenses from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York are processed, and documented routinely.
- 3. County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
- 4. County Boards annually compare voter addresses against the National Change of Address database.** In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.
- 5. The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, Boards of Elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
- 6. Counties undergo a biannual review of their internal recordkeeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the State Board will make recommendations on how to amend their processes.
- 7. NYSVoter is a repository for County Board data.** Prior to 2007, no central system of aggregating voter registration data existed in New York State. When NYSVoter was brought online in 2007, its purpose was, and is, to act as a central repository for the 62 counties' registration databases. When this initial upload took place, voter data for both active and inactive (and in some cases, purged) voters, were uploaded in an initial upload county by county.
- 8. Voters can, and will, have multiple state IDs.** Several factors can explain why a voter would have multiple state IDs. If a voter moves out of state, their New York State record is purged. If they then move back into the state, a new record would be created, as required by existing procedure. The County Boards of Elections do not reactivate a properly purged record. This is done to ensure that the gap in registration is properly documented. Moving out of state is one example of this. There are several other valid reasons why a voter would have more than one state ID.

# No, difference in voter roll data and election results does not indicate crime

By [Jill Terrer Ramos](#) October 29, 2023

## IF YOUR TIME IS SHORT

- New York Citizens Audit is comparing certified election results to a voter file that was not complete.
- A difference in the number of votes in a certified election result and the number of voters who voted, according to their voter history in a different data set, is not evidence of a federal crime.

## [See the sources for this fact-check](#)

The claim is startling: New York's election results in 2022 might not be trustworthy because there were more votes than voters.

In a [report](#) on the 2022 election, New York Citizens Audit, a group of people who have cast doubt on election administration, claimed there were 35,312 more votes cast than there were voters who voted.

"Certification of New York's 2022 general election appears to be a federal crime; a civil rights violation acting under color of law. Why?" the group wrote.

New York Citizens Audit has [questioned the results](#) of the 2020 and 2022 elections in appearances [around the state](#), and its findings have been rebutted by state and county elections officials.

To arrive at the supposed discrepancy, the report's authors compared all the votes cast in the U.S. Senate race in 2022, numbering 5,965,684, with the voter roll database that showed who voted in the 2022 election, some 5,930,372 in all.

The group submitted a Freedom of Information Law request to the state Board of Election for the voter roll.

We asked Marly Hornik, the group's executive director, about the claim that certification of the results might be unlawful. She said that a U.S. Justice Department [publication](#) states that it is misconduct to certify something that is neither accurate nor compliant. "Because every American has a fundamental civil right to an accurate and compliant election, that constitutes a deprivation of rights acting under color of law," Hornik said.

The Justice Department publication states broadly that election fraud can involve the counting of ballots and certification of results, and that voters have a right to have their vote counted "fairly and honestly." But the claim New York Citizens Audit makes, that a ballot count from one dataset should always match up to a voter tally from another data set, is not mentioned in the Justice Department document as an example of voter fraud.

Another federal document, the [Guide to the Canvass](#), warns against using the voter roll records as proof that a voter voted, warning that the counts of voters who voted can be higher than the number of ballots cast, the opposite issue of what New York Citizens Audit claims.

The state Board of Elections explained why the election tally and voter roll number could be different. The voter roll captures voter history as recorded in a moment in time, while certified results capture all of the ballots cast during a voting period, including early voting and the tabulation of ballots cast by overseas or military voters, or voters who filed an affidavit ballot.

The group received the voter file on Dec. 19, 2022, four days after the results were certified. The state board does not know when the group requested the file, because the request must have been made under a different name.

The board extracts the statewide voter file, which contains millions of data points, each Monday, which is used to fill all the requests for that data that week. It is then sent on a disc to the requester in the mail. Based on when the data was received, the file could reflect the voter roll from three days before the results were certified, or even more than a week earlier, state election officials said. During the days before certification, counties are still uploading their election data into the statewide database, such as those from military or affidavit ballots. In the 2022 general election, there were more than 401,000 absentee ballots cast, and more than 65,000 affidavit ballots.

The group has a voter roll from before all ballots were processed, and it is comparing that to certified results.

Also, voters who cast ballots might move or die, which can affect whether their voting history records are contained in the voter roll at the time it was requested. There are also different data sources maintained by counties and the state, and there could be problems synchronizing them.

The statewide database is a repository of information as provided by and edited by the county boards, said Kathleen R. McGrath, public information director at the state Board of Elections. "For that reason, it may be best to go county-by-county to get the complete voter participation for a particular election," McGrath said.

We asked Republican officials at the Erie County Board of Elections about New York Citizens Audit's claims. Commissioner Ralph Mohr and Registration Supervisor Gabriel Chen met with the group to explain how elections are conducted, and both were familiar with the group's claim.

They confirmed that county boards of election submit records of each voter who cast a ballot to the state board within days of an election. But new data is uploaded as other votes are tabulated, such as overseas ballots and affidavit ballots.

Erie County has nearly 618,000 active registered voters, and in the last five years, there have been four cases of people voting twice, and the cases usually involved a college student who was registered at their home address and at their student housing, Mohr said.

"The number is minuscule," he said.

### **Our ruling**

New York Citizens Audit claims that a count of 35,312 more ballots cast than voters who voted in the 2022 general election, when two different data sets are compared, is evidence the certification appears to be a federal crime.

