IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, Plaintiff, v. WILLIAM FRANCIS GALVIN, in his official capacity as Secretary of the Commonwealth of Massachusetts, Defendant.	Case No. 1:25-cv-13816

MEMORANDUM IN SUPPORT OF THE NEW ENGLAND STATE AREA CONFERENCE OF THE NAACP AND THE MASSACHUSETTS ALLIANCE FOR RETIRED AMERICANS' UNOPPOSED MOTION TO INTERVENE AS DEFENDANTS

INTRODUCTION

The Department of Justice ("DOJ") recently embarked on an unprecedented nationwide campaign to amass a wide array of highly sensitive personal information about voters in a centralized database. As part of this operation, DOJ has sued state officials in more than a dozen states in an effort to obtain those states' voter registration lists. One of those states is Massachusetts; in the present action, DOJ sued Secretary of the Commonwealth William F. Galvin on December 11, 2025, asking this Court to compel the production of Massachusetts' complete and unredacted voter registration list, which contains sensitive and private information about every voter in the Commonwealth. This assault intrudes not only on Massachusetts' constitutional prerogative to maintain and protect its own voter registration list but also on the privacy of individual Massachusetts voters who have good reason to fear their personal information being handed over to the federal government.

Accordingly, pursuant to Rule 24 of the Federal Rules of Civil Procedure, the New England State Area Conference of the NAACP ("NAACP NEAC") and the Massachusetts Alliance for Retired Americans ("the Alliance") (collectively, "Proposed Intervenors") move to intervene in this litigation to defend against the federal government's overreach. NAACP NEAC is the New England-based affiliate of the NAACP and represents several branches and chapters across the Commonwealth of Massachusetts. The Alliance, whose members are retirees and disproportionately likely to be targeted by scams of various kinds, similarly seek to protect its members' privacy and preserve its own ability to conduct its core civic engagement work. Massachusetts law guarantees voters that their information—such as driver's license numbers and social security numbers—will remain protected from disclosure. *See* 940 Mass. Code Regs.

§ 37.04(3). DOJ's requested relief would run roughshod over these privacy protections, which Proposed Intervenors seek to preserve.

Multiple courts have allowed individuals and groups similarly situated to Proposed Intervenors—including the NAACP, another state conference of the NAACP, and another state chapter of the Alliance— to intervene as defendants in the other virtually identical suits DOJ has brought seeking voter lists against other states. *See generally United States v. Oregon*, No. 6:25-cv-01666, 2025 WL 3496571 (D. Or. Dec. 5, 2025) (granting intervention as of right to Oregon social welfare organization and three registered Oregon voters); *United States v. Benson*, No. 1:25-cv-01148, 2025 WL 3520406 (W.D. Mich. Dec. 9, 2025) (granting intervention as of right to Michigan Alliance for Retired Americans and Michigan voters); Minute Order, *United States v. Weber*, No. 2:25-cv-09149 (C.D. Cal. Nov. 19, 2025), ECF No. 70 (granting two separate motions to intervene by groups including NAACP and League of Women Voters of California); *United States v. Bellows*, No. 1:25-cv-00468 (D. Me. Dec. 12, 2025), ECF No. 49 (granting intervention to two registered Maine voters). This Court should do the same.

Proposed Intervenors readily satisfy the standard for intervention as of right. *See* Fed. R. Civ. P. 24(a). They have a clear interest in ensuring the continued privacy of their personal information, and that interest is directly threatened and could be severely impaired by this suit. While Secretary Galvin is a governmental defendant who must consider the "broader public-policy implications" of the issues presented in this suit, Proposed Intervenors are solely concerned with protecting their privacy, "full stop." *Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 196 (2022) (citing *Trbovich v. United Mine Workers*, 404 U.S. 528, 538–39 (1972)). As such, Secretary Galvin has competing obligations that Proposed Intervenors do not and thus may not litigate the case as vigorously as Proposed Intervenors. And once Proposed Intervenors' privacy rights are

violated, the harm cannot be undone. Federal courts routinely grant intervention as of right to intervenors like these to ensure that their rights are zealously defended.

