

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND
(Northern Division)

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Plaintiffs,

v.

JARED DEMARINIS, in his official capacity as
State Administrator of Elections, *et al.*,

Defendants.

No. 1:25-cv-3989

PLAINTIFFS' COMBINED RESPONSE TO MOTIONS TO DISMISS

In accordance with the Court's order of February 11, 2026, Plaintiffs file this combined response to the motions to dismiss. Those motions include the State Defendants' motion (Doc. 37), the Democratic National Committee's Corrected motion (Doc. 40), and the accompanying briefs.

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INTRODUCTION

Maryland has known failures in keeping its voter roll accurate. Plaintiffs are not the first to point this out. The State has failed two consecutive legislative audits related to voter roll maintenance. Despite assurances of new policies like those raised by Defendants here, the problems have not gone away. The Defendants' repeated failure to fix these inaccuracies, coupled with their persistent outlier voter registration numbers, lead to the inference that Maryland is failing to implement a "general program that makes a reasonable effort to remove the names of ineligible voters." 52 U.S.C. §20507(a)(4). The Complaint contains detailed allegations of past and present failures by Defendants supporting this conclusion. The State fails to adequately update the registrations of those who change their addresses and fails to remove deceased voters. Both Citizen Voting Age Population and Election Administration Voting Survey data show that Maryland's statewide total registration rate was over 100% in 2024. Across multiple metrics, at multiple levels of breadth, and across multiple years, Defendants have failed to live up to the National Voter Registration Act's requirements.

Defendants' latest theory is that this Court cannot review their failures because Plaintiffs lack standing. But the Supreme Court recently made clear that candidates for office have standing to challenge legal defects in the election processes. Political parties suffer the same injury as competitors for voter support, not to mention that voter rolls define party representation and are necessary in their election efforts. Even if that run-of-the-mill election injury weren't enough, the Fourth Circuit recently held that the RNC and state parties have organizational standing to challenge list-maintenance practices. The same parties suffer the same injury here.

Defendants also argue that Maryland's rules for removing names from voter rolls are reasonable efforts that satisfy the NVRA. They are not. Maryland's rules do not allow election officials to remove certain deceased voters, nor the reasonable removal of inter-county movers who do not respond to notices. Even if those rules were reasonable on their face, the mere existence of a list

maintenance program does not guarantee NVRA compliance. The NVRA is satisfied only if States actually *conduct* their reasonable programs by more than lip service to their rules. Maryland’s overpopulated voter rolls show that Defendants’ efforts are not reasonable. Under Rule 8’s low bar, the inference is at least plausible. The Court should deny the motions to dismiss.

BACKGROUND

Maryland does not maintain clean and accurate voter rolls. At least 14 of Maryland’s counties have registration rates over 95%. Am. Compl. ¶¶4-5. In fact, up to six counties have active registration rates over 100%—a mathematical impossibility. *Id.* ¶¶4, 79. Average registration rates across the nation are closer to 70%. *Id.* ¶¶83-86. Inflated rolls like these are a telltale sign that officials are failing to remove ineligible voters. The Justice Department and others have sued jurisdictions with similarly inflated registration rates, and those jurisdictions quickly admitted liability or agreed to clean up their rolls. *Id.* ¶¶122-127.

Impossibly high registration rates are not the only indicators that Maryland is failing to maintain its rolls. The State Board of Elections has failed the last two consecutive audits by the Office of Legislative Audits of the Maryland General Assembly. *Id.* ¶¶6, 64, 105. Despite receiving recommendations and promising to rectify their mistakes in 2019, the same flaws persisted through the next audit in 2023. *Id.* ¶¶110-111. Flouting the procedures envisioned by the NVRA, Defendants’ practice does not distinguish between inter- and intra-county movers and does not remove registrations when confirmation notices from inter-county movers go unreturned. *Id.* ¶¶96-98, 100-105. Defendants have persistently failed to obtain complete death records so they can remove the names of deceased voters, and they refuse to remove the names of deceased voters even when sufficient records demonstrate a death has occurred. *Id.* ¶¶108-121.

These facts, at a minimum, raise an inference that Maryland is violating federal law. The NVRA requires States to “conduct” a program that makes a “reasonable effort” to “remove the names of

ineligible voters” who have moved or died from the rolls. 52 U.S.C. §20507(a)(4). To ensure compliance, Congress created a private right of action that allows individuals to sue for violations of this obligation after serving a pre-suit notice. *Id.* §20510(b). This scheme “ensure[s] that accurate and current voter registration rolls are maintained,” which safeguards both the “fundamental right” to vote and the “integrity of the electoral process.” *Id.* §20501(a)(1), (b)(3)-(4).

Plaintiffs—the Republican National Committee, the Maryland Republican Party, and Republican voters Nicolee Ambrose and Reardon Sullivan—brought this suit to remedy Defendants’ violations. The RNC is the national committee of the Republican Party and represents over 30 million registered Republicans throughout the country. Am. Compl. ¶11. The RNC relies on voter rolls for a variety of its core activities, including political strategy, get-out-the-vote efforts, ballot chasing, mail campaigns, voter registration, fundraising, volunteer recruitment, door-knocking, and ultimately winning elections. *Id.* ¶¶12-30. Inflated rolls cause the party to waste resources recruiting and communicating with ineligible voters, which diverts resources from other mission-critical activities. *Id.* ¶¶12-29. And when States such as Maryland fail to maintain their rolls, the RNC is unable to determine how many Republicans it represents in Maryland, who they are, or where they live, and is forced to combat the presence of ineligible voters on the registration lists. *Id.* ¶¶28-30. Because of Defendants’ failures to make reasonable efforts to remove ineligible and deceased voters, the RNC’s core representational and voter outreach efforts are appreciably impaired. *Id.* The RNC is joined in this suit by the Maryland Republican Party, which shares these interests in Maryland, and by voters Nicolee Ambrose and Reardon Sullivan. Both individual plaintiffs are registered Maryland voters who are active in electoral politics and who vote in local and statewide elections. Their confidence in election outcomes is injured by the presence of ineligible voters on the rolls. *Id.* ¶39-44. To redress their injuries, Plaintiffs sued the Board of Elections and its members, including the Administrator of Elections Jared DeMarinis—the chief election officials responsible for list maintenance in Maryland.

Before suing, Plaintiffs served all Defendants with a detailed pre-suit notice. *Id.*, Exh. B. It identified the Plaintiffs. It reminded Defendants of their obligations under the NVRA. *Id.* at 2. It offered a wide range of statistics, including U.S. census data, to show that voter registration rates in many counties are abnormally or impossibly high. *Id.* at 4-5. It identified many of those counties by name and alleged that, as a result, Maryland is “violating Section 8 of the NVRA.” *Id.* at 3. It identified procedural and systemic failures in Maryland’s voter registration list maintenance. It addressed “the curative steps needed” to bring the state into compliance and warned that doing so was needed to “avoid litigation.” *Id.* When Maryland failed to remedy its violation within the statutory timeframe, Plaintiffs filed this lawsuit. The Democratic National Committee intervened as a defendant, claiming “clear interest in the subject matter of this action: maintenance of the Maryland voter file.” Doc. 17-2 at 6. Plaintiffs filed an Amended Complaint including additional allegations and updated statistics. Defendants now move to dismiss this case under Rule 12(b)(6). The Court should deny those motions.

LEGAL STANDARDS

A complaint attacked under Rule 12(b)(6) is sufficient if it contains enough factual matter “to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). An allegation is facially plausible if it “allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Determining whether a complaint states a plausible claim is a “context-specific task that requires the reviewing court to draw on its judicial experience and commons sense.” *Id.* at 679. The court must take the well-pleaded allegations as true. *Francis v. Giacomelli*, 588 F.3d 186, 192 (4th Cir. 2009). And it must draw all reasonable inferences in the plaintiff’s favor. *Vitol, S.A. v. Primerose Shipping Co.*, 708 F.3d 527, 543 (4th Cir. 2013). After drawing all those inferences, Rule 12(b)(6) requires merely that a complaint contain sufficient allegations that “raise a right to relief above the speculative level” and “nudg[e] its claims

across the line from conceivable to plausible.” *Id.* (cleaned up). If it does, the motions to dismiss should be denied.