It is possible that the number of ballots certified in the election and the number of voters who are listed as participating in the 2022 election in a statewide voter file is different. The voter roll is a list of voters in the

state at one point in time, and may not match up with the total number of ballots cast in an election. This does not prove the certification of the 2022 election results is a civil rights violation.

The burden of proof in our rating system is on the speaker. New York Citizens Audit did not prove that differing data sets is evidence of a crime. We rate this claim False.

### Our Sources

Email interview, Marly Hornik, executive director, New York Citizens Audit, Sept. 21, 2023.

Email interview, Kathleen McGrath, director of public information, New York State Board of Elections, Oct. 5, 2023.

Email interview, Jennifer Wilson, spokesperson, New York State Board of Elections, Sept. 26, 2023.

New York Citizens Audit, report, "New York's 2022 General Election & The Reign of Error: Apathy, Incompetence, or Malfeasance?" August 2023.

New York State Board of Elections, 2022 general election certified results, U.S. Senate race.

Interview with Marly Hornik, executive director, New York Citizens Audit, on Talk! 100.7FM, via Rumble, Sept. 7, 2023.

U.S. Department of Justice, "Federal Prosecution of Election Offenses, Eighth Edition" December 2017.

Phone interview, Erie County Republican Election Commissioner Ralph Mohr, Oct. 16, 2023.

Phone interview, Erie County Republican Registration Supervisor Gabriel Chen, Oct. 16, 2023.

U.S. Election Assistance Commission, Guide to the Canvass, March 2022.

Article link: <https://www.politifact.com/factchecks/2023/oct/29/new-york-citizens-audit/no-difference-in-voter-roll-data-and-election-resu/>

## McGrath, Kathleen (ELECTIONS)

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**From:** Lovullo, Brendan (ELECTIONS)  
**Sent:** Monday, December 18, 2023 3:39 PM  
**To:** Joe Burns  
**Subject:** RE:  
**Attachments:** Letter to NYS Association of Counties with enclosures 11282023.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

We sent info to Commissioners on April 5, 2023, October 5, 2023 and also this attachment which included to the previous letters, along with an update which was sent to:

- NYS Association of Counties
- NYS Conference of Mayors
- Association of the Towns
- NYS Sheriffs Association
- NYS Town Clerks Association
- NYS Association of City & Village Clerks
- District Attorneys Association of the State of New York

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**From:** Joe Burns <burns217@verizon.net>  
**Sent:** Monday, December 18, 2023 3:25 PM  
**To:** Lovullo, Brendan (ELECTIONS) <Brendan.Lovullo@elections.ny.gov>  
**Subject:**

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Have you guys done any rebuttals to this?

[https://auditny.com/wp-content/uploads/2023/08/NYCA\\_NY2022GeneralElection\\_ReignOfError.pdf](https://auditny.com/wp-content/uploads/2023/08/NYCA_NY2022GeneralElection_ReignOfError.pdf)

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Raymond J. Riley III  
Co-Executive Director



Board of  
Elections

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Phone: 518/474-8100 Fax: 518/486-4068  
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Douglas A. Kellner  
Co-Chair

Andrew J. Spano  
Commissioner

Kristen Zebrowski Stavisky  
Co-Executive Director

November 28, 2023

Mr. Stephen J. Acquario, Esq., Executive Director  
New York State Association of Counties  
515 Broadway, Suite 402  
Albany, NY 12207

DELIVERED VIA EMAIL

Dear Executive Director Acquario,

Our office writes to you regarding a serious matter impacting local legislatures throughout New York State. You have likely seen recent news coverage of a group of misinformed individuals purporting to have found major deficiencies in New York State's voter registration database. This group has alleged that countless fake voters have been inserted into the registration database in order to create invalid votes to sway elections. They claim that no elections should be certified in New York State because of alleged counterfeit registrations and actions by those who run elections.

Over the last year and a half, the group – New York Citizens Audit – has presented their fabricated claims throughout our state. More recently, they have brought their embellished and misleading reports before local Town Boards and County Legislatures requesting that these bodies take up resolutions to support their cause. The resolutions are framed around their ill-informed reports, misinterpreted passages of state and federal law, and an allegation that the 2020 and 2022 elections were fraudulent.

The group alleges that its resolution has been presented and adopted by fifty-one local legislative bodies. The claims being made by the organization are false. They represent, at best, an ignorance of the voter registration process in New York State, and, at worst, a willful disregard of basic fact. However, when a legislative body is only presented with one side of the story, it is easy to simply agree with the group presenting, without the need to do additional fact-checking.

It is our hope that your organization can assist us in arming your members with information to help dispel these malicious claims. Attached to this letter you will find two pieces of correspondence addressed to County Boards of Elections in New York State. These materials include explanations to many of the claims made by this group. It should be noted that no one has seen the actual data used by this group. Even members of the press have not been privy to the alleged voter list the group is using. We have done our best to address claims for which concrete examples are provided and continue to investigate where misunderstandings of data may be stemming from.

Additionally, on October 29, 2023, the fact-checking website *PolitiFact* issued a ruling of "false" against one of the group's central claims about the New York State voter database. We have included the *PolitiFact* investigation and conclusion in this communication for your review.

Election deniers are prevalent throughout our country, and their efforts to spread mis- and disinformation have unfortunately yielded the intended goal of confusing voters and eroding their trust in our democratic processes. That trust is further eroded with each local legislature that signs onto a resolution which is not based in fact.