Alternatively, Proposed Intervenors should be granted permissive intervention under Rule 24(b) to ensure that Massachusetts voters have a voice in this case, the core subject of which is the disclosure of *their* personal information. At a minimum, Proposed Intervenors will help to develop the issues in this case and ensure vigorous presentation of arguments that the existing Defendant may be limited in presenting. Those considerations weigh strongly in favor of permissive intervention. And Proposed Intervenors will abide by any schedule ordered by the Court or agreed to by the existing parties—they will not delay this case.

BACKGROUND

I. Federal law has long made voter list maintenance a state responsibility, consistent with the constitutional separation of powers.

The U.S. Constitution "invests the States with responsibility for the mechanics" of elections, subject to any decision by Congress to "preempt state legislative choices." *Foster v. Love*, 522 U.S. 67, 69 (1997); *see also* U.S. Const. art. I, § 4, cl. 1. Accordingly, as a default matter, the Constitution assigns states the responsibility for determining voter eligibility and maintaining lists of eligible voters. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 17 (2013).

While Congress has enacted certain laws governing voter registration, these laws augment existing "state voter-registration systems," *id.* at 5, and confirm that states are the custodians of voter registration data. Congress in 1993 enacted the National Voter Registration Act ("NVRA") to serve "two main objectives: increasing voter registration and removing ineligible persons from the States' voter registration rolls." *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 761 (2018); *see also* 52 U.S.C. § 20501(b). The NVRA tellingly charges *states*—not the federal government—with the "administration of voter registration for elections for Federal office," 52 U.S.C.

§ 20507(a), including as to maintaining voter lists (subject to strict procedural safeguards), *id.* § 20507(c)–(g). It similarly makes *states* the custodians of voter lists, *see Husted*, 584 U.S. at 761.

In the wake of the 2000 elections, Congress enacted the Help America Vote Act ("HAVA") "to improve voting systems and voter access." *Republican Nat'l Comm. v. N.C. State Bd. of Elections*, 120 F.4th 390, 394 (4th Cir. 2024). Like the NVRA, HAVA regulates how *states* maintain voter lists, requiring they create a "computerized statewide voter registration list" and "perform list maintenance." 52 U.S.C. § 21083(a)(1)(A), (a)(2)(A). HAVA is abundantly clear that this list is to be "defined, maintained, and administered at the State level." *Id.* § 21083(a)(1)(A).

II. The Department of Justice has embarked on an unprecedented nationwide campaign to amass personal voter registration data held by the states.

This spring, DOJ launched a campaign to demand broad and unprecedented access to state voter files, including personal information about each registered voter like date of birth, driver's license number, and social security number. DOJ has reportedly sent demands to at least forty states, with plans to make similar demands on all fifty states.[1] It seeks to use the data to create a national voter database that will, in turn, be used to seek to substantiate President Trump's unfounded accusations that millions of non-citizens have voted illegally in recent elections.[2] The vast majority of states have refused to comply, appropriately declining to turn over sensitive personal information that is typically protected by state law.[3] Massachusetts law, for example,

[1] *See* Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. Times (Sep. 9, 2025), https://perma.cc/8VP4-WRXD; Matt Stout, *DOJ sues Massachusetts, three other states after they refused to hand over voters' personal data*, Boston Globe (Dec. 12, 2025), https://perma.cc/L6LN-VUX3.

[2] Barrett & Corasantini, *supra* note 1.

[3] *See* Kaylie Martinez-Ochoa, Eileen O'Connor & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (Dec. 5, 2025), https://perma.cc/24DT-7TFG (reporting that only two states—Indiana and Wyoming—have given DOJ everything it sought).

provides confidentiality protections for sensitive personal information provided in the context of voter registration. *See* 940 Mass. Code. Regs. § 37.04(3).

As part of this broader pressure campaign, DOJ set its sights on Massachusetts. On July 22, 2025, DOJ sent a letter to Secretary Galvin asking that the Secretary provide DOJ with "[a] current electronic copy of Massachusetts' computerized statewide voter registration list" within fourteen days. Ex. 1 to Decl. of Eric Neff ("Neff Decl.") at 2, ECF No. 6-3. DOJ was explicit that the statewide voter registration list should "include *all fields*." *Id.* (emphasis added). Secretary Galvin responded by letter two weeks later, on August 7. Neff Decl., Ex. 2 at 2, ECF No. 6-4. In that response, Secretary Galvin stated that Massachusetts was expecting to prepare a response to DOJ's questions regarding the Election Administration and Voting Survey report published by the Election Assistance Commission but needed additional time. *Id.* On August 14, DOJ reiterated its request for Massachusetts' statewide voter registration list, noting that the requested file should include "the registrant's full name, date of birth, residential address, [and] driver's license number." Neff Decl., Ex. 3 at 2, ECF No. 6-5.