ARGUMENT

Plaintiffs allege numerous failures in Maryland’s efforts to remove ineligible voters from its rolls. Those failures injure Plaintiffs directly as organizations and individuals, and the RNC as associated with Republican voters and candidates. Defendants’ arguments that Plaintiffs lack standing are at odds with controlling precedent. Their merits arguments confuse and obfuscate their statutory duties under the NVRA, while seeking to supplant the allegations in the complaint with their preferred factual allegations. But as the Amended Complaint alleges, Maryland consistently records impossible or near impossible registration rates, fails to distinguish between intra- and inter-county movers, fails to make reasonable use of death records, and fails to reasonably implement its programs. And those statistics are backed up by real-world examples of Defendants repeatedly failing to remove ineligible voters. It is more than plausible that these allegations show a violation of the NVRA’s “reasonable efforts” standard.

I. Plaintiffs plausibly allege Article III standing.

A plaintiff makes the necessary showing for Article III standing by demonstrating that they have suffered or will imminently suffer an injury-in-fact, caused by the defendant, that can be redressed by a favorable decision from the court. *See FDA v. All. for Hippocratic Medicine*, 602 U.S. 367, 393-94 (2024); *RNC v. N.C. State Bd. of Elections*, 120 F.4th 390, 395 (4th Cir. 2024). For entities like the RNC and MDGOP, standing can result from injuries sustained directly by the party (organizational standing), and injuries sustained by its members and constituents (associational standing). *See Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379-80 (1982). While each Plaintiff has standing in this case, only “one party” needs standing for the Court to have jurisdiction. *Brnovich v. DNC*, 594 U.S. 647, 665 (2021). So if the Court concludes that any Plaintiff has standing, it should deny the motion.

Standing is no problem in this case. Recent Supreme Court precedent confirms that “[a]n unfair and inaccurate election plainly affects those who compete” in those elections sufficient for Article III standing. *Bost v. Ill. State Bd. of Elections*, 146 S. Ct. 513, 519-20 (2026). Even before *Bost*, the Fourth Circuit held that the RNC’s increased election and voter-turnout costs caused by poor list maintenance represents more than “an organization’s efforts to ‘spend its way into standing.’” *RNC*, 120 F.4th at 399. Defendants attempt to distinguish *RNC v. North Carolina* by relying on the concurrence in that case while ignoring the Fourth Circuit’s actual holding. And they don’t even mention *Bost*. The DNC does not join with the Defendants’ argument. That is unsurprising, as the DNC, a political committee like the RNC, sought intervention in this case because of its “clear interest in” accurate and fair “maintenance of the Maryland voter file,” and “particularized interests in Democratic voters, registration efforts, and campaigns.” Doc. 17-2 at 6, 8. State Defendants did not object to the DNC’s intervention on those grounds.

A. Inaccurate voter rolls injure the RNC, MDGOP, and their candidates.

Inaccurate voter rolls directly affect the elections in which the RNC and MDGOP compete. The Supreme Court’s most recent guidance on standing in election cases squarely supports Plaintiffs’ standing. *Bost v. Illinois State Board of Elections* found standing when a Republican candidate for office challenged the rules that governed his election. 146 S. Ct. at 519-20. A “candidate has a personal stake in the rules that govern the counting of votes in his election.” *Id.* 519. As competitors “to represent the people,” candidates “have an interest in a fair process” and “an accurate result” in their elections. *Id.* at 519-20. In addition, election procedures that depart from the law “erode[] public confidence” and can harm “the winner’s political legitimacy.” *Id.* at 520. A candidate is thus injured “when the process departs from the law,” whether the departures “help, hurt, or have no effect on a candidate’s electoral prospects.” *Id.* at 519-20.

In this regard, political parties are no different from the candidates they represent. That reality is most stark “during an election,” when political parties and their candidates share “a practical identity of interests.” *Colo. Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 630 (1996) (Kennedy, J., concurring in part). Just ask the DNC, who recently explained in a post-*Bost* briefing that “the interests recognized in *Bost*—‘an interest in a fair process’ and ‘an accurate result,’ ‘the opportunity to compete for the people’s support,’ and a ‘winner’s political legitimacy’—apply to candidates’ affiliated party organizations no less than the candidates themselves.” DNC Supp. Br. at 4, *RNC v. McDonald*, Doc. 79.1, No. 24-5071 (9th Cir. Feb. 27, 2026) (citation omitted). The RNC and MDGOP thus have direct standing as competitors in the election process that they challenge.

Even if *Bost*’s rationale didn’t cover political parties, the RNC and MDGOP represent candidates who indisputably fall under *Bost*. Republican candidates will compete this year in state and federal elections in Maryland as part of the RNC and MDGOP. Am. Compl. ¶12. The RNC and MDGOP thus meet all three associational-standing elements: Their candidates “would otherwise have standing to sue in their own right” under *Bost*. *UFCWU v. Brown Grp.*, 517 U.S. 544, 553 (1996). The RNC and MDGOP’s “interests” in proper list maintenance “are germane to the organization’s purpose” in getting those candidates elected. *Id.* And “the relief requested” does not require “the participation of individual [candidate] members.” *Id.* The State Defendants don’t contest that the RNC and MDGOP meet each element of associational standing. See Am. Compl. ¶¶12, 21, 23. And because their candidates indisputably “have standing to sue in their own right” under *Bost*, *UFCWU*, 517 U.S. at 553, the RNC and MDGOP have associational standing on behalf of their candidate members.

Violations of the NVRA cause the same injuries as the rule in *Bost*. Inadequate voter roll maintenance generally “erode[s] public confidence” in a “fair process,” “an accurate result,” and a “winner’s political legitimacy,” the interests recognized in *Bost*. Compare Am. Compl. ¶141 and *Bost*, 146

S. Ct. at 519-20. The injuries that the RNC as a political party suffers from inadequate voter roll maintenance are identical to the injuries suffered by the plaintiff in *Bost*. See *RNC*, 120 F.4th at 397.

State Defendants' arguments are irreconcilable with *Bost*. A Republican candidate's interest in "a fair process" is "in no sense common to all members of the public." *Bost*, 146 S. Ct. at 520 (cleaned up). Rather, this interest "differs in kind." *Id.* Because the RNC and MDGOP "spend untold time and resources seeking" to help elect Republican candidates who can "claim the right to voice the will of the people," they have "an undeniably different—and more particularized—interest in knowing what that will is." *Id.* (cleaned up). Those expenses are good evidence that political parties have "more particularized" interests in elections, but standing under *Bost* doesn't depend on those expenses. *Cf. id.* at 523 (Barrett, J., concurring in the judgment) (reasoning that "Congressman Bost has standing because he has suffered a traditional pocketbook injury, not because of his status as a candidate"). Rather, their interests "in a fair process," "an accurate result," "the opportunity to compete for the people's support," and a "winner's political legitimacy" are independent of those expenses. *Id.* at 520 (majority op.). Elections conducted under illegal list-maintenance practices necessarily harm those interests. And that harm occurs regardless of how Plaintiffs rely on the State's voter rolls. *Contra* State Br. 14-17. The RNC and MDGOP are no mere bystanders when it comes to elections. They have "an obvious personal stake" the elections they compete it, and "[d]epartures" from federal law cause them "particularized and concrete harm." *Bost*, 146 S. Ct. at 520.