Our office stands ready to assist you and your members in dispelling election mis- and disinformation in New York State. Please contact our office with any questions regarding these materials and please encourage your members to do the same.

Sincerely,



Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections



Raymond J. Riley III  
Co-Executive Director  
New York State Board of Elections

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Vacant  
Co-Executive Director



## Board of Elections

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Douglas A. Kellner  
Co-Chair

Andrew J. Spano  
Commissioner

Kristen Zebrowski-Stavisky  
Co-Executive Director

April 5, 2023

Dear County Board Commissioners, Directors, and Staff,

In recent months, we have been made aware of a group alleging that New York State's voter registration database contains unidentified or "cloned" voters that are casting ballots in elections. We know these claims are unequivocally false, but we recognize the immense pressure the spread of this misinformation places upon your crucial work in conducting elections in New York State.

We understand how tirelessly you work year round to ensure elections are safe and secure. These baseless claims insult your service to the people of New York and undermine the extensive record keeping processes we know you follow. We want to thank you for that work and remind you that you are an integral part of protecting our democracy from bad actors, including those who create malicious claims to feed a false narrative predicated on a fictional analysis of voter data.

In an effort to dispel this distortion of the truth, our office has compiled explanations for the majority of false claims. It should be noted that no one has seen the actual data used to create the false claims. Even members of the press have not been privy to the alleged voter list the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we have also provided a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful in your efforts to cull the spread of misinformation, and we again thank you wholeheartedly for all that you do to keep elections up and running in New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky", with a long horizontal flourish extending to the right.

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

## False Claims Explained

### 1. Duplicated Voter IDs.

Each voter in New York is assigned both a state voter ID and a county ID. Although the state database is designed to have a single state ID follow a voter as they move from county to county, it is possible for multiple reasons that a voter may have multiple records with different state IDs. For example, if a voter registered more than once using the DMV's online portal creating a duplicate record, their duplicate record may be purged, which would show the same voter and name with two voter IDs. One record would be active and the second would be purged.

Likewise, it's possible for two different voters in two different counties to have the same county ID number since the county systems are independent of one another and the county number serves to differentiate voters within a county.

### 2. More Votes than Registered Voters.

The statewide registration database reflects voter information as of the moment the data is extracted. The group requested data in October of 2021 and compared it to election results from November of 2020, nearly a year earlier. Any voter that moved would not be accurately represented as voting at the location where they had been registered at the time of the election. A more accurate representation would be to compare the Board's November 2020 enrollment data against the 2020 election results which would show an accurate 13.5 million eligible voters and 8.6 million votes cast.

### 3. Multiple Registrations for a Single Voter

As noted, the data in the statewide database is continually changing. When a voter moves from one county to another, a transfer process will occur so that the voter's registration moves with them throughout the state. This is required by state law. The examples listed in the group's report showed voters moving through the normal transfer process. Most were purged in one county and active in another. As the transfer happens, the voter is inactive so that the new county can take the data. There were many examples given where the same voter was listed in multiple counties. Again, the group failed to look at the voter's status. There will always be some overlap as a voter moves from one jurisdiction and registers in another. It is a crime to attempt to vote or vote in two places.

### 4. Voters Missing Date of Birth or Having Date of Birth that Seems Implausible

Voters in New York were not always required to give a date of birth. Prior to 1960, voters registered in person at a Board of Elections office. They did not have the ability to mail their registrations or register online. These voters would give their age but not their date of birth. When electronic registration systems were introduced, some counties used "placeholder dates" for voters who were not legally required to provide this information.

### 5. Voters Missing Identification

Voters missing data such as a driver license number or social security number are not voting illegally. New York is compliant with the Help America Vote Act as implemented in New York in 2005. To describe the ID requirements of HAVA as required for all voters is incorrect. The ID requirements of Section 303 (b) of HAVA only apply to first time voters who registered after 2005 in New York. Voters

registered before 2006 were not subject to the ID requirements of Section 303(b) of HAVA in New York. In addition, all Military and overseas voters are exempt from the ID requirements of Section 303(b) of HAVA.

New York Election Law mirrors the provisions of Section 303(b) for first-time voters who register by mail which asks for a DMV number or the last 4 digits of an SSN. If the voter does not have either of those, the law allows them to provide an alternative form of ID such as a valid photo ID, a current utility bill, bank statement, paycheck, government check or some other government document that shows the voter's current name and address. If the voter does not provide the alternative ID with the registration form, the voter's poll record is flagged so they must produce one of those pieces of ID before they can vote on a machine. If they don't produce the ID, they must be allowed to vote a provisional ballot, which in New York is called an affidavit ballot, as required by Section 303(b) of HAVA.

#### 6. More Voters than Current Population Size

The group has claimed that several counties have more than 100% registered voters based on voting age population. A simple search of New York's enrollment data and data from the 2020 US Census would show this is not the case. While the report does not cite the statistics used, the census website shows the following:

County	Active Registered Voters (Per Nov 20 Enrollments <sup>1</sup> )	Eligible Voting Age Population (Per 2020 Census) <sup>2</sup>	Percentage of Voters Registered
Allegany	26,197	36,886	71%
Erie	629,676	762,434	82%
Hamilton	4,321	4,443	97%
Westchester	624,871	782,472	80%
Wyoming	24,629	32,911	75%

#### 7. Voters Registered on Federal Holidays

Voters that are pre-registered to vote will have their record activated on the day of their 18<sup>th</sup> birthday regardless of whether that date is a holiday. Additionally, if records did not have a registration date stamp when entering the voter into the electronic system, counties may have used January 1<sup>st</sup> as a placeholder day.