As noted, around the same time as DOJ was making these demands of Massachusetts, it made similar demands to scores of other states, the vast majority of which have refused to turn over highly sensitive personal voter information. Beginning in September 2025, DOJ began filing lawsuits against some—but not all—of these states. On September 16, DOJ brought actions against Oregon and Maine,[4] alleging in both cases that DOJ was entitled to the voter information it sought under three statutes: the NVRA, HAVA, and the Civil Rights Act of 1960. On September 25, DOJ filed another set of lawsuits, this time against California, Michigan, Minnesota, New Hampshire,

[4] *See* Compl., *United States v. Oregon*, No. 6:25-cv-1666 (D. Or. Sep. 16, 2025); Compl., *United States v. Bellows*, No. 1:25-cv-00468 (D. Me. Sep. 16, 2025).

New York and Pennsylvania.[5] Again, DOJ brought its claims under those same three statutes, excepting only the NVRA claim in states that are exempt from the NVRA. Last week, DOJ launched a third wave of these lawsuits, this time suing Delaware, Maryland, New Mexico, Rhode Island, Vermont, and Washington.[6] Days later, DOJ filed this suit, along with suits against Colorado, Hawaii, and Nevada.[7] Notably, in these last two waves of suits, DOJ has abandoned its NVRA and HAVA claims and alleges only a claim under the Civil Rights Act of 1960.

III. The Department of Justice sues Secretary Galvin to obtain Massachusetts' voter registration list.

DOJ filed this suit on December 11, 2025, seeking to compel Secretary Galvin to provide Massachusetts' full, unredacted statewide voter registration list. *See generally* Compl., ECF No. 1.

As noted above, DOJ's most recent suits in this campaign—including this one—assert only a single count: namely, it alleges that, in refusing to fully comply with DOJ's requests, Secretary Galvin violated Section 303 of the Civil Rights Act of 1960. This is a long dormant Civil Rights era law that permits DOJ to review certain voting records to investigate "question[s] concerning

[5] *See* Compl., *United States v. Weber*, No. 2:25-cv-9149 (C.D. Cal. Sep. 25, 2025); Compl., *United States v. Benson*, No. 1:25-cv-01148 (W.D. Mich. Sep. 25, 2025); Compl., *United States v. Simon*, No. 0:25-cv-03761 (D. Minn. Sep. 25, 2025); Compl., *United States v. Scanlan*, No. 1:25-cv-371 (D.N.H. Sep. 25, 2025); Compl., *United States v. Bd. of Elections of N.Y.*, No. 1:25-cv-1338 (N.D.N.Y. Sep. 25, 2025); Compl., *United States v. Schmidt*, No. 2:25-cv-01481 (W.D. Pa. Sep. 25, 2025).

[6] *See* Compl., *United States v. Albence*, No. 1:25-cv-01453 (D. Del. Dec. 2, 2025); Compl., *United States v. DeMarinis*, No. 1:25-cv-03934 (D. Md. Dec. 1, 2025); Compl., *United States v. Oliver*, No. 1:25-cv-01193 (D.N.M. Dec. 2, 2025); Compl., *United States v. Amore*, No. 1:25-cv-00639 (D.R.I. Dec. 2, 2025); Compl., *United States v. Hanzas*, No. 2:25-cv-00903 (D. Vt. Dec. 1, 2025); Compl., *United States v. Hobbs*, No. 3:25-cv-06078 (W.D. Wash. Dec. 2, 2025).

[7] *See* Compl., *United States v. Griswold*, No. 1:25-cv-03967 (D. Colo. Dec. 11, 2025); Compl., *United States v. Nago*, No. 1:25-cv-00522 (D. Haw. Dec. 11, 2025); Compl., *United States v. Aguilar*, No. 3:25-cv-00728 (D. Nev. Dec. 11, 2025).

infringement or denial of . . . constitutional voting rights." *Kennedy v. Lynd*, 306 F.2d 222, 228 (5th Cir. 1962). Congress enacted the law to preserve "the right of all qualified citizens to vote without discrimination on account of race," and specifically to facilitate "investigation[s]" authorized under the Civil Rights Act of 1957. H.R. Rep. No. 86-956, at 7 (1959).