B. The Fourth Circuit has held that the RNC has organizational standing to challenge improper list maintenance.

Even before *Bost*, the Fourth Circuit held that the RNC and its affiliated state party have standing to sue based on injury to their organizational activities caused by a State's improper list-maintenance procedures. *RNC*, 120 F.4th at 395-98. The RNC and the North Carolina Republican Party sued the State over its failure to remove names from the voter registration list because the inaccurate voter registrations harmed election efforts. *Id.* Because of the unique procedural posture of

the case, the Fourth Circuit *sua sponte* addressed the plaintiffs’ standing and found the alleged failures by the state to keep clean voter rolls injured “the core mission of the RNC and the [State Party]” to “counsel voters to support Republican candidates.” *Id.* at 397. And that “suffice[d] to allege organizational injury under Article III.” *Id.*

This case is no different. Defendants’ failure to conduct reasonable list maintenance means that Plaintiffs cannot accurately identify and locate registered voters in Maryland, which hinders the ability to elect Republican candidates and turn out Republican votes. Am Compl. ¶14. As the Amended Complaint alleges, inaccurate voter registrations harm Plaintiffs’ election efforts in myriad ways. *Id.* ¶14-37. It hinders their ability to provide effective voter registration services. *Id.* ¶18. It hinders vote modeling efforts. *Id.* ¶19. It wastes limited time, effort, and money spent during the often-narrow window of an election. *Id.* ¶21. It hinders effective campaign strategy. *Id.* ¶24-25. It hinders door-knocking efforts. *Id.* ¶36 (nearly 7% of contacted registered voters no longer resided at their registered address when door-knocking). The cost and effort to mitigate these injuries are “more than simply an organization’s efforts to ‘spend its way into standing.’” *RNC*, 120 F.4th at 396 (quoting *All for Hippocratic Medicine*, 602 U.S. at 394). Nor are these expenditures on mere “abstract social interests.” *Id.* They are traditional “[p]ocketbook harm[s].” *Bost*, 146 S. Ct. at 524 (Barrett, J., concurring in the judgment).

The State Defendants’ attempts to “contrast” *RNC v. North Carolina* only prove its applicability. State Br. 19. They repeatedly invoke the concurrence, rather than the court’s binding opinion. State Br. 14, 16, 20. They go so far as to ask this Court to follow the “stricter view of organizational standing” articulated by the concurrence. State Br. 14. But the concurrence doesn’t even help them. Even if that “stricter view” were the law, the concurrence still found that the RNC had organizational standing. *RNC*, 120 F.4th at 410-12 (Diaz, C.J., concurring).

The State Defendants next try to distinguish *RNC v. North Carolina* on the basis that “alleged large-scale illegal registrations directly interfered” with the RNC’s “core mission.” State Br. 16. That’s exactly what the RNC alleges again in this State. *E.g.*, Am. Compl. ¶27. Even if there were a difference in “scale” between Maryland and North Carolina, it would be irrelevant under Article III, since “an ‘identifiable trifle’ ... gives rise to standing.” *Conservation Council of N.C. v. Costanzo*, 505 F.2d 498, 501 (4th Cir. 1974). It’s also not true that the complaint only “vaguely reference[s] fraud.” State Br. 17. The Amended Complaint explains in detail—backed by bipartisan reports—how bloated rolls induce election fraud, which “harms the RNC and MDGOP.” Am. Compl. ¶¶30, 52, 60-66. And while the RNC had standing in North Carolina based on that allegation alone, they’ve shown injury to their activities in many other ways here.

Even if the Fourth Circuit hadn’t already answered this question, Maryland’s unique treatment of political parties makes standing in this case even clearer. In Maryland, political parties are defined by voter registration rolls. *See, e.g.*, Md. Code, Elec. Law §4-102(2)(i) (requiring a petition with 10,000 signatures from eligible and registered voters to form a party). Who exactly the RNC and MDGOP represent is not based on membership dues or stock ownership, but by which Maryland citizens register as Republican. Failure to accurately maintain voter registration cuts to the core of the RNC and MDGOP’s interests—even if it did not impact their core election efforts—because it interferes with their ability to identify their represented registrants. *See* Am. Compl. ¶36 (nearly 7% of contacted registered voters no longer resided at their registered address); *see also Hunt v. Wash. St. Apple Advertising Comm’n*, 432 U.S. 333, 345 (1977) (state-created trade organization, like a union or its equivalent, has standing where constituents may be eliminated from the market). Similarly, because Maryland operates a partially closed primary, voter participation in the Republican primary elections depends on voter registration. Md. Code, Elec. Law §8-202. The RNC and MDGOP cannot effectively plan and hold

primary elections if Maryland does not maintain accurate records of which voters are eligible to vote in the primaries. Am. Compl. ¶23.

So reliance on voter registration rolls is not a self-inflicted harm, or an “uncompelled choice to expend resources,” as Defendants argue. *RNC*, 120 F.4th at 396. The Defendants failure to meet their statutory duty that “directly ... interfere[s]” with the RNC’s “core business activities.” *All. for Hippocratic Medicine*, 602 U.S. at 395. Defendants rely heavily on *Alliance for Hippocratic Medicine*, where the Supreme Court rejected standing “based on their incurring costs to oppose [the defendant’s] actions.” 602 U.S. at 394. But the Court also held that spending money to mitigate harm to the organization’s “core business activities” is a concrete injury. *Id.* at 395 (citing *Havens*, 455 U.S. at 379). The Court left in place *Havens*’ holding that organizations suffer a “concrete and demonstrable injury” when “the organization’s activities” are “perceptibly impaired.” 455 U.S. at 379. While that type of injury is usually accompanied by a “consequent drain on the organization’s resources,” *id.*, *Alliance for Hippocratic Medicine* clarifies that it is not the expenditure of resources itself that demonstrates an injury to core activities, 602 U.S. at 394. In other words, the “consequent drain on the organization’s resources” is not itself the injury, but it can be good evidence that the organization’s activities are “perceptibly impaired.” *Havens*, 455 U.S. at 379; accord *Nelson v. Experian Info. Sols.*, 144 F.4th 1350, 1355 (11th Cir. 2025).

The Defendants’ “voluntariness” argument also fails for a lack of limiting principle. According to Defendants, the Plaintiffs in this case would not even have standing if every single voter in Maryland were inaccurately registered, because all reliance on the voter rolls is “voluntary,” and any injury too “speculative.” That argument cannot be reconciled with Maryland’s laws intertwining parties with voter registration lists, the harms inflicted on parties, nor with precedent that affirms the RNC’s standing to challenge list maintenance. *See Havens*, 455 U.S. at 379; *RNC*, 120 F.4th at 399.

C. Defendants' NVRA violations injure Republican voter Plaintiffs by burdening their right to vote.

Individuals like Republican voter Plaintiffs Reardon Sullivan and Nicolee Ambrose are “exactly the kind of person that Congress had in mind” when it decided who could sue for violations of section 8. *Daunt v. Benson*, Doc. 376 at 19, No. 1:20-cv-522 (W.D. Mich. Nov. 3, 2020) (oral opinion). They are registered voters and active members of the Republican Party who currently or previously occupied multiple leadership positions in the party. Am. Compl. ¶¶39-44. “Maryland’s inaccurate rolls undermine” both individual Plaintiffs’ personal “confidence in the integrity of Maryland elections,” which also burdens their right to vote. *Id.* at ¶¶40, 43. The injuries they allege—their “extra work and resources policing the validity and propriety of the election” and their diminished confidence in Maryland’s electoral process—are “a plausible basis for standing articulated under Article III.” *Daunt*, Doc. 376 at 21. Maryland’s “inaccurate rolls undermine their confidence in the state’s elections, which further burdens their right to vote. These alleged harms qualify as injuries in fact.” *Green v. Bell*, 2023 WL 2572210, at *4 (W.D.N.C. Mar. 20, 2023) (cleaned up).

Plaintiffs’ injuries are concrete. Like the RNC and MDGOP, the individual Plaintiffs suffer harm when Defendants’ failure to remove ineligible voters lessens the effectiveness and hinders their election and campaign efforts. *See supra*. For Ms. Ambrose in particular, who was elected to the RNC by Maryland Republicans, accurate lists of registered voters define whom she represents, and inaccurate lists skew that representation. Am. Compl. ¶44. And the Supreme Court has recognized the “independent significance” of confidence in the electoral process because it “encourages citizen participation in the democratic process.” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008). Defendants’ failures injure that confidence for Mr. Sullivan and Ms. Ambrose. These injuries are directly traceable to the Defendants, and redressable by this court.