<sup>1</sup> <https://www.elections.ny.gov/EnrollmentCounty.html>

<sup>2</sup> <https://www.census.gov/quickfacts/fact/table/US/PST045222>

## Truths About Voter Registration List Maintenance in New York State

1. **Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
2. **Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offences from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York, are processed, and documented routinely.
3. **County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
4. **County Boards annually compare voter addresses against the National Change of Address database.** In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.
5. **The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, boards of elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
6. **Counties undergo a biannual review of their internal record keeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the state will make recommendations on how to amend their processes.

Peter S. Kosinski  
Co-Chair



Douglas A. Kellner  
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Kristen Zebrowski Stavisky  
Co-Executive Director

October 5, 2023

Dear County Board Commissioners, Directors, and Staff,

Earlier this year, the Board of Elections sent a letter to County Board Commissioners and staff addressing claims of voter fraud being made by a fringe organization in New York State about the 2020 General Election. Our letter provided reasonable explanations and hard truths about voter list maintenance in an effort to combat the group's misinformation campaign. More recently, the same group has issued a new report making similar accusations about the 2022 General Election. We again write to your offices with the hope of assisting you in your work to dispel inaccuracies about the state and county voter registration databases.

The importance of our correspondence is made further pressing after recent reports of individuals impersonating Board of Elections' employees, and confronting voters at their homes about the status of their registration. We are extremely alarmed by these actions. These individuals are impersonating government officials in an effort to intimidate voters based on inaccurate and/or misleading information. We continue to encourage you to collect as much information about these incidents as possible, and to communicate with your local law enforcement whenever necessary.

Our office has compiled explanations for a number of the group's new claims. We intend to do an even deeper dive of this new report and will issue additional guidance documents as necessary. As was noted in our previous letter, no one has seen the actual raw data used to create these allegations. Even members of the press have not been privy to the voter lists the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we continue to provide a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful as you continue to work to cull the spread of misinformation in your County. Please don't hesitate to contact us for further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky".

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

A handwritten signature in black ink, appearing to read "Raymond J. Riley III".

Raymond J. Riley III  
Co-Executive Director  
New York State Board of Elections

## False Claims Explained

### 1. Counterfeit Registrations

The Board of Elections has not seen the full dataset which the group claims to be using, however, the limited examples provided within the reports don't yield the unsavory outcomes claimed. The most recent report cites a voter registered eleven times and alleges that all registrations are active. The voter's last name and first initial are provided.

It is not a crime for a voter to register multiple times and it is up to the Board to ensure duplicate records are purged. In looking at the record of this voter, the New York City Board has done their due diligence and all duplicate records are marked as purged.

County ID	Name	Status
Kings 413656593	PIAMENTA, A	A
Kings 413656594	PIAMENTA, A	P DUPLICATE
Kings 413656595	PIAMENTA, A	P DUPLICATE
Kings 413656596	PIAMENTA, A	P DUPLICATE
Kings 413656597	PIAMENTA, A	P DUPLICATE
Kings 413656598	PIAMENTA, A	P DUPLICATE
Kings 413656599	PIAMENTA, A	P DUPLICATE
Kings 413656600	PIAMENTA, A	P DUPLICATE
Kings 413657375	PIAMENTA, A	P DUPLICATE
Kings 413657376	PIAMENTA, A	P DUPLICATE
Kings 413657497	PIAMENTA, A	P DUPLICATE

While only one example was provided, it is likely that other supposed "counterfeit" registrations are also easily debunked. As has been explained in our previous letter, although the intent of the state database is to have a singular voter ID follow the voter through the state, instances can occur where a voter may have more than one state ID. One record would be active and the second would be purged. This does not signal that the voter is attempting to register more than once, it simply shows that they are completing a transfer process. Having more than one state ID is not a counterfeit registration.

### 2. Purged Records

A. Piamenta is not the only instance of election deniers misreading or misinterpreting purged records. Voters can be purged for several reasons – at the request of the voter, death, moving out of state, not voting in two federal election cycles, being judged mentally incompetent, or being incarcerated for a felony.

The group alleges that there are purged records in the voter rolls with no active date. The case of A. Piamenta's multiple purged registration is the perfect example to explain the anomaly of purged records that were never active. There are many opportunities for a voter to update their registration or register for the first time. Each time a person interacts with a designated National Voter Registration Act agency such as the DMV, Department of Social Services, or other state agency, they have the opportunity to register. They can also register in person at registration drives, or online through the DMV or State or City Boards' online portals. If a voter submits multiple registrations at once, the Board may document those prior registrations, as all voter registration forms are considered legal documents. The Board will use the most current form for the voter's registration and mark the others as purged duplicated, if entered into the state voter database.

### ***3. Inexplicable Changes to the Voter Rolls***

New York State currently has more than 13 million voters, 157,820 alterations to voter records represents changes to around 1% of records statewide over the course of a full year. 680 changes per day only proves one thing: Boards of Elections do their job in maintaining the voter rolls.