DOJ, however, admits that it is *not* seeking to enforce these laws or investigate the unconstitutional denial of the right to vote. Instead, DOJ's own *stated* purpose in making the demand for the voter file was "to ascertain Massachusetts' compliance with the list maintenance requirements of the NVRA and HAVA." Compl. ¶ 22. These are laws with their own separate procedures and enforcement mechanisms. Yet DOJ notably does not bring any claims against Massachusetts under those statutes, unlike in many of its previous lawsuits against *other* states, choosing instead to hang its hat solely on Section 303 of the Civil Rights Act of 1960. But Section 303 is not a roving authorization for the federal government to demand any voter information it wants from any state for any purpose the federal government can conceivably concoct. Accordingly, Section 303 does not require the disclosure DOJ seeks here. Moreover, even if Section 303 did apply, it would not prohibit Massachusetts from redacting confidential and sensitive voter information that has nothing to do with investigating the denial of the right to vote, just as it would be entitled to do under the NVRA. *See Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 56 (1st Cir. 2024).

IV. Proposed Intervenors' personal information is placed in jeopardy by DOJ's demands.

Proposed Intervenors are the NAACP NEAC and the Alliance, organizations whose members are registered voters across Massachusetts and whose confidential personal

information—driver's license numbers, partial social security numbers, and full dates of birth—will be disclosed to DOJ if it prevails in its suit.

NAACP NEAC. With almost 3,000 members across adult branches, college chapters, and youth councils within Massachusetts, NAACP NEAC works to achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color. *See* Ex. A ("NEAC Decl.") ¶ 3. NAACP NEAC has a long history of fighting for and protecting the civil rights and voting rights of its members and constituents more broadly, including by engaging in voter outreach, education, and activism. *Id.* ¶¶ 6–7. The DOJ's effort to obtain Massachusetts' complete voter registration data with all sensitive fields threatens the interests of NAACP NEAC, particularly given that the number of voters affiliated with political parties in Massachusetts is small relative to other states. *Id.* ¶¶ 10–12. Consequently, if DOJ obtains the sensitive data it seeks in this lawsuit, NAACP NEAC and its members will face deepening distrust of the electoral system and, for those members who affiliate with a political party to request primary ballots, increased deterrence from participating in primary elections because of the risk of such data being weaponized against Americans who are disfavored by the current administration. *Id.* ¶ 11. These threats all work to undermine NAACP NEAC's ultimate mission of supporting civic engagement for our members and our community. *Id.* ¶ 13.

The Alliance. The Alliance is a grassroots organization dedicated to the interests of retirees and a chartered state affiliate of the national Alliance for Retired Americans. *See* Ex. B ("All. Decl.") ¶¶ 2–3. Its mission is to ensure social and economic justice and full civil rights for retirees after a lifetime of work. *Id.* ¶ 4. The Alliance has approximately 65,809 members in Massachusetts, including retirees from public and private sector unions, community organizations, and individual

activists. *Id.* ¶¶ 2–3. Most of these members are over 65 years old. *Id.* Should DOJ prevail in this suit, it will affect the Alliance and its members in several ways. The Alliance is acutely aware that its members, who tend to be older citizens, are frequently targeted for different types of scams. *See id.* ¶ 8. Many of its members have serious concerns regarding the disclosure of their personal information to DOJ. They fear that the federal government will not adequately safeguard this information and that it will expose the Alliance's members in particular to potential harm. *See id.* ¶¶ 9–10. The Alliance's mission will become more difficult if Massachusetts voters, including its members, fear that their personal information will be turned over to the federal government simply because they have registered to vote. *Id.* ¶ 10.

LEGAL STANDARD

A movant has a right to intervene under Rule 24(a)(2) where "(1) it timely moved to intervene; (2) it has an interest relating to the property or transaction that forms the basis of the ongoing suit; (3) the disposition of the action threatens to create a practical impediment to its ability to protect[] its interest; and (4) no existing party adequately represents its interests." *B. Fernandez & Hnos., Inc. v. Kellogg USA, Inc.*, 440 F.3d 541, 544–45 (1st Cir. 2006). Courts also have discretion to grant permissive intervention if the movant has "a claim or defense that shares with the main action a common question of law or fact," if doing so will not "unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(1)(B), (b)(3).[8] There is a strong "policy favoring liberal intervention under Rule 24." *In re Thompson*, 965 F.2d 1136, 1143 n.11 (1st Cir. 1992).