Defendants attempt to recast these injuries to election efforts, representation, and election confidence as “indistinguishable” from “vote dilution.” State Br. 26 (quoting *Md. Election Integrity, LLC*

v. Md. State Bd. of Elections, 127 F.4th 534, 540 (4th Cir. 2025)). But there is a world of difference between a voter who claims only that their vote—like anyone else’s—will be diluted, and active party members and leaders whose personal participation in campaigning is made more difficult (like Sullivan, Am. Compl. ¶41), or whose representation of Maryland Republicans is skewed by inaccurate voter rolls (like Ambrose, *id.* ¶44). And Plaintiffs’ concern about ineligible votes and lost confidence in election outcomes is personal—unless Defendants are prepared to concede that all Maryland voters lack confidence in election outcomes because of their failure to remove ineligible voters. *See FEC v. Akins*, 524 U.S. 11, 24 (1998) (injury is not impermissibly generalized “where large numbers of voters suffer interference with voting rights conferred by law.”); *Judicial Watch Inc. v. Griswold*, 554 F. Supp. 3d 1091, 1104 (D. Colo. 2021) (“the injury that the individual plaintiffs have alleged already exists,” and “there is no indication that undermined confidence and discouraged participation are ‘common to all members of the public’” (quoting *Lance v. Coffman*, 549 U.S. 437, 440-41 (2007))). And the individual Plaintiffs’ loss of confidence, even if it is shared by others, is still particularized. “The fact that an injury may be suffered by a large number of people does not of itself make that injury a nonjusticiable generalized grievance.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 n.7 (2016).

D. Plaintiffs’ injuries are actual and imminent.

With no precedent supporting their position, Defendants misdirect by mischaracterizing Plaintiffs’ injuries as limited to “operational burdens, wasted expenditures, and risk of fraud,” asserting that the complaint does not allege “how” inaccurate voter rolls cause these harms. State Br. 17-20. But Plaintiffs allege with specificity multiple ways in which Maryland’s bloated voter rolls impact them. *See* Am. Compl. ¶36. And they explained not only the ways this harmed the Plaintiffs, but why the harm was traceable to ineligible voters remaining on the list. For example, Plaintiffs provided conservative calculations for the mail cost of over-registration in even one election. *Id.* at ¶35. “The MDGOP spent over \$1.5 million on mailings for [Larry Hogan’s Senate] race. If even five percent of

the statewide voter registrations are inaccurate, the MDGOP spent at least \$75,000 sending get-out-the-vote mailers to Maryland addresses unassociated with a registered voter, on one race alone.” *Id.* They explained that “[t]his injury to the MDGOP is multiplied for every election race in which there is a Republican candidate. And it will continue to occur in future races unless this Court grants Plaintiffs’ requested relief.” *Id.* Plaintiffs also allege how and why false registrations hinder their voter registration efforts, *id.* ¶¶18, ballot-chasing and voter turnout, *id.* ¶¶19-21, election strategy and resource allocation, *id.* ¶¶24-25, and how their interests are directly injured by an inability to accurately determine what voters they represent in Maryland as members of the Republican party. *Id.* ¶28. Taking these allegations as true plausibly alleges actual injury. *Francis*, 588 F.3d at 192.

Defendants’ last-ditch theory on standing is that the complaint does not allege imminent “future injury.” State Br. 25. But the RNC and MDGOP’s representational injuries are ongoing, as are the injuries to their “daily voter registration services,” and their injuries will repeat during each primary and election, unless and until Defendants comply with the NVRA. *See e.g.*, Am. Compl. ¶¶18, 35. For this Court to conclude there is no imminent injury, it would have to set aside all allegations of ongoing actual injuries and conclude that it is “implausible” that Republican candidates will run in any future elections. But taking these allegations as true, and construing inferences in Plaintiffs favor—as is proper—the Complaint easily shows actual injury to the RNC and MDGOP. *See Francis*, 588 F.3d at 192. As for “[t]he individual plaintiffs,” they “are not worried that their confidence *could* be undermined at some point in the future; their confidence is undermined now.” *Judicial Watch, Inc.*, 554 F. Supp. 3d at 1104 (emphasis in original). “Nor are these fears speculative or hypothetical.” *Id.*; accord *Bell*, 2023 WL 2572210, at *4. They will continue until Defendants meet their NVRA obligations.

* * *

Plaintiffs have standing four times over. The RNC and MDGOP have standing under *Bost*, since their electoral injuries are indistinguishable from candidates’ injuries. At a minimum, *Bost*

supports their associational standing to represent candidates running in upcoming elections. And they have organizational standing under binding Fourth Circuit precedent, since they allege multiple ways in which bloated voter rolls harm their mission to elect Republican candidates and turn out Republican voters. And if the RNC and MDGOP didn't have standing under any of those three theories, the individual Plaintiffs do, since their injuries are precisely what Congress had in mind when it created the private right of action in the NVRA. Any one of these theories is sufficient to hold that Plaintiffs plausibly allege standing, and the Court need not address the others. *See Brnovich*, 594 U.S. at 665.

II. Defendants' duty under the NVRA is to conduct a reasonable program to remove ineligible voters.

The NVRA “erected a complex superstructure of federal regulation atop state voter-registration systems.” *Arizona v. Inter Tribal Council of Ariz.*, 570 U.S. 1, 5 (2013). The NVRA “requires States to ‘conduct a general program that makes a reasonable effort to remove the names’ of voters who are ineligible ‘by reason of death or change in residence.’” *Husted v. A. Philip Randolph Institute*, 584 U.S. 756, 761 (2018). Specifically, States must “remove the names of ineligible voters from the official lists of eligible voters by reason of—(A) the death of the registrant; or (B) a change in the residence of the registrant” to outside her current voting jurisdiction. 52 U.S.C. §20507(a)(4)(A)-(B). The law makes removal of dead or relocated voters “mandatory.” *Id.*; *Husted*, 584 U.S. at 767. Congress enacted these provisions “to ensure that accurate and current voter registration rolls are maintained.” 52 U.S.C. §20501(b)(4).¹

¹ Congress also enacted the Help American Vote Act (HAVA), which requires list maintenance on a regular basis in accordance with the NVRA, and requires States to ensure that voter registration records are accurate and are updated regularly. 52 U.S.C. §21083(a)(2)-(4). The DNC objects to Plaintiffs’ including HAVA in their complaint, because relief is requested under the NVRA. *See* DNC Br. 17. But the NVRA requires states to make “reasonable efforts.” Because the NVRA and HAVA address the same subject matter, they should be read consistently, and HAVA’s provisions inform whether an effort is “reasonable” under the circumstances. *See* RNC, 120 F.4th at 404-05 (interpreting what “HAVA and the NVRA require” co-dependently for voter registration, when plaintiffs brought claims only under HAVA).

Defendants and Intervenors dispute these duties. State Br. 26; DNC Br. 29-30. First, they argue that the provision of the NVRA pertaining to removing the names of relocated voters is not mandatory. Second, they argue that NVRA does not require that inter-county and intra-county changes of residence be treated differently. But both arguments are foreclosed by the text of the statute, its structure, and binding precedent. To start, §20507(a) is mandatory on its face: “each State *shall* ... conduct a general program that makes a reasonable effort” to remove voters from the rolls “by reason of—(A) the death of the registrant; or (B) *a change in the residence of the registrant*, in accordance with [§20507(c)].” 52 U.S.C. §20507(a)(4) (emphasis added). And subsection (c) subjects only *inter-county* movers to the conditions of §20507(d)(1)(B)—that is, when those movers fail to return a notice card and appear to vote in subsequent elections, the same conditions applicable to out-of-state movers. All this is prefaced and conditioned by §20507(a)’s use of the word “shall,” and capped at the end by §20507(d)(3), which states “[a] voting registrar *shall* correct an official list of eligible voters ... in accordance with change of residence information obtained in conformance with this subsection.” *Id.* (emphasis added); see *Sheppard v. Riverview Nursing Ctr.*, 88 F.3d 1332, 1335 (4th Cir. 1996).