Voter registrations in New York State are logged manually, using bipartisan checks. With any system that requires both manual data entry and human verification, room for data entry error exists. Almost 50% of registrations are submitted on paper filled out by voters, a majority of which do so by hand. Not all voters boast perfect penmanship. While election clerks may be reading the form correctly, poor handwriting can result in a voter's name being misspelled or a date of birth being entered with the incorrect date.

Luckily, the Boards mail out confirmation notices upon registering a voter to confirm the information is true and correct. Additionally, all Boards undertake an annual mail check process. Amendments to the spelling of a voter's first or last name are not uncommon and not inexplicable by any stretch of the imagination. Marriages and divorces are also a common reason for a voter's name being updated. Unless the group researched every voter whose last name changed, there would be no way to prove whether the voter's name was changed because of a marriage or divorce, as submitting a marriage certificate to effectuate a name change is not required in New York State.

Additionally, the group cites a high number of changes happening between October and December. This is easily explainable as the election itself results in many changes to records. Voters may notice that their name or date of birth is incorrect when going to vote and request an amendment. A voter may vote by affidavit and reactivate their registration after being marked as inactive or purged. A voter may have been previously registered but voted by affidavit using a new name or address. This is also the period where the federal required list maintenance blackout period ends and voters who may have had mail returned without a forwarding address can be inactivated.

### ***4. Registration Dates After Cut-Off Dates***

Voter history, as compiled by the NYSVoter database, serves as a compilation of all elections a voter has participated in. This data is transmitted from the County Boards' voter registration systems to NYSVoter. When transmitting this compiled data to the public, the file does not specify the jurisdiction where a voter cast their ballot. This is due to the intended purpose of traditional voter history requests: to ascertain the likelihood of future voter participation for various Get-Out-The-Vote efforts. In order to facilitate this, when a record is purged from a particular county and activated in a new county, their voter history is

duplicated and travels with them. This does not indicate a voter participated twice in one election. It indicates that the voter has history for those elections on both the active (for past and present) county record and the purged county record.(for past elections).

Additionally, voters who move and were previously registered in another county in New York State may vote by affidavit ballot on Election Day. Voters also have the option of seeking a court order to vote. This process involves appearing in front of a judge to seek the right to vote on the election tabulator. Missing the registration cut-off is one reason an individual could seek a court order. He or she may wish to explain the extenuating circumstances related to the missed deadline. The affidavit ballot or court order would then serve to transfer their registration to the new county or effectuate a new registration. This would be processed after the vote was cast, but still be perfectly within existing law and procedures.

### **5. *Missing and Blank Votes***

A new focus in the report is on potential missing votes in New York City after the 2020 election. The lack of concrete examples makes this claim difficult to investigate. A simple explanation could be that these voters are not the same voter and just share the same name, or these voters do have voter history and the group is misreading the data – as they have done previously. Regardless of the explanation, a change to a voter's voter history would in no way disenfranchise them as the voter database and the voting machines which tally ballots are not connected.

When a voter casts a ballot, either at a poll site or via absentee ballot, it does not automatically trigger their voter record to update. The updating of records is a separate process based on who has signed in on a poll book, who has returned a valid absentee ballot, and who has submitted a valid affidavit ballot. Election results are extracted from the ballots themselves, not the state voter database which is why results and voter history may not always match.

A voter may sign-in on a poll pad but only partially complete their ballot or spoil their ballot by marking their ballot incorrectly. New York State voting machines that tally voters' hand-marked ballots can detect when a voter may have made a mistake on their ballot by marking more than one candidate when not applicable. In these instances, the ballot may be pushed back out, and a warning will display telling the voter to check the ballot. Voters can choose to submit that ballot and not have that particular race counted. Voters also have every right to skip certain races and not cast a vote.

### **6. *Missing, Similar, or Improbable Dates of Birth***

Prior to 1977, New York State Election Law did not require a specific date of birth from an individual when registering to vote. The applicant could simply provide a year of birth or state they were over the age required. Beginning in 1977, when voter registration forms began to require a specific date of birth from applicants, existing registrations were not affected. As such, voter rolls started to have voters with dates of birth and voters without dates of birth.

As an example, below is a registration form from a voter. She registered to vote in 1964 and listed her date of birth simply as "21+". At the time, this was acceptable, and this voter remains an active registered voter in New York State to date. Since there was no date of birth on the original voter registration, her date of birth is listed in the database as January 1, 1900, only as a placeholder.



## Truths About Voter Registration List Maintenance in New York State

- 1. Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
- 2. Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offenses from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York are processed, and documented routinely.
- 3. County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
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- 5. The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, Boards of Elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
- 6. Counties undergo a biannual review of their internal recordkeeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the State Board will make recommendations on how to amend their processes.
- 7. NYSVoter is a repository for County Board data.** Prior to 2007, no central system of aggregating voter registration data existed in New York State. When NYSVoter was brought online in 2007, its purpose was, and is, to act as a central repository for the 62 counties' registration databases. When this initial upload took place, voter data for both active and inactive (and in some cases, purged) voters, were uploaded in an initial upload county by county.
- 8. Voters can, and will, have multiple state IDs.** Several factors can explain why a voter would have multiple state IDs. If a voter moves out of state, their New York State record is purged. If they then move back into the state, a new record would be created, as required by existing procedure. The County Boards of Elections do not reactivate a properly purged record. This is done to ensure that the gap in registration is properly documented. Moving out of state is one example of this. There are several other valid reasons why a voter would have more than one state ID.

