



June 14, 2024

CEIR Focus Brief: Election Officials & the Misuse of Public Records Requests

Overview

This brief describes recent efforts by states to provide relief and protection to election officials who are being inundated with frivolous, misinformed, or vexatious public records requests that may disrupt election administration.

While public records requests are an important mechanism of government transparency, over the last few years, election officials around the country have reported a sharp increase in the volume and scope of such requests

received by their offices. In many jurisdictions, this has diverted attention, time, and resources away from the critical administration of other ongoing election tasks. Many of these requests appear based on false claims and misunderstandings about election administration policy, raising additional concerns about a feedback loop with the potential to further undermine trust in the election process.

CEIR reviewed state laws passed since the 2020 general election and bills considered but not enacted as part of states' 2024 legislative sessions as of June 14, 2024. This review identified four different ways that states' recent efforts have sought to ease the strain of frivolous, misinformed, and vexatious requests on local election officials: (1) processing election-related records requests at the state level, (2) consolidating public elections records and data into a single public database, (3) granting public officials greater leeway to challenge or deny frivolous, vexatious, or misinformed requests, and (4) specifying what constitutes a "reasonable effort" to accommodate a request. These approaches are not mutually exclusive, and CEIR's review identified various pieces of legislation that appeared to borrow elements of multiple approaches.

"The only way to look at it is as a denial-of-service attack on local government."

Matt Crane, Executive Director,
Colorado County Clerks Association¹

Understanding the Issue & the Impact on Election Officials

In recent years, a growing number of local election offices have reported a substantial increase in the number of requests received. Many of these requests ask for an excessively broad range of records, cover a long or unspecified time frame, or both, and many appear grounded in misinformation about election administration. Such requests require long hours—sometimes weeks—of dedicated staff time to prepare. For example, in Wake County, North Carolina, officials reported a sevenfold increase in the number of election-related records requests received from 2020 to 2022, leading the county to increase its budget to hire a new staff member dedicated to processing incoming requests.² In 2022, officials in Maricopa County, Arizona, reported one request that required nearly half the election office’s staff to spend four days sorting and scanning 20,000 documents.³ This staff time is needed for ongoing and critical functions of election administration.

These issues are further compounded when some requesters misunderstand or mischaracterize the records they receive. When false claims are spread about public records, more requests for more records often follow. Local election officials in states like Florida and Michigan have reported spending anywhere from 25% to over 70% of their time just on processing public records requests in recent years. Officials in states like Virginia have complained that they have been unable to engage in routine tasks like voter outreach due to the volume of requests received.⁴

Officials have thus characterized these burdensome requests as resembling “a denial-of-service attack on local government.”⁵ With the 2024 general election approaching and the new widespread availability of generative AI, some experts are now raising concerns that this issue may only continue to worsen.⁶

Addressing the Impact on Election Officials Specifically

CEIR’s review of recent state laws and legislation identified two approaches to this issue tailored to address the specific impacts on local election officials of burdensome requests: (1) processing election-related records requests at the state level, and (2) consolidating public elections records and data into a single public database.



Processing Election-Related Records Requests at the State Level

Under a law enacted in the State of Washington in 2023, all requests for records from the statewide voter registration database or for any standard reports generated by

the database must be made to and fulfilled by the secretary of state.⁷ County election offices are no longer required to produce any records in response to such a request; if they do receive a request for such information, they must instead promptly direct the requesting individual to make their request of the secretary’s office. Instead of 39 different counties each fielding requests for potentially sensitive voter information—including lists of registered voters or voter history files—the state is able to centrally process and respond to such requests in a more efficient manner.



Consolidating Public Elections Records and Data into a Single Database

As of June 14, 2024, at least four states—Hawaii, Kansas, Michigan, and New York—have considered but not enacted bills in their 2024 legislative sessions that would consolidate elections records and data into free, publicly accessible databases. Bills in Michigan and New York would establish databases through university partnerships in their respective states to store and disseminate elections data through a “Voting and Elections Database and Institute.”⁸ Other bills in Hawaii, Kansas, and New York would require state election entities to publish election-related data and materials on their websites.⁹ Another bill considered in New York would create a general public facing database of publishable government records.¹⁰ These bills all aim or aimed to alleviate the burdens of public records requests on election officials by making most relevant records readily available at no cost through another statewide entity.

Broader Protections Against Burdensome Requests

Additionally, CEIR’s review identified two approaches states have taken through legislation or regulation to expand general protections for government officials around public records requests: (3) granting public officials greater leeway to challenge or deny burdensome requests, and (4) specifying what constitutes a “reasonable effort” to accommodate a request. While these laws and regulations are not tailored specifically to election administration, election officials can still benefit from the broader protections.