To avoid these mandatory requirements, Defendants invoke the NVRA’s so-called “safe harbor” provision. See State Br. 26-27. That provision says that “[a] State may meet” the “reasonable efforts” requirement by using “change-of-address information supplied by the Postal Service” to identify voters who might have moved. 52 U.S.C. §20507(c)(1)(A). But to initiate that process, States must send voters a “postage prepaid and pre-addressed return card” used “to confirm the change of address,” followed by actual removal when a voter fails to return the card. *Id.* §20507(c)(1)(B)(ii), (d)(2). As explained below, Maryland has not adopted that process. But in any event, at “the stage of this proceeding” whether the State Defendants actually “satisfy the ‘safe harbor’ provision is best resolved after further development of the record.” *Voter Integrity Project NC, Inc. v. Wake Cnty. Bd. of Elections*, 301 F. Supp. 3d 612, 620 (E.D.N.C. 2017) (denying motion to dismiss “reasonable efforts”

complaint). On a motion to dismiss, the Court cannot merely credit Defendants’ “claims that the state’s compliance with that obligation qualifies it for a ‘safe harbor’ provided in the NVRA.” *Green v. Bell*, 2023 WL 2572210, at *5 (W.D.N.C. Mar. 20, 2023) (denying motion to dismiss “reasonable efforts” complaint).

Defendants safe-harbor argument defines “registrar’s jurisdiction” as the entire State. *See* State Br. 31-32; DNC Br. 25, 29-30. But Congress, not Maryland, defined “registrar’s jurisdiction.” *See* 52 U.S.C. §20507(j). And Maryland does not meet the definition of a statewide “registrar’s jurisdiction.” *Id.* §20507(j)(3). The entire state can be treated as a consolidated municipality only if a single office performs “all of the functions of a voting registrar.” *Id.* In Maryland, the functions of a voting registrar are shared between the State Board of Elections, the Administrator of Elections, and the Local Boards of Election. *See* Md. Code, Elec. Law §3-101(c)-(d). All parties apparently agree that the Administrator and State Board are “charged with overseeing and maintaining voter registration.” State Br. 32. But even while admitting the State Defendants’ policymaking and oversight responsibilities, Defendants overlook the duties of the “local boards” in “ensur[ing] the currency and accuracy of each individual voter’s registration record,” as well as “processing voter registration applications and name and address changes,” “entering voter registration information into the statewide voter registration list,” and “removing from the statewide voter registration list information about voters who are no longer eligible to be registered voters.” Md. Code., Elec. Law § 3-101(c); *see also id.* 3-502(c) (“the election official *in the county* where the voter most recently resided in the State shall send the voter a confirmation notice informing the voter of his or her potential inactive status.” (emphasis added)). Various duties are also assigned to “election directors,” county-level officials. *See id.* 2-206, 3-501 (outlining duties of election directors). Indeed, that Defendants instruct “local boards” to perform duties is good—if not dispositive—evidence that the State Defendants don’t perform “all of the functions of a voting registrar.” *Contra* 52 U.S.C. §20507(j)(3).

Defendants also point out that Maryland maintains a “statewide voter registration list.” State Br. 32 (quoting Md. Elec. Law § 3-101(a)). That’s true of all States. HAVA requires States to adopt computerized statewide voter registration lists and maintain them “on a regular basis” in accordance with the NVRA. 52 U.S.C. §21083(a)(2)(A). In passing that requirement, Congress didn’t nullify all functions of local registrars. *See id.* §20507(j)(1), (2). And it certainly didn’t nullify the requirement to remove inter- and intra-county movers. *See id.* §20507(c)(1)(B). That Maryland, like every other State, maintains a “statewide voter registration list” as required by HAVA is thus irrelevant to whether one government office performs “*all* of the functions of a voting registrar.” *Id.* 20507(j)(3) (emphasis added).

Defendants next point out that the Administrator of Elections is “the State’s chief election official charged with overseeing and maintaining voter registration,” which they argue means that the “registrar’s jurisdiction” is the entire State of Maryland. State Br. 32. But the NVRA’s structure makes clear that the Administrator does not perform “all of the functions of a voting registrar” merely by being the State’s chief election officer. After all, the NVRA requires each State to “designate a State officer or employee as the chief State election official.” 52 U.S.C. §20509. It would be strange indeed if Congress nullified paragraphs (j)(1) and (j)(2) by requiring every State to appoint a state official whose very existence slotted them in paragraph (j)(3). Under Defendants’ reading, *no State* would qualify under paragraphs (j)(1) and (j)(2), rendering those provisions mere surplusage. *Cf. Nielsen v. Preap*, 586 U.S. 392, 414 (2019) (“[E]very word and every provision is to be given effect and that none should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.” (cleaned up)). Moreover, if “voting registrar” and “chief state election official” were synonymous, the statute would use the same language. *See Sosa v. Alvarez-Machain*, 542 U.S. 692, 711, n.9 (2004) (“when the legislature uses certain language in one part of the statute and different language

in another, the court assumes different meanings were intended”). Statutory context defeats Defendants’ state-discretion theory.

Finally, Defendants’ argument fails even granting their flawed premise that “[t]he ‘registrar’s jurisdiction’ in Maryland is the entire state.” State Br. 32. Defendants fight for that premise in an attempt to avoid the NVRA’s “removal process on a registrant moving ‘to a different residence address not in the same registrar’s jurisdiction.’” State Br. 31 (quoting 52 U.S.C. §20507(c)(1)(B)(ii)). But even qualifying as a “consolidated” registrar’s jurisdiction under paragraph (j)(3) doesn’t absolve Maryland from complying with the NVRA’s other provisions. It just means that upon receiving information that “a registrant has moved,” the “registrar” must proactively “change[] the registration records” and provide notice of that change, rather than going through “the notice procedure described in subsection (d)(2).” 52 U.S.C. §20507(c)(1)(B)(i), (ii). Regardless, Defendants are required to treat inter-county and intra-county voters differently. Defendants’ willingness to dispute those duties is as good as a concession that they are not implementing a reasonable program that complies with those duties. The Court should thus deny the motions to dismiss.

III. Plaintiffs’ Amended Complaint plausibly alleges an NVRA violation.

Plaintiffs plausibly allege that Defendants are not complying with their duties under the NVRA. Maryland’s voter rolls display abnormally high registration rates, and Defendants’ policies for removing the names of deceased and relocated voters have known flaws. Even if those policies were “reasonable” on their face, the Complaint raises a plausible inference that Defendants are not implementing those policies in a reasonable manner.

A. Maryland’s outlier registration statistics raise the inference that Defendants are violating the NVRA.

Maryland’s voter registration rate is far above the national average during the past three elections. That fact, coupled with the lack of any Maryland-specific factor to explain the size of the

departure from numbers expected in a State meeting its NVRA obligations, raises at least a plausible inference that Defendants are violating the NVRA.

1. Maryland counties are significant or impossible outliers.

The Amended Complaint alleges that Maryland had an active registration of between 96% and 96.4%, and a total registration rate of active and inactive voters at 101% and 103.3%, depending on which data source is used. Am. Compl. ¶¶76-78. That statistic indicates potentially 143,739 more registered voters than eligible voters in the State. *Id.* Six counties, Queen Anne's, Howard, Frederick, Charles, Montgomery, and Worcester, show a registration rate above 100%, and at least seven other counties maintain suspiciously high rates of active voter registration above 95%. *Id.* ¶¶79-80. Meanwhile, average voter registration across the nation, according to the U.S. Census Bureau's CVAP data, remained close to 70% for the last three election cycles. *Id.* ¶¶84-86. That puts Maryland's registration rates 25-30% higher than national averages—drastic outliers. As Plaintiffs allege, discrepancies on this scale cannot be accounted for by early registration of 16-year-olds, which make up less than 2% of voter registrations, or by recent migration of voters to Maryland, which is exceeded by domestic out-migration away from Maryland. *Id.* ¶¶88-89. The only explanation is poor list maintenance. At a minimum, that's a plausible explanation.

The DNC seeks to supplant the Complaints' statistical allegations with its own. It argues that the true registration rates in Maryland are lower, and the nationwide average registration rates are higher, than Plaintiffs allege. State Defendants do not make those arguments. They rightfully accept these factual allegations in the complaint as true. The DNC is wrong, contradicts itself, cannot rely on these figures at this stage, and even in their best-case scenario cannot account for the size of Maryland's statistical discrepancy from national averages.