# No, difference in voter roll data and election results does not indicate crime

By [Jill Terrerri Ramos](#) October 29, 2023

## IF YOUR TIME IS SHORT

- New York Citizens Audit is comparing certified election results to a voter file that was not complete.
- A difference in the number of votes in a certified election result and the number of voters who voted, according to their voter history in a different data set, is not evidence of a federal crime.

## [See the sources for this fact-check](#)

The claim is startling: New York's election results in 2022 might not be trustworthy because there were more votes than voters.

In a [report](#) on the 2022 election, New York Citizens Audit, a group of people who have cast doubt on election administration, claimed there were 35,312 more votes cast than there were voters who voted.

"Certification of New York's 2022 general election appears to be a federal crime; a civil rights violation acting under color of law. Why?" the group wrote.

New York Citizens Audit has [questioned the results](#) of the 2020 and 2022 elections in appearances [around the state](#), and its findings have been rebutted by state and county elections officials.

To arrive at the supposed discrepancy, the report's authors compared all the votes cast in the U.S. Senate race in 2022, numbering 5,965,684, with the voter roll database that showed who voted in the 2022 election, some 5,930,372 in all.

The group submitted a Freedom of Information Law request to the state Board of Election for the voter roll.

We asked Marly Hornik, the group's executive director, about the claim that certification of the results might be unlawful. She said that a U.S. Justice Department [publication](#) states that it is misconduct to certify something that is neither accurate nor compliant. "Because every American has a fundamental civil right to an accurate and compliant election, that constitutes a deprivation of rights acting under color of law," Hornik said.

The Justice Department publication states broadly that election fraud can involve the counting of ballots and certification of results, and that voters have a right to have their vote counted "fairly and honestly." But the claim New York Citizens Audit makes, that a ballot count from one dataset should always match up to a voter tally from another data set, is not mentioned in the Justice Department document as an example of voter fraud.

Another federal document, the [Guide to the Canvass](#), warns against using the voter roll records as proof that a voter voted, warning that the counts of voters who voted can be higher than the number of ballots cast, the opposite issue of what New York Citizens Audit claims.

The state Board of Elections explained why the election tally and voter roll number could be different. The voter roll captures voter history as recorded in a moment in time, while certified results capture all of the ballots cast during a voting period, including early voting and the tabulation of ballots cast by overseas or military voters, or voters who filed an affidavit ballot.

The group received the voter file on Dec. 19, 2022, four days after the results were certified. The state board does not know when the group requested the file, because the request must have been made under a different name.

The board extracts the statewide voter file, which contains millions of data points, each Monday, which is used to fill all the requests for that data that week. It is then sent on a disc to the requester in the mail. Based on when the data was received, the file could reflect the voter roll from three days before the results were certified, or even more than a week earlier, state election officials said. During the days before certification, counties are still uploading their election data into the statewide database, such as those from military or affidavit ballots. In the 2022 general election, there were more than 401,000 absentee ballots cast, and more than 65,000 affidavit ballots.

The group has a voter roll from before all ballots were processed, and it is comparing that to certified results.

Also, voters who cast ballots might move or die, which can affect whether their voting history records are contained in the voter roll at the time it was requested. There are also different data sources maintained by counties and the state, and there could be problems synchronizing them.

The statewide database is a repository of information as provided by and edited by the county boards, said Kathleen R. McGrath, public information director at the state Board of Elections. "For that reason, it may be best to go county-by-county to get the complete voter participation for a particular election," McGrath said.

We asked Republican officials at the Erie County Board of Elections about New York Citizens Audit's claims. Commissioner Ralph Mohr and Registration Supervisor Gabriel Chen met with the group to explain how elections are conducted, and both were familiar with the group's claim.

They confirmed that county boards of election submit records of each voter who cast a ballot to the state board within days of an election. But new data is uploaded as other votes are tabulated, such as overseas ballots and affidavit ballots.

Erie County has nearly 618,000 active registered voters, and in the last five years, there have been four cases of people voting twice, and the cases usually involved a college student who was registered at their home address and at their student housing, Mohr said.

"The number is minuscule," he said.

### **Our ruling**

New York Citizens Audit claims that a count of 35,312 more ballots cast than voters who voted in the 2022 general election, when two different data sets are compared, is evidence the certification appears to be a federal crime.

It is possible that the number of ballots certified in the election and the number of voters who are listed as participating in the 2022 election in a statewide voter file is different. The voter roll is a list of voters in the

state at one point in time, and may not match up with the total number of ballots cast in an election. This does not prove the certification of the 2022 election results is a civil rights violation.

The burden of proof in our rating system is on the speaker. New York Citizens Audit did not prove that differing data sets is evidence of a crime. We rate this claim False.

### Our Sources

Email interview, Marly Hornik, executive director, New York Citizens Audit, Sept. 21, 2023.

Email interview, Kathleen McGrath, director of public information, New York State Board of Elections, Oct. 5, 2023.

Email interview, Jennifer Wilson, spokesperson, New York State Board of Elections, Sept. 26, 2023.

New York Citizens Audit, report, "New York's 2022 General Election & The Reign of Error: Apathy, Incompetence, or Malfeasance?" August 2023.

New York State Board of Elections, 2022 general election certified results, U.S. Senate race.

