

Suspense List – Mass Cancellations

FREQUENTLY ASKED QUESTIONS

How does a voter end up on the Suspense List?

There are two ways that a voter ends up on the suspense list within a county:

1. Chapter 14 of the Texas Election Code: The Mailing of Renewal Certificates
Every two years, between November 15 and December 6 of each odd numbered year, voter registrars mail a registration certificate (valid for two years) to every voter whose name does not appear on the suspense list as of November 14 of that same year. This is done in accordance with Section 14.001 of the Texas Election Code. Under Section 14.002, these certificates are not forwarded to any other address. Thus, if the voter has moved or the address is bad, the certificate is returned to the voter registrar. When the county receives the certificate back, the county is required to act upon this information, under the National Voting Rights Act (NVRA) passed in 1993.

The voter registrar in each county will gather the returned registration certificates and no later than January 2 following the mailing of certificates the registrar will enter the voter's name on the suspense list. (Section 14.021)

2. Chapter 15 of the Texas Election Code: Notice of Address Confirmation
If the registrar has reason to believe that a voter's current residence is different from that indicated on the registration records, then the registrar shall deliver to the voter a written confirmation notice requesting confirmation of the voter's current residence. When a notice of address confirmation is sent, the voter automatically is put on suspense. As a common practice, a notice of address confirmation is sent (and an individual is placed on suspense) when:
 1. The voter's registration certificate has been returned as non-deliverable;
 2. A Jury Summons is returned as non-deliverable; or
 3. Any mailing that was sent to the voter was returned as non-deliverable.

What happens after a person is put on the Suspense List?

If a voter is placed on suspense due to the return of a renewal certificate, then between January 1 and March 1 of the even numbered year following the mailing of renewal certificates, the registrar is required to send out a Notice of Address Confirmation in accordance with Section 14.023. The Notice of Address Confirmation should be accompanied by an Address Confirmation Response form with postage added. Following the same process as when a Notice of Address Confirmation is sent under Chapter 15 of the Texas Election Code, the voter has 30 days from the date the letter is sent to reply to the notice and remove his or her name from the Suspense List rolls. If the voter does not respond, then the individual will remain on Suspense until the voter registers to vote in a new county, votes in the current county, or submits a new application or statement of residence in the current county. The voter will remain on suspense until the day after the second general election for state and county officers following the time when the voter was placed on suspense. At this point, the voter is subject to cancellation. (Note: NVRA

stipulates two federal general elections while section 16.032 of the Texas Election code stipulates two general elections for state and county officers.)

What do I need to know about a Notice of Address Confirmation?

The National Voting Rights Act of 1993 set out specific guidelines for the Notice of Address Confirmation. **Sec. 1973gg-6 - Requirements with respect to administration of voter registration** – specifically states that:

(a) In general - In the administration of voter registration for elections for Federal office, each State shall - (4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of - (B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d) of this section; (c) (1) A State may meet the requirement of subsection (a)(4) of this section by establishing a program under which - (A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and (B) if it appears from information provided by the Postal Service that - (i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or (ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) of this section to confirm the change of address. (d) (2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect: (A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B) [30 days] of this section. If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters. (B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

In short: If an item was returned from the post office with a “yellow sticker” forwardable address, then the new address can be used. The Registrar will mail the voter a “Notice to Confirm Voter Registration Address” form and “Voter Registration Address Confirmation” response card, which is the form the voter uses to respond to the confirmation mailing. Depending on the voter’s response, his or her status will change from suspense to an “active” Voter, (the voter provides a residence address that is in the county of record) or “cancel” (the voter provides a new residence address that is not in the county of record).

If a voter moves to a new county, then the information should be forwarded to the new county.

A registrar may flag a voter as Suspense immediately upon sending out a confirmation notice. As a reminder, “a registered voter who changes residence to another election precinct in the same county, if otherwise eligible, may vote a full ballot in the election precinct of former residence until the voter's registration becomes effective in the new precinct if the voter satisfies the residence requirements prescribed by Section 63.0011 and submits a statement of residence in accordance with that section” (Section 11.004). In other words, a voter on Suspense will need to vote in his or her old precinct on Election Day, as long as the voter lives within the same political subdivision conducting the election. When presenting himself for voting, the election judge will have the voter sign a statement of residence before voting. If the voter never updates his or her registration records, either by filing a change of address, a confirmation of address response card, or statement of residence, the registrar will cancel their registration on November 30, after two (2) federal elections. It is not necessary to send the voter a notice of cancellation following this procedure.