Plaintiffs' methodology has been repeatedly upheld. Their "census data is reliable," *American Civil Rights Union v. Martinez-Rivera* [ACRU], 166 F. Supp. 3d 779, 791 (W.D. Tex. 2015), especially

since Plaintiffs used “the most recent census data available at the time of the filing of [their] complaint,” *Voter Integrity Proj.*, 301 F. Supp. 3d at 619. Regardless, this Court cannot dismiss the complaint even if it suspects that the “registration numbers may not be unreasonably high in context or there may be a reasonable explanation for them.” *Judicial Watch*, 554 F. Supp. 3d at 1107. At “the motion to dismiss stage, the Court does not ‘weigh potential evidence that the parties might present’” in this manner. *Id.* Defendants’ best support for their evidentiary dispute is a case decided “after a bench trial” that involved “dueling experts,” which only proves that this Complaint survives the motions to dismiss. *Bellitto v. Snipes*, 935 F.3d 1192, 1194, 1197 (11th Cir. 2019). Indeed, the DNC relies on *Bellitto* more than any other case. *See* DNC Br. ii (table of authorities).

If the Court could wade into the DNC’s factual disputes, it would find numerous contradictions. The DNC first argues that the plaintiff’s statistics are “misaligned.” DNC Br. 19-21. It argues that the Complaint compares statistics from two different sources, and that the allegation that Maryland’s registration rates are an outlier is “actively misleading.” DNC Br. 21. The DNC suggests that the 2024 EAVS reports estimates a nationwide average of 86.6% active registration, and that this is the number the Court should use. According to the DNC, its preferred data is more reliable and a better comparator. DNC Br. 22-24. Putting aside for a moment that this number is still significantly lower than Maryland’s registration rates, the DNC cannot substitute its own preferred data for the allegations in the Complaint. While the DNC argues that the Court should take judicial notice of their data, judicial notice does not permit a court to make conclusions and assumptions about what data is more reliable or appropriate. “Only indisputable facts are susceptible to judicial notice.” *Nolte v. Cap. One Fin. Corp.*, 390 F.3d 311, 317 (4th Cir. 2004) (citing Fed. R. Evid. 201(b)). The case the DNC relies on (at 22) observed that while “courts may take judicial notice of official government reports and statistics,” the “[t]he facts stated in the affidavit in this case, such as they are, are not sufficient on their face to support an invalidation of the sole use of [voter] lists.” *United States*

v. Cecil, 836 F.2d 1431, 1452 (4th Cir. 1988). Likewise, the DNC cannot use a government report to spin factual assertions in its favor, nor to dispute the factual allegations in a complaint. Rather, “[t]he fact-intensive dispute about the accuracy and significance of the Plaintiffs’ statistics must be resolved at the summary-judgment stage or at trial.” *Bell*, 2023 WL 2572210, at *5 (denying motion to dismiss similar NVRA complaint). So at this stage, the DNC’s alternate narrative at most creates a factual dispute over the reliability of sources—a dispute the Court cannot resolve in this posture. *See Voter Integrity Proj.*, 301 F. Supp. 3d at 619 (Even if “defendant-intervenors have advanced a potentially reasonable explanation for the high registration rate” the “validity of that explanation is not appropriate for determination at this early stage of the litigation.”).

In any event, the DNC’s counterfactual allegations rest on flawed assumptions this Court can’t credit. For example, the DNC prefers the EAVS estimate of voter-registration rates to the Census Bureau’s voter registration rates because the Census Bureau relies on self-reported registration rather than state-reported registration. *See* DNC Br. 21-22. But there’s good reason to prefer the Census Bureau’s method when measuring whether the state-reported registration is an accurate representation of qualified voters. *See Voter Integrity Proj.*, 301 F. Supp. 3d at 619. The DNC denigrates the Bureau’s methodology as measuring “whether respondents *believe* they are registered to vote,” DNC Br. 16, but the Bureau is far more thorough than the DNC suggests. The Bureau asks “voting and registration questions” only of “persons who were both U.S. citizens and 18 years of age or older.” *Current Population Survey, November 2024 Voting Supplement File*, U.S. Census Bureau 3-1, perma.cc/5RNA-XZ4Q. In the most recent questionnaire, citizens were asked both whether they voted “in the election held on Tuesday, November 5, 2024,” and whether they were “registered to vote in the November 5, 2024 election.” *Id.* at 7-1, 7-2. The Bureau assumes that anyone who voted in the election was

registered,² and then adds those who answered “Yes” when asked if they were registered to vote. *Id.* at 3-1. So if that methodology is inaccurate (which is beside the point at this stage), it’s because it rests on assumptions that likely overrepresent the number of registered voters. That’s a classic example of reasonable inference that must be drawn in Plaintiffs’ favor. *Vitol*, 708 F.3d at 543. Moreover, the discrepancy between the voter-reported rate (73.6%) and the state-reported rate (86.6%) is exactly what one would expect if Maryland were keeping voters on the rolls who thought (and thus reported in the census) that they were not eligible for any number of reasons—another reasonable inference. *Id.*

Regardless, the Complaint alleges that the statistical disparity persists even when using substitute sources. Am. Compl. ¶¶81-83. And even though the DNC objects to Plaintiffs’ use of Census Bureau CVAP data, they rely on it throughout their brief as an accurate representation of the number of eligible voters in Maryland. DNC Br. 23-24, n.6. (citing U.S. Census Bureau, *ACS 1-Year Estimates Detailed Tables, tbl. B05003 (Maryland)* and county data). Using Census Bureau data is just fine, it seems, when it suits the DNC. Defendants are welcome to parse out exactly which Census Bureau datasets are best suited to their defense. But those arguments are properly made when evidence—not allegations—is required.

After moving the baseline for national averages, the DNC then attempts to shave off slivers of data to make Maryland’s numbers more palatable. The Amended Complaint addresses each of these slivers, and none move the needle on the ultimate question. For example, the DNC says the Complaint did not account for Maryland’s pre-registration of 16- and 17-year-olds, but it did. Am. Compl. ¶89 (“Nor can discrepancies on this scale be attribute to early registration of 16-year-olds”). The number of pre-registered teenagers increases registration rates statewide by less than two percent. *See* Am.

² “Item S1 asked respondents if they voted in the November 5th election; if they responded ‘Yes,’ they were skipped to Item S5. Otherwise, they were asked if they were registered to vote in the November 5th election (Item S2).”

Compl. Exh. B. at 6. Those numbers can't explain a 20%-30% gap between Maryland and the nationwide average, which includes the many other states that pre-register 16 and 17-year-olds. Similarly, the DNC argues that more recent data is available that reduces Maryland's statewide registration by 1.4%. DNC Br. 24. Those numbers also don't bridge the gap, even combined with the pre-registered teenagers. All told, the DNC claims that these reductions bring Maryland's true 2024 active voter registration rate to 93.5%, Charles County to 96.3%, Frederick County to 95.0%, Howard County to 99.9%, Montgomery County to 97.6%, Queen Anne's County to 101.8%, and Worcester County to 98.8%. While those numbers are marginally lower, the difference is hardly dramatic. Each still tops out near-or above 100% of eligible voters—keeping in mind that these figures do not even include inactive but eligible voters, who make up percentages larger than pre-registered voters. *See Inactive Voters on the Precinct Register – By County*, Maryland State Board of Elections (April 28, 2024) perma.cc/J2WH-C54P (reporting 335,915 inactive voters registered for the 2024 presidential primary in Maryland).

All this hair-splitting over single percentage differences, or the efficacy of different statistical sources, is precisely the type of factual arguments appropriate for discovery, not the pleadings. Courts are not equipped to compare the reliability of different complex databases on a motion to dismiss. Plaintiffs have a right to pursue discovery, present expert testimony, and present all evidence on their allegations to disprove Defendants counter-allegations. Despite Defendants' attempts to hand-wave, the Complaint plausibly alleges that Maryland's voter rolls are statistical outliers.