Interview with Marly Hornik, executive director, New York Citizens Audit, on Talk! 100.7FM, via Rumble, Sept. 7, 2023.

U.S. Department of Justice, "Federal Prosecution of Election Offenses, Eighth Edition" December 2017.

Phone interview, Erie County Republican Election Commissioner Ralph Mohr, Oct. 16, 2023.

Phone interview, Erie County Republican Registration Supervisor Gabriel Chen, Oct. 16, 2023.

U.S. Election Assistance Commission, Guide to the Canvass, March 2022.

Article link: <https://www.politifact.com/factchecks/2023/oct/29/new-york-citizens-audit/no-difference-in-voter-roll-data-and-election-resu/>

## McGrath, Kathleen (ELECTIONS)

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**From:** Zebrowski.Stavisky, Kristen (ELECTIONS)  
**Sent:** Monday, November 6, 2023 4:20 PM  
**To:** jwbalog@fbi.gov  
**Cc:** Riley, Raymond J (ELECTIONS)  
**Subject:** RE: Backup Information

Here is the new group we discussed:  
[U4F - United Sovereign Americans \(unite4freedom.com\)](https://unite4freedom.com)

**Kristen Zebrowski Stavisky**  
Chief Election Official, New York State  
Co-Executive Director



[40 North Pearl Street, Suite 5  
Albany, NY 12207-2729](https://www.elections.ny.gov)

[\(518\) 474-8100](tel:5184748100) | [Kristen.Zebrowski.Stavisky@elections.ny.gov](mailto:Kristen.Zebrowski.Stavisky@elections.ny.gov)  
[www.elections.ny.gov](https://www.elections.ny.gov)

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**From:** Zebrowski.Stavisky, Kristen (ELECTIONS)  
**Sent:** Monday, November 6, 2023 2:09 PM  
**To:** jwbalog@fbi.gov  
**Cc:** Riley, Raymond J (ELECTIONS) <Raymond.Riley@elections.ny.gov>  
**Subject:** Backup Information

Please see attached.  
Thanks so much for your follow up.  
Best,  
Kristen

**Kristen Zebrowski Stavisky**  
Chief Election Official, New York State  
Co-Executive Director



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[www.elections.ny.gov](https://www.elections.ny.gov)

## McGrath, Kathleen (ELECTIONS)

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**From:** Zebrowski.Stavisky, Kristen (ELECTIONS)  
**Sent:** Friday, July 14, 2023 9:49 AM  
**To:** royal reynolds  
**Subject:** RE: Voting Systems Testing - Correspondence  
**Attachments:** Letter to Counties Regarding Misinformation Signed.pdf

Good morning,  
Unfortunately, New York Citizen's Audit lacks a basic understanding of the New York State Voter Database. Attached is a letter I sent to County Boards refuting their claims.

Please let me know if you have additional questions.  
Best,  
Kristen

---

**From:** royal reynolds <rrvreynolds@optonline.net>  
**Sent:** Thursday, July 13, 2023 11:12 AM  
**To:** Zebrowski.Stavisky, Kristen (ELECTIONS) <Kristen.Zebrowski.Stavisky@elections.ny.gov>  
**Subject:** Re: Voting Systems Testing - Correspondence

You don't often get email from [rrvreynolds@optonline.net](mailto:rrvreynolds@optonline.net). [Learn why this is important](#)

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Kristen,

Thank you for the information on voting machines. On another note, I just read a disturbing report by New York Citizens Audit about "algorithms" in the New York Voter Data base. Has the Board of Elections investigated this? It is scary to think that this is possible.

Roy Reynolds  
631 8851926

On Jul 13, 2023, at 10:54 AM, Zebrowski.Stavisky, Kristen (ELECTIONS) <[Kristen.Zebrowski.Stavisky@elections.ny.gov](mailto:Kristen.Zebrowski.Stavisky@elections.ny.gov)> wrote:

Thank you for your recent email correspondence regarding voting systems testing and public comments.

The voting machine test reports have been publicly posted on our website. You may access the reports at this link: [Voting Systems Testing | New York State Board of Elections \(ny.gov\)](#).

The State Board of Elections posts these reports in advance and welcomes public comment. Comments may be emailed directly to the Election Operations Unit at [electionoperations@elections.ny.gov](mailto:electionoperations@elections.ny.gov).

If you wish to be informed about the release of future voting machine reports and demonstrations, as well as election deadlines and Commissioner meetings, subscribe to the Board of Elections' email alert system: <https://bit.ly/3AiEgqz>

On behalf of myself and Commissioners Kellner and Spano, I thank you again for your correspondence and assure you all comments are thoroughly reviewed.

Best,  
Kristen

**Kristen Zebrowski Stavisky**  
Chief Election Official, New York State  
Co-Executive Director



40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

(518) 474-8100 | [Kristen.Zebrowski.Stavisky@elections.ny.gov](mailto:Kristen.Zebrowski.Stavisky@elections.ny.gov)  
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Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Vacant  
Co-Executive Director



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Douglas A. Kellner  
Co-Chair

Andrew J. Spano  
Commissioner

Kristen Zebrowski-Stavisky  
Co-Executive Director

April 5, 2023

Dear County Board Commissioners, Directors, and Staff,

In recent months, we have been made aware of a group alleging that New York State's voter registration database contains unidentified or "cloned" voters that are casting ballots in elections. We know these claims are unequivocally false, but we recognize the immense pressure the spread of this misinformation places upon your crucial work in conducting elections in New York State.