[8] In compliance with Rule 24(c)'s requirement that a motion to intervene be accompanied by a "pleading," Proposed Intervenors attach a proposed answer to the motion. *See* Proposed Answer, ECF No. 9-1. Proposed Intervenors reserve the right to file a motion to dismiss under Rule 12 ahead of any deadline set by the Court or the Federal Rules.

ARGUMENT

I. Proposed Intervenors are entitled to intervene as of right under Rule 24(a)(2).

A. The motion is timely.

Proposed Intervenors' motion—filed a mere seven days after DOJ brought suit and before any case schedule has been set—is plainly timely. *See, e.g.*, *Fiandaca v. Cunningham*, 827 F.2d 825, 834 (1st Cir. 1987) (holding motion timely where filed by intervenors "days" after "learning that their interests may be affected"); *NERO Int'l Holding, Co. v. NEROtix Unlimited Inc.*, 585 F. Supp. 3d 152, 156–57 (D. Mass. 2022) (holding motion to intervene filed "roughly two-and-a-half months after Plaintiffs filed the Complaint" to be timely). Moreover, because no case schedule has yet been set and no substantive events have yet occurred in the case, there is no risk of prejudice to the existing parties. *See NERO Int'l Holding*, 585 F. Supp. 3d at 156 (finding no prejudice where motion was filed prior to scheduling conference and "the case had not progressed past the initial pleadings"). Proposed Intervenors further agree to abide by any schedule set by the Court or the existing parties.

B. Proposed Intervenors have an interest in protecting their sensitive and personal information from improper disclosure to DOJ, which is threatened by this action.

Proposed Intervenors also satisfy Rule 24(a)(2)'s interest factors because each has interests at stake in this matter that "as a practical matter, may be impaired by this litigation." *B. Fernandez*, 440 F.3d at 545. NAACP NEAC's and the Alliance's members are registered Massachusetts voters who strongly oppose the disclosure of their sensitive personal information to the federal government. *See supra* Background Section IV. "[T]hat is all Rule 24 demands" and by itself provides them with an interest that supports intervention. *Sakab Saudi Holding Co. v. Aljabri*, No. 1:21-cv-10529-NMG, 2021 WL 8999588, at *2 (D. Mass. Oct. 26, 2021) (finding Rule 24(a)(2) satisfied where the "plaintiff's claims 'could result' in the disclosure of privileged information"

(quoting *B. Fernandez*, 440 F.3d at 545)); *see also, e.g.*, *Kalbers v. U.S. Dep't of Just.*, 22 F.4th 816, 827 (9th Cir. 2021) (recognizing "straightforward" protectable interest in confidentiality of non-public documents); *In re Sealed Case*, 237 F.3d 657, 663–64 (D.C. Cir. 2001) (holding intervenors had "legally cognizable interest in maintaining the confidentiality" of records). The District of Oregon, too, reached this same conclusion in granting intervention as of right to Oregon voters and an Oregon social-welfare organization in a nearly identical lawsuit brought by DOJ seeking that state's voter registration list. *See Oregon*, 2025 WL 3496571, at *1 (granting intervention because "the outcome of this litigation will directly affect the protectable privacy interests Proposed Intervenors assert"). Likewise, in parallel litigation in the Western District of Michigan, the court granted intervention as of right to the Michigan Alliance for Retired Americans. *Benson*, 2025 WL 3520406, at *3–5.

In particular, this lawsuit threatens the personal information of NAACP NEAC's more than X members and the Alliance's roughly 65,809 members, and the privacy of members' information is of great importance to both groups. *See* Ex. B ¶ 2; Ex. A ¶ 4. Some of NAACP NEAC's members are concerned about the prospect of investigation, scrutiny, and retaliation affecting them and their families and communities if their protected personal information is handed over directly to the federal government, particularly given that the number of voters affiliated with political parties in Massachusetts is small relative to other states. *See* Ex. A ¶¶ 11–12. Likewise, some Alliance members may similarly opt out of registering and voting out of fear of being targeted or wrongfully accused by the federal government, who they feel cannot be trusted to handle sensitive personal information responsibly. *See* Ex. B ¶ 9. That would undermine a core part of the Alliance's mission of advocating on behalf of its members, which relies on its members' ability to participate in the electoral process. *See* Ex. B ¶ 10. NAACP NEAC is also concerned about the use of personal

information in Massachusetts' voter registration list to further target, persecute, and blacklist its members. *See* Ex. A ¶¶ 10–11.