What is the “Suspense Mass Cancellation?”

The “Suspense Mass Cancellation” is the name that is commonly used when referring to the cancellation of all voters on the suspense rolls. Under Section 16.032 of the Election Code:

If on November 30 following the second general election for state and county officers that occurs after the date the voter's name is entered on the suspense list a registered voter's name appears on the suspense list, the registrar shall cancel the voter's registration unless the name is to be deleted from the list under Section 15.023 (the voter has registered with a residence that is changed on the registration records to another county election precinct in the same county).

When is the “Suspense Mass Cancellation” conducted?

Suspense Mass Cancellations may begin on or after November 30 of each even numbered year and must be completed no later than June 1 of the following odd numbered year. If a Suspense Mass Cancellation has not been completed by June 1, the secretary of state may not make a Chapter 19 payment (in accordance with Section 19.002(d), Texas Election Code).

What happens if a voter is removed from the voter rolls during the suspense mass cancellation and should not have been?

The voter registrar should reinstate the voter in accordance with section 16.037 of the Texas Election Code.

How is the “Suspense Mass Cancellation” conducted?

The “Suspense Mass Cancellation” is handled in three stages:

1. Work that should be performed BEFORE the cancellation takes place.
2. Scheduling the mass cancellation with the Secretary of State’s Office
3. Confirming the cancellation and filing cancelled voter applications for retention.

Each stage will be discussed in more depth in its own section.

CONDUCTING THE MASS CANCELLATION IN STAGES

STAGE 1 - Work to be completed before the Mass Cancellation takes place

- Enter all Voting History for the November General Election
- Process all Statement of Residence forms from the November General Election. Be sure to coordinate getting Envelope # 4 with the Statements of Residence from the Early Voting Clerk. If the registrar does not receive Envelope # 4, then it is always a good practice to ask the Clerk to confirm that no Statements of Residence have been submitted.
- Run (and work) the following 3 reports in this order:
 - Suspense Voter Activity – Voting Activity Only
 - Suspense Voter Activity – Changes Only
 - Suspense to Cancel

Suspense Voter Activity – Voting Activity Only

Under Section 8 – Administration of Voter Registration of the Federal National Voter Registration Act (NVRA), 42 U.S.C.A. §§ 1973gg et seq, passed in 1993, a State can only remove the name of a person from the voter registration list on grounds of change of residence upon: 1) the voter’s written first-hand confirmation of a change of address to a location outside of the registrar’s jurisdiction, **or** 2) reliable second-hand information indicating a change of address outside of the jurisdiction from a source such as the NCOA program, or a general mailing to all voters, **plus** the subsequent failure of the person to respond to a specific forwardable confirmation mailing sent by the State **and** the failure of the person to vote or appear to vote during the period ending on the day after the second federal general election subsequent to the confirmation notice being sent. See specifically Id. § 1973gg–6 (b), (c) & (d).

In short, then, if a person has voted after being placed on Suspense, federal law prevents the removal of this voter from the voter rolls due to the sequence of events that have occurred. In order to place the Suspense Voter who voted after being placed on Suspense (but for whom the registrar did not receive an updated application or Statement of Residence) back in the proper order, the registrar would be required to reissue a Notice of Address Confirmation to the voter; thereby updating the voter’s Suspense date to be after the date in which the voter last voted.

Additional information about the US Department of Justice’s stance on these voters may be found through their website at: http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php. It should be noted that the US Department of Justice specifically addresses the question: **If this confirmation notice card is not returned within the specified time, can the State then remove the voter from the registration rolls for an apparent address change?**

*No. A voter can be removed from the voter rolls for an apparent address change **only if** he or she has not responded to the confirmation notice sent by forwardable mail with a postage prepaid and pre-addressed return card, **and** if he or she has not voted or appeared to vote in an election beginning on the date the notice is sent and ending on the*

day after the date of the second federal general election after the date of the confirmation notice.