We understand how tirelessly you work year round to ensure elections are safe and secure. These baseless claims insult your service to the people of New York and undermine the extensive record keeping processes we know you follow. We want to thank you for that work and remind you that you are an integral part of protecting our democracy from bad actors, including those who create malicious claims to feed a false narrative predicated on a fictional analysis of voter data.

In an effort to dispel this distortion of the truth, our office has compiled explanations for the majority of false claims. It should be noted that no one has seen the actual data used to create the false claims. Even members of the press have not been privy to the alleged voter list the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we have also provided a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful in your efforts to cull the spread of misinformation, and we again thank you wholeheartedly for all that you do to keep elections up and running in New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Zebrowski Stavisky". The signature is fluid and cursive, with a long horizontal line extending to the right.

Kristen Zebrowski Stavisky  
Co-Executive Director  
New York State Board of Elections

## **False Claims Explained**

### **1. Duplicated Voter IDs.**

Each voter in New York is assigned both a state voter ID and a county ID. Although the state database is designed to have a single state ID follow a voter as they move from county to county, it is possible for multiple reasons that a voter may have multiple records with different state IDs. For example, if a voter registered more than once using the DMV's online portal creating a duplicate record, their duplicate record may be purged, which would show the same voter and name with two voter IDs. One record would be active and the second would be purged.

Likewise, it's possible for two different voters in two different counties to have the same county ID number since the county systems are independent of one another and the county number serves to differentiate voters within a county.

### **2. More Votes than Registered Voters.**

The statewide registration database reflects voter information as of the moment the data is extracted. The group requested data in October of 2021 and compared it to election results from November of 2020, nearly a year earlier. Any voter that moved would not be accurately represented as voting at the location where they had been registered at the time of the election. A more accurate representation would be to compare the Board's November 2020 enrollment data against the 2020 election results which would show an accurate 13.5 million eligible voters and 8.6 million votes cast.

### **3. Multiple Registrations for a Single Voter**

As noted, the data in the statewide database is continually changing. When a voter moves from one county to another, a transfer process will occur so that the voter's registration moves with them throughout the state. This is required by state law. The examples listed in the group's report showed voters moving through the normal transfer process. Most were purged in one county and active in another. As the transfer happens, the voter is inactive so that the new county can take the data. There were many examples given where the same voter was listed in multiple counties. Again, the group failed to look at the voter's status. There will always be some overlap as a voter moves from one jurisdiction and registers in another. It is a crime to attempt to vote or vote in two places.

### **4. Voters Missing Date of Birth or Having Date of Birth that Seems Implausible**

Voters in New York were not always required to give a date of birth. Prior to 1960, voters registered in person at a Board of Elections office. They did not have the ability to mail their registrations or register online. These voters would give their age but not their date of birth. When electronic registration systems were introduced, some counties used "placeholder dates" for voters who were not legally required to provide this information.

### **5. Voters Missing Identification**

Voters missing data such as a driver license number or social security number are not voting illegally. New York is compliant with the Help America Vote Act as implemented in New York in 2005. To describe the ID requirements of HAVA as required for all voters is incorrect. The ID requirements of Section 303 (b) of HAVA only apply to first time voters who registered after 2005 in New York. Voters

registered before 2006 were not subject to the ID requirements of Section 303(b) of HAVA in New York. In addition, all Military and overseas voters are exempt from the ID requirements of Section 303(b) of HAVA.

New York Election Law mirrors the provisions of Section 303(b) for first-time voters who register by mail which asks for a DMV number or the last 4 digits of an SSN. If the voter does not have either of those, the law allows them to provide an alternative form of ID such as a valid photo ID, a current utility bill, bank statement, paycheck, government check or some other government document that shows the voter's current name and address. If the voter does not provide the alternative ID with the registration form, the voter's poll record is flagged so they must produce one of those pieces of ID before they can vote on a machine. If they don't produce the ID, they must be allowed to vote a provisional ballot, which in New York is called an affidavit ballot, as required by Section 303(b) of HAVA.

#### 6. More Voters than Current Population Size

The group has claimed that several counties have more than 100% registered voters based on voting age population. A simple search of New York's enrollment data and data from the 2020 US Census would show this is not the case. While the report does not cite the statistics used, the census website shows the following:

County	Active Registered Voters (Per Nov 20 Enrollments <sup>1</sup> )	Eligible Voting Age Population (Per 2020 Census) <sup>2</sup>	Percentage of Voters Registered
Allegany	26,197	36,886	71%
Erie	629,676	762,434	82%
Hamilton	4,321	4,443	97%
Westchester	624,871	782,472	80%
Wyoming	24,629	32,911	75%

#### 7. Voters Registered on Federal Holidays

Voters that are pre-registered to vote will have their record activated on the day of their 18<sup>th</sup> birthday regardless of whether that date is a holiday. Additionally, if records did not have a registration date stamp when entering the voter into the electronic system, counties may have used January 1<sup>st</sup> as a placeholder day.

<sup>1</sup> <https://www.elections.ny.gov/EnrollmentCounty.html>

<sup>2</sup> <https://www.census.gov/quickfacts/fact/table/US/PST045222>

## Truths About Voter Registration List Maintenance in New York State

- 1. Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
- 2. Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offences from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York, are processed, and documented routinely.
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