For NAACP NEAC, too, its members' participation in the electoral process is central to its mission. *See* Ex. A ¶ 7. And that mission will also be frustrated if its members are discouraged from participating in the political process because they know being registered to vote entails the disclosure of their personal information to a federal government they cannot trust to handle it securely. *See* Ex. A ¶¶ 8, 11. Courts have long held that organizations have a recognized interest in preserving and pursuing their own mission-critical organizational activities, particularly when it comes to ensuring their constituents' ability to vote. *See, e.g.*, *Jud. Watch, Inc. v. Ill. State Bd. of Elections*, No. 1:24-cv-01867, 2024 WL 3454706, at *3 (N.D. Ill. July 18, 2024); *Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at *2 (D. Nev. Apr. 28, 2020); *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020).

For similar reasons, as a "practical matter," all of these interests "may be impaired by this litigation." *B. Fernandez*, 440 F.3d at 545. "Once an applicant has established a significantly protectable interest in an action, courts regularly find that disposition of the case may, as a practical matter, impair an applicant's ability to protect that interest." *Venetian Casino Resort, LLC v. Enwave L.V., LLC*, No. 2:19-cv-1197-JCM-DJA, 2020 WL 1539691, at *3 (D. Nev. Jan. 7, 2020) (citing *California ex rel. Lockyer v. United States*, 450 F.3d 436, 442 (9th Cir. 2006)). The unredacted statewide voter list that DOJ demands includes precisely the personal information that Proposed Intervenors have interests in protecting. For this simple reason, if DOJ prevails in this action and gets access to this information, those interests will by definition be impaired.

C. The existing parties do not adequately represent Proposed Intervenors.

The existing parties also do not adequately represent the interests of Proposed Intervenors. As courts have long recognized, the "burden of making that showing should be treated as minimal" and the movant need only show that the existing parties' representation "*may be*" inadequate. *Trbovich*, 404 U.S. at 538 n.10 (emphasis added).[9] Courts are "liberal in finding" that this requirement has been satisfied because "there is good reason in most cases to suppose that the applicant is the best judge of the representation of the applicant's own interests." 7C Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 1909 (3d ed. 2024) .

DOJ plainly does not represent Proposed Intervenors' interests. It is diametrically opposed to those interests, as it seeks to forcibly compel production of Proposed Intervenors' and their members' personal information against their wishes.

Although Secretary Galvin has resisted turning over this information up to this point, he nevertheless also does not adequately represent Proposed Intervenors. Courts have "often concluded that governmental entities do not adequately represent the interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003). That is because the interests of government officials are "necessarily colored by [their] view of the public welfare rather than the more parochial views of a proposed intervenor whose interest is personal to it." *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998). As a result, as the First Circuit has recognized, "a governmental entity charged by law with representing the public interest of its citizens" will not necessarily "advance the narrower interest of a private entity." *Conservation L.*

[9] *See also McDonough v. City of Portland*, No. 2:15-cv-00153-JDL, 2015 WL 3755289, at *3 (D. Me. June 16, 2015) (confirming burden to show inadequate representation "is not onerous" even when an existing governmental party intends to defend the action: "the intervenor need only show that the government's representation *may* be inadequate, not that it *is* inadequate" (citing *Mosbacher*, 966 F.2d at 44).

Found. of New Eng., Inc. v. Mosbacher, 966 F.2d 39, 44 (1st Cir. 1992). The Supreme Court, too, has emphasized this point, noting that public officials must "bear in mind broader public-policy implications," whereas private litigants seek to vindicate their own rights "full stop." *Berger*, 597 U.S. at 195–96 (citing *Trbovich*, 404 U.S. at 538–39).

That is precisely the case here. As DOJ itself alleges, Massachusetts and the Secretary have certain obligations with respect to voter list maintenance under both the NVRA and HAVA. *See* Compl. ¶ 22. Proposed Intervenors, in contrast, are not "constrained" by any such competing public duties, *Mosbacher*, 966 F.2d at 44, and seek solely to vindicate the narrower privacy rights of themselves and their members, "full stop," *Berger*, 597 U.S. at 196. Their interests are thus straightforwardly "different in kind [and] degree from those" of the existing Defendants, readily satisfying the inadequacy of representation inquiry. *B. Fernandez*, 440 F.3d at 546.