The Suspense Voter Activity – Voting Activity Only report helps the registrar determine which voters are not eligible to be cancelled by displaying voters with voting history applied AFTER the voters were placed on Suspense. The report looks for any “Voting” history activity occurring after the status change date in which the voter was placed on Suspense and includes all Suspense Voters meeting this criteria, not just those that are eligible for the current Suspense Mass Cancellation.

A sample of this report is as follows:

County	Activity	VUID	Voter Name	EDR	Precinct	Residence Address	Mailing Address	DOB
	v			12/06/2012	1			
	v			05/30/2001	21			
	v			11/26/2012	20			
	v			06/27/2014	19			
	v			11/06/2012	21			
	v			11/30/2008	6			
	v			03/05/2011	20			
	v			11/28/2004	21			
	v			12/28/2001	17			
	v			12/05/2002	1			
	v			03/31/2000	9			

The fact that the voter is listed as having voted after being placed on Suspense, even if a statement of residence was not obtained, should force that individual to remain on the voter rolls under NVRA.

Under Texas’s standard operating procedure, a Statement of Residence should have been obtained at the time the voter’s vote was cast, thereby bringing these voters back to Active status. However, because the voter is still on suspense, it is assumed that a Statement of Residence was not obtained or was misplaced and the voter record was not updated at that point.

Working this list will require the voter registrar to send another Notice of Confirmation with Response form. You can issue another Notice of Confirmation by:

1. Going to Activities > Voter List Maintenance > Voter Tasks > Voter Task – Search.
2. Enter the VUID or voter’s name on Suspense.
3. Under Correspondence, select Notice of Address Confirmation with or W/O Forwarding Address, and
4. Click on Generate Notice.

The Notice and Label will be available on the Dashboard in the Batch Print. The registrar will need to then mail the new Notice of Address Confirmation with the accompanying Response Form. The voter stays on Suspense and now has a new Status Change Date. Once the notice has

been printed, the voter is removed from the Suspense Activity Report. In this manner, the voter would not be cancelled as part of the current Mass Cancellation process, in accordance with federal law.

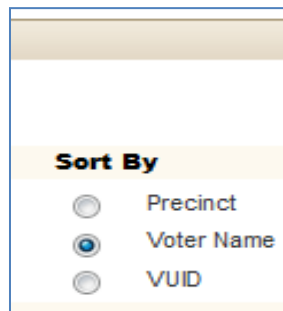
Suspense Voter Activity - Changes Only

This report shows Suspense voters with clerical changes (source code 99) applied to their record after the voter was placed on Suspense. This report pulls all Suspense Voters with Changes after they were placed on Suspense, regardless of whether that individual is scheduled to be cancelled or not.

The registrar will use this report to confirm that these changes were truly clerical in nature and should not have been logged as voter-initiated change (other source code plus Approve 12). A voter making a change to his or her voting information as noted through an Approve 12 would automatically be removed from the Suspense list.

In essence, any voter initiating a change or correction to his/her information after the time he/she was placed on suspense should not remain on the suspense list. This report should be used to help voter registrars identify individuals that should be double checked to confirm that the changes made were clerical corrections and not changes that would have caused the voter to be removed from the suspense list before the Mass Cancellation takes place.

The registrar should check the county's records to make sure any changes listed as clerical changes were not, in fact, voter-initiated ones and update records as appropriate. This report can be run in several different sort orders (see below) to allow the voter registrar to more easily identify voters that should have been listed as Approve 12.



In order to “work this report”, the registrar will need to manually compare voter applications to each voter listed in order to confirm that the change was not listed as a result of the voter updating his/her information. If the voter should have been updated with an Approve 12, you will need to choose a Source Code Override, change the voter's status to Active, Select Continue and then Accept on the Final Activity screen. This will remove the voter from Suspense.

Suspense to Cancel

The Suspense to Cancel Report provides a list of voters *that will be cancelled* under the current mass cancellation. As a reminder, a voter does not become eligible to be cancelled, until after two general election cycles from the time the voter has been placed on Suspense. Thus, the 2016 Mass Cancellation would incorporate anyone that was on Suspense during the 2012 and 2014 General Elections.