2. The inference that Maryland is violating the NVRA is reasonable.

Even if the Court accepted each of Defendants' explanations to beautify Maryland's records—which it cannot do in this posture—Defendants cannot bring their statewide registrations rates within even 10 percentage points of national averages. *Cf.* DNC Br. 24. Even in Defendants' best-case scenario, Maryland maintains 93.5% active voter registration, and all six of the counties report above

100% remain at or above 95% (Queen Anne’s County remains above 100% even in the DNC’s world). DNC Br. at 20. All while the national average stays steady around 70%. And although 93.5% is a bit closer to the Defendants preferred national average of 86.6%, it is still a sizable, unexplained gap, made all the wider when considering the 335,915 inactive voters still on the rolls who push the total registration rate to an impossible 100.9%. *See Inactive Voters on the Precinct Register – By County*, Maryland State Board of Elections (April 28, 2024) perma.cc/J2WH-C54P.³

That massive gap alone raises an inference that Defendants are violating the NVRA. These “unreasonably high registration rate[s]” create a “strong inference of a violation of the NVRA” that is “sufficient,” on its own to survive a motion to dismiss. *ACRU*, 166 F. Supp. 3d at 805. “Other courts” agree that “a registration rate in excess of 100%” indicates that a jurisdiction is “not making a reasonable effort to conduct a voter list maintenance program in accordance with the NVRA.” *Judicial Watch*, 554 F. Supp. 3d at 1107; *Voter Integrity Proj.*, 301 F. Supp. 3d at 620; *Bell*, 2023 WL 2572210, at *5; *ACRU*, 166 F. Supp. 3d at 793.⁴

Defendants attempt to draw a brightline of 100% registration as a threshold for reasonable efforts. But 100% registration is merely when registration rates go from incredibly unlikely to impossible. While registration rates over 100% are a sure sign that reasonable efforts are not being made, rates near 100% are still remarkably improbable. It would be absurd to say that, as a rule, a claim is plausible if the registration rate is 100.1%, but implausible if it is 99.9%. *See* DNC Br. 25 (claiming that Howard County’s 2024 registration rate without pre-registrants is “99.9%”). Defendants

³ The DNC recites the total of Maryland citizens over the age of 18 as 4,471,244, plus 52,510 pre-registered teens. DNC Br. 22-23. And 335,915 is 7.4% of 4,523,754.

⁴ As for *RNC v. Benson*, 754 F. Supp. 3d 773 (W.D. Mich. 2024), the DNC is wrong that the court there “dismiss[ed] [the] claim based on registration and population data from different years.” DNC Br. 19. The court dismissed that case on standing and “without prejudice,” which means it couldn’t have reached the merits. *RNC v. Benson*, 2025 WL 2731704, at *3 (6th Cir. Sept. 25, 2025). *Benson* is irrelevant here, where Fourth Circuit precedent squarely supports standing. Even if that court had jurisdiction to reach the merits, its fact-intensive analysis on the pleadings is an outlier among half a dozen other courts across the country.

ask the Court to conclude that a 0.1% difference is enough to render the allegations implausible. Defendants brightline is an especially bad fit for NVRA litigation, where the standard of “reasonable effort” is necessarily an evaluation of the circumstances. And even if the plausibility of “reasonable efforts” could turn on such a minute difference, the difference vanishes when considering inactive voters, because both the statewide registration list and the county registration lists contain more total entries—counting inactive registration—than there are eligible voters.

As Plaintiffs allege, and the facts show, discrepancies on this scale cannot be attributed to early registration of 16-year-olds, or any other Maryland-specific demographics. All that is left is the strong inference that Defendants are violating the NVRA, and failing to maintain their voter rolls. State Defendants suggest that the Complaint pleads by implication. But courts often rely on inferences to conclude that a claim is plausible, and this Court can do the same here. *Vitol*, 708 F.3d at 543; *Iqbal*, 556 U.S. at 678 (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged”); *ACRU*, 166 F. Supp. 3d at 794 (high registration rates created a “strong inference of a violation of the NVRA” and “adequate to survive a motion to dismiss”). State Defendants cannot change the Rule 8 standards because it suits them.

The evidence of high registration rates coupled with the lack of “any other Maryland-specific” explanation for the abnormally high registration rates permits a reasonable inference. Am. Compl. ¶89. Defendants argue that “voter registration rates ... alone, however, do not state a claim.” State Br. 28. That argument ignores the well-pleaded allegations laying out the State’s insufficient policies regarding use of death records, record of failed legislative audits, and the State’s departure from the NVRA when it comes to inter-county movers and unreturned mail notices. Courts have held that a complaint plausibly alleges a failure to conduct “reasonable efforts” even without those extra

allegations. *E.g.*, *ACRU*, 166 F. Supp. 3d at 805. The Complaint’s other allegations thus remove any doubt that Defendants are violating the NVRA.

B. Maryland does not meet NVRA standards for registrants who change their address.

As discussed above, removing the names of voters who move out of a registrar’s jurisdiction when that voter fails to respond to a confirmation mail notice, and then fails to appear in subsequent elections, is required by the NVRA. *Supra* 16-17. Defendants’ rejection of that duty does not excuse non-compliance.

Plaintiffs allege that Maryland does not distinguish between intra-county and inter-county movers as required by the NVRA. Am. Compl. at ¶96. Plaintiffs identified the specific departure from those requirements—Maryland does send confirmation notices to inter-county movers, but does not inactivate or eventually cancel these voters’ registrations unless the confirmation notice is returned. *Id.* at ¶97. When a voter moves to a new jurisdiction, but their previous registration is not removed or updated, their voting file is at best inaccurate, and at worst, duplicated when the voter later makes a new registration in their new jurisdiction. Defendants ask this Court to take judicial notice of the raw totals of voters removed in previous years. State Br. 14. (claiming that Defendants have removed “anywhere from 80,000 to 180,000” voters from its registration list since 2019, using the NVRA’s mail verification process). Those numbers alone do not tell the whole story. More than 1.5 million confirmation notices went unreturned in Maryland between the 2022 general election and the 2024 general election, but only 123,312 voters were removed for failing to respond. *Id.* at ¶100. And despite Defendants’ assurances, door-knocking efforts by Plaintiff MDGOP revealed that “nearly 7% of contacted registered voter no longer resided at the address where they were officially registered.” *Id.* at ¶36. The substantial likelihood of these inaccurate and duplicated registrations is directly caused by Defendants’ policies. *Id.* at ¶112. These allegations “raise a right to relief above the speculative level.” *Vitol*, 708 F.3d at 543. It is more than plausible that these deficiencies are not consistent with a general

program that makes a reasonable effort to maintain accurate voter registration. Defendants do not even dispute that their approach to inter-county movers departs from the envisioned program laid out in §20507(c)(1)(B). *See* ECF 25-1 at 25.

Maryland law purporting to prohibit removing a voter from the rolls because of an inter-county move does not alleviate Defendants from their obligations under the NVRA. The NVRA's removal obligations are "mandatory." *Husted*, 584 U.S. at 767. And state law cannot overrule federal election law. "The United States Constitution vests in the states the authority to regulate federal elections but reserves to Congress the prerogative to alter a state's procedures." *Bellitto*, 935 F.3d at 1198. "Congress exercised [that] authority" when it "adopted the [NVRA]." *Id.* Defendants cannot take harbor in state laws that depart from federal requirements. They only confirm that their general program does not comply with the requirements of the NVRA.