Indeed, that is the same conclusion that the District of Oregon came to in granting intervention as of right in the DOJ's suit seeking Oregon's voter registration list. As that court held, "the existing Defendants have obligations under the NVRA and HAVA that Proposed Intervenors do not share and have broader public policy obligations and considerations that may incentivize them to make compromises that Proposed Intervenors would not make," while the Oregon intervenors had "specific interests in protecting their privacy . . . and in increasing voter participation by marginalized communities." *Oregon*, 2025 WL 3496571, at *2. The court thus held that the intervenors' interests were not shared by Defendants and that the intervenors had "made a compelling showing sufficient to overcome any presumption of adequacy." *Id.* Because Proposed Intervenors assert those same interests and the exact same dynamic is present here, this Court should reach the same conclusion.

II. Alternatively, Proposed Intervenors should be granted permissive intervention.

This Court should alternatively exercise its discretion to grant permissive intervention. Rule 24(b) "should be construed liberally" in favor of intervention, *Animal Prot. Inst. v. Martin*, 241 F.R.D. 66, 68 (D. Me. 2007) (citation omitted), and it is readily satisfied here. Proposed Intervenors assert a "claim or defense that shares with the main action a common question of law or fact," Fed. R. Civ. P. 24(b)(1)(B), as they seek to intervene to argue that DOJ is not entitled to relief on its claim and that DOJ is not entitled to access their and their members' personal information. Further, granting intervention would not "unduly delay or prejudice the adjudication" of the matter. Fed. R. Civ. P. 24(b)(3). Again, Proposed Intervenors have moved with haste to intervene in this action just seven days after the suit was filed, and Proposed Intervenors agree to abide by any schedule entered by the Court or agreed to by the existing parties.

The nature of Proposed Intervenors' interests here also bolsters their case for intervention. The fact that Proposed Intervenors are intervening to assert NAACP NEAC's and the Alliance's members' "confidentiality and/or privacy interest[s]" that are at stake in this case alone "warrants an opportunity to permissively intervene to protect that interest." *In re Exch. Union Co.*, No. 24-MC-91645-ADB, 2025 WL 894652, at *3 (D. Mass. Mar. 24, 2025). In addition, courts also regularly allow civic organizations and individual voters to intervene to ensure their voices are heard when litigation implicates the rights of all voters. *See, e.g.*, *1789 Found. Inc. v. Fontes*, No. CV-24-02987-PHX-SPL, 2025 WL 834919, at *4 (D. Ariz. Mar. 17, 2025) (permitting advocacy organizations to intervene as defendants); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 802 (E.D. Mich. 2020) (permitting voting rights organizations to intervene as defendants); *League of Women Voters of N.C. v. North Carolina*, No. 1:13-cv-660, 2014 WL 12770081, at *3 (M.D.N.C. Jan. 27, 2014) (permitting individual voters to intervene). Here, Proposed Intervenors offer a critically important perspective in this matter that will not otherwise be represented: that of

the individual voters whose information is at issue. *See supra* Background Section IV. This unique perspective will be "helpful in fully developing the case." *Daggett v. Comm'n on Governmental Ethics & Election Pracs.*, 172 F.3d 104, 113 (1st Cir. 1999); *see also Franconia Mins. (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017) (observing that "the Court expects to profit from a diversity of viewpoints as they illuminate the ultimate questions posed by the parties" in granting permissive intervention). These considerations, in addition to the clear satisfaction of Rule 24(b), strongly weigh in favor of permissive intervention.

CONCLUSION

For all of the foregoing reasons, Proposed Intervenors respectfully request that the Court grant them intervention as of right—or in the alternative grant permissive intervention—to allow them to protect the significant interests they have at stake in this case.

Dated: December 21, 2025

Respectfully submitted,

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* *Pro Hac Vice* Applications Forthcoming

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 21st day of December, 2025, with a copy of this document via the Court's CM/ECF system. All other counsel will be served in accordance with Federal Rule of Civil Procedure 5(a).

/s/ David R. Fox
David R. Fox (BBO #692372)