This report pulls those voters on Suspense as of a certain date and are listed as being on Suspense and thereby eligible for the current mass cancellation. It should be noted that individuals appearing on the report may not necessarily mean these are the ones that will get cancelled. Because the registrar has the option to select a date when running this report, the voters returned depend on the date entered (AS OF DATE). For example, if the registrar enters a fairly recent date for the report, then it will still list any voters on suspense prior to that date, but those voters may not have been in suspense long enough to be eligible to be cancelled.

For 2016, the date to enter is 10/6/2014, as this is the day AFTER the end of registration for the 2014 November General Election. Anyone with an EDR prior to this date who was also placed on Suspense prior to this date would have been eligible to vote in 2014, thereby making them eligible to have voted in two federal elections (2014 and 2016). The report allows you to sort voters by Name, VUID, or Precinct. A sample of what you can expect to see on the report is as follows:

VUID	Name	DOB	EDR	Suspense Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	12/13/2013
Residence Address [REDACTED]				
Mailing Address [REDACTED]				
VUID	Name	DOB	EDR	Suspense Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	12/26/2013
Residence Address [REDACTED]				
Mailing Address [REDACTED]				
VUID	Name	DOB	EDR	Suspense Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	12/17/2013
Residence Address [REDACTED]				
Mailing Address [REDACTED]				

In order to “work this report” the registrar will confirm that all voters listed should be cancelled (i.e. were eligible to have voted in 2014 and 2016 within their county, were on placed Suspense prior to the 2014 November General Election, did not vote after being placed on Suspense, and did not submit a new registration application or statement of residence after being placed on Suspense). **If a voter is on this list and should not be cancelled, the registrar should work that individual record prior to moving to the next step.**

Once the county has worked all three reports and is confident that the individuals remaining on the Suspense to Cancel list should in fact be cancelled, the county should move on to Stage 2 of

the Suspense Mass Cancellation and schedule their mass cancellation with the Secretary of State's office.

STAGE 2 – Schedule the Mass Cancellation with the Secretary of State

Due to the amount of processing resources it takes for each county's Mass Cancellation, the Secretary of State's office requires online counties to schedule their cancellations with the state. In this way, Mass Cancellations can be run during off hours and not cause the county or other users in the system to experience a slowdown in productivity. And, while it may take less time, each county should be prepared for it to take up to a week in order for the state to conduct that county's Mass Cancellation process.

Offline Counties may conduct their Mass Cancellation through the regular voter import file submission process. They should submit their 'suspense to cancel' records through the voter import procedure using a cancellation code of "60" with the cancellation date of November 30.

As a reminder, Mass Cancellations **must be conducted** between November 30 of each even numbered year and no later than June 1 of the following odd numbered year in order to ensure no interruptions in the disbursement of Chapter 19 funds. (Section 16.032 & 19.002)

STAGE 3 – Schedule the mass cancellation with the Secretary of State

Once the Mass Cancellation has been completed, the Secretary of State's Office will notify the county that their mass cancellation has been run. At this point, the registrar should run the "Suspense – Mass Cancelled" report (see below):

04/25/2016 Office of the Secretary of State State of Texas Generated By: BSCHONHOFF
Suspense - Mass Cancelled
01/01/2016-04/25/2016

County

VUID	Name	DOB	EDR	Cancel Date
			07/17/2008	04/25/2016

Residence Address
Mailing Address

Total Suspense - Mass Cancelled for ARCHER County between 01/01/2016 and 04/25/2016 is 211

This report displays the voters that were cancelled from the suspense roll as part of the mass cancellation and should match the voters listed on the 'Suspense to Cancel' report. Once the cancellation has been conducted, the Suspense to Cancel Report will show no records if run again as these voters are now all listed on the Suspense – Mass Cancelled report.

The county will use this report as a reference to move cancelled voters' records from their 'active' file to their 'inactive' file, in accordance with sections 13.102 and 1.013 of the Texas

Election Code. Under these two sections of the Election Code, each county must maintain in a separate file applications for those voters currently marked “INACTIVE”. It is important to note that the county must keep all records pertaining to the voters – both Active and Cancelled. Under current law, the file retention policy is two years from the cancellation date. After this two year period, all records can be destroyed, burned, or shredded, in accordance with each county’s destruction policy.

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