C. Maryland does not meet NVRA standards for deceased registrants.

Under the NVRA, Defendants must "conduct a general program that makes a reasonable effort to remove the names' of voters who are ineligible 'by reason of' death." *Husted*, 584 U.S. at 761. That means when a registered voter dies, Defendants must "remove the names of [the] ineligible voters from the official lists of eligible voters." 52 U.S.C. §20507(a)(4).⁵

Defendants claim that they make reasonable efforts to remove deceased voters from active status. State Br. 28-30. But their policies and history of failure tell a different story. As alleged in the complaint, Defendants have been twice audited and criticized for their failure to ensure deceased voters are removed from the rolls. Am. Compl. ¶¶105, 108-11. These failures included both inadequate efforts to identify deceased voters, *id.* ¶¶108-09, and failure to act on voter registrations even once a

⁵ The DNC argues that allegations related to non-citizens and duplicate entries on the rolls are not properly part of a claim under the NVRA. DNC Br. 12 But that Defendants' programs are failing to remove non-citizens or detect duplicate entries provides more evidence that their programs are not reasonable, because Plaintiffs have alleged a "systemic" failure to maintain accurate voter rolls. Am. Compl. ¶105.

death was known. *Id.* ¶¶110-11. Despite promising to do better, Defendants continue to arbitrarily restrict the sources that will lead to cancelling the registration of deceased voters. *Id.* ¶114. One voter's father remained on the rolls for three years after he died. *Id.* ¶116. And Defendants pressure local boards to move inactive registrations back to active status when a deceased voter does not respond to an inquiry. *Id.* ¶118.

Defendants argue that they removed 88,132 deceased voters from the rolls between 2022 and 2024, and that they have implemented new policies since failing the 2019 and 2023 legislative audits. State Br. 33-35; DNC Br. 26-28. Neither of those arguments renders the allegations in the complaint implausible. First, the removal of some voters does not show that reasonable efforts are being made, as evidenced by the fact that Maryland failed its second audit during that same time period. *Id.* ¶105. For example, as of May 2022, one local board had not removed a voter 332 days after receiving notification of the voter's death. Office of Legislative Audits, *Audit Report: State Board of Elections*, at 12 (Oct. 31, 2023). Second, Defendants reliance on supposed new policies should not re-assure this court. Their policies have not improved the statistical disparities between Maryland and the rest of the country. *See supra* 20-25. And “[g]iven the stage of this proceeding, the court has no information about [Defendant’s] compliance with those procedures.” *Voter Integrity Proj.*, 301 F. Supp. 3d at 620.

But it is what the Defendants do not say that is most telling. Defendants do not deny that they intentionally limit local boards to a restrictive list of sources to confirm deceased voters, nor do they deny that they pressure local boards to move an inactive voter to active status if a confirmation of their death goes unreturned. While a “state is not required to exhaust all available methods for identifying deceased voters,” the non-use of a “readily available tool ... may be relevant to determine the reasonableness of [Defendant’s] efforts at voter maintenance.” *PILF v. Benson*, 136 F.4th 613, 626 (6th Cir. 2025); *Voter Integrity Proj.*, 301 F. Supp. 3d at 619. And nowhere do Defendants explain how any of their policy changes will improve the implementation of their

promised oversight for local boards that fail to remove deceased voters, a repeated finding of failure in the two legislative audits. *See* Am. Compl. ¶111; Office of Legislative Audits, *Audit Report: State Board of Elections*, at 11-12 (Oct. 31, 2023). While Defendants claim they have now introduced “fuzzy” matching for death records, they give no account for this second failure identified in the complaint and twice by auditors. The policies and programs alleged in the complaint work *against* removing deceased individuals at every turn, they do not make a reasonable effort to remove them.

D. Maryland has failed to reasonably conduct its program.

The NVRA requires more than the mere existence of rules, statutes, or guidance governing when to remove ineligible voters. A State must actually “conduct” the program, and “make[] a reasonable effort.” 52 U.S.C. §20507(a)(4). Thus, Defendants’ recitals of Maryland law are irrelevant without evidence that Maryland is conducting that law in a way that is compliant with the NVRA—evidence that is not available at this stage. *Cf.* DNC Br. 6. Defendants’ voter maintenance did not fail two consecutive audits based on insufficient Maryland law, but because its efforts to implement those laws and the NVRA were insufficient. *See* Office of Legislative Audits, *Audit Report: State Board of Elections*, at 8, 10-12 (Oct. 31, 2023). At the motion-to-dismiss stage the Court cannot credit the mere assertion of a defendant that its efforts are reasonable. *Judicial Watch*, 554 F. Supp. 3d at 1108-09; *Voter Integrity Proj.*, 301 F. Supp. 3d at 620.

In one of the more publicized examples, Maryland did not remove Ian Roberts, a non-citizen living in Iowa, for *years*. Am. Compl. ¶¶31, 115. He remained on Maryland’s voter rolls even though Maryland “authorizes the removal of voters from the statewide voter registration list ‘if the voter has moved outside the State.’” *Cf.* DNC Br. 2 (citing Md. Elec. Law §3-501(3); COMAR §33.05.07.01(A)). Defendants could not confirm whether he was improperly registered. Am. Compl. ¶115. Maryland does not remove voter registrations even upon a voter’s personal request, as shown by the ordeals of voters alleged in the complaint. *Id.* ¶¶116, 117. One voter who moved to Washington D.C. was not

removed from the rolls even after sending three letters to the State Board. *Id.* Neither did the board remove her father's registration, who passed away three years ago. *Id.* One resident moved to North Carolina around 2017, and was still receiving mail-in ballots through the 2025 special elections despite numerous requests and returned mail to the Board. *Id.* Another voter moved away around 2000, and it took 25 years for the board to update her registration, and even then it only moved the registration from active to inactive, despite numerous calls to the State Board. *Id.* The Complaint alleges that these problems are systemic, not isolated. *Id.* ¶¶32-33. Defendants' policies also produce inaccurate or duplicate registrations. *Id.* ¶36. Similarly, even though Maryland law requires the removal of deceased voters, Md. Code, Elec. Law § 3-501(2)(ii), thousands of deceased voters remained on the rolls and were easily discovered. Am. Compl. ¶110. These failures persist even if Maryland's laws were facially consistent with the NVRA—and the Defendants do not dispute that they differ, *supra* II.B—Defendants do not make reasonable efforts to conduct their programs.

Defendants suggest that all their policies and efforts are subject to reasonable debate. But the facts show that Defendants' policies and efforts fail to remove voters when a reasonable system would do so, leading to statistically anomalous and inaccurate voter registrations. That's why the State Board of Elections has failed the last two consecutive audits by the Office of Legislative Audits of the Maryland General Assembly. *Id.* at ¶111. In 2019, the Office of Legislative Audits concluded that the Defendants were not doing enough to direct local boards to remove the names of deceased voters. *Id.* The Defendants promised to do better, with the State Board promising to remove names itself if the local boards did not act. *Id.* They did not. Despite promising to rectify their mistakes in 2019, the same flaws persisted through the next audit in 2023. *Id.* The local boards did not follow through, and the State Board did not act on any of the information it promised would change its approach. *Id.* The 2023 Audit found that “the review of voter registration data remained inadequate.” Office of Legislative Audits, *Audit Report: State Board of Elections*, at 11, 12 (Oct. 31, 2023). And Defendants

continue to restrict local boards beyond reason from removing voter registrations or from moving active registrants to inactive. Am. Compl. ¶¶116, 117, 118 (Defendants instruct local boards to limit removals only to “voter requesting in writing that their record be cancelled, or from information sent by a legally prescribed and verified source,” exclude information from other databases, family members, or other household residents, and pressure local boards to move inactive voters back to active status). That effort is neither “rational” nor “sensible.” *PILF*, 136 F.4th at 625-26.

In response to the 2023 Audit, the Defendants promise to do better again and claim they have changed their policies. *See* State Br. 33-34. There is no reason to believe that the supposed changes since then represent a sea-change, bringing Maryland into compliance with the NVRA—especially considering the statistical outlook has not improved since then. The NVRA requires more than a state playing promise-to-do-better-next-time each time an audit reveals glaring faults. This steady course of failure is nothing like a “general program that makes a reasonable effort to remove the names of ineligible voters from the official lists.” 52 U.S.C. §20507(a)(4).

The Defendants’ failure to maintain accurate voter rolls violates federal and jeopardizes the integrity of the State’s future elections. Plaintiffs suffer numerous harms from this failure, and the Court should not dismiss this case just because Defendants give lip-service to the rule.

CONCLUSION

For these reasons, the Court should deny the motions to dismiss. In the alternative, the Court should grant leave to amend.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 8, 2026, this filing was served by CM/ECF on all registered users.

/s/ Cameron T. Norris
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