Granting Greater Leeway to Challenge or Deny Burdensome Requests

Since 2020, at least three states—Maryland, New Jersey, and Tennessee—have moved to permit government officials to challenge or deny burdensome requests under certain circumstances. The State of Maryland permits the State Public Information Act Compliance Board to consider the requester’s pattern or history of requests when

resolving complaints related to alleged frivolous, vexatious, or bad faith requests.¹¹ Similarly, in Tennessee, if an individual makes repeated requests for public records “with the intent to disrupt government operations,” officials overseeing such records are authorized until July 2025 to petition a court for an order to prevent a person from making requests for up to one year.¹² As of June 14, 2024, at least two states—New York and Pennsylvania—have considered but not enacted bills in their 2024 legislative session that would create similar pathways for relief in those states.¹³

In June 2024, New Jersey passed legislation that aims to expand the public’s access to government records while clarifying officials’ ability to deny burdensome requests.¹⁴ The new law will require government records, to the extent feasible, to be available through a publicly accessible website. Officials will be permitted to direct requestors to that website for available records. The public may still submit requests for records that are not available on the website. Officials are permitted to deny requests that do not have enough information, requests that contain an excessive amount of information that requires more than a reasonable effort to clarify, and requests that are identical or substantially similar to requests already pending before the agency. The new legislation also permits officials to ask their county court to issue a protective order against any requestor found to have sought records with the intent to substantially interrupt the performance of government function.



Specifying What Constitutes a “Reasonable Effort”

Since 2020, at least four states—Alabama, Colorado, Idaho, and Tennessee—have clarified guidelines for what constitutes a reasonable effort by a government office to fulfill a public records request. A Tennessee law enacted in 2022 specified that government entities are not required to compile information into a new record.¹⁵ Idaho now requires requests to be made to the designated custodian of the records and include sufficient detail to identify the correct records. Agencies may require that these details include a specific date range for when the records were created.¹⁶ Similarly, a new Alabama law that takes effect on October 1, 2024, specifies that public officers are not required to respond to a public records request that is vague, overly broad, or unreasonable in scope. This same law also specifies that public officers are not required to create a novel record where one does not already exist or to provide materials that are not public records in response to any request.¹⁷ As of June 14, 2024, at least one additional state—Pennsylvania—has considered but not enacted a bill in its 2024 legislative session that would require requests to be sufficiently specific and would

permit officials to consider the burden of responding to a request in a timely manner as they evaluate its specificity.¹⁸

In June 2024, Colorado passed a new law that clarifies reasonable timelines for election officials to respond to a request received during the busiest part of the election cycle.¹⁹ Beginning 60 days before Election Day and until the official certifies the final results of the election, any county election official who receives a request for public records that are in active use, storage, or otherwise not readily available may take additional time to fulfill the request. This additional time may extend the timetable for answering the request from three working days up to 20 working days.

Conclusion

Since the 2020 general election, election offices around the country have faced a major surge in requests for public records, diverting large amounts of time and resources away from the work of elections in order to respond to vague—and sometimes misinformed or hostile—requests for information.

This brief broadly identified four different approaches in states' recent efforts to ease the strain of burdensome requests on election officials: (1) processing election-related records requests at the state level, (2) consolidating public elections records and data into a single public database, (3) granting public officials greater leeway to challenge or deny burdensome requests, and (4) specifying what constitutes a “reasonable effort” to accommodate a request. These approaches are not mutually exclusive, and several states have considered legislation that draws on elements from more than one.

Lawmakers have an urgent opportunity to provide relief so overburdened election officials can continue to administer quality elections while upholding the essential democratic principles of transparent and accountable government.

This report is for informational purposes only and does not constitute legal advice. Readers with questions about how the information in this report might apply to them should consider contacting a lawyer in the relevant jurisdiction.

About this Series and CEIR

CEIR Focus Briefs are impartial overviews and analyses of issues, ideas, and innovations in the elections and democracy policy space. They provide background and practical information that voters, election officials, the media, and other stakeholders can use to quickly get up to speed on some of the most topical, consequential, and often overlooked issues affecting voter access and election administration. Other reports can be found at <https://electioninnovation.org/research>.

The Center for Election Innovation & Research (CEIR) is a nonpartisan nonprofit that conducts elections research and works with election officials from around the country and both sides of the aisle to support elections that voters should—and do—trust. We seek to restore trust in the American election system and promote election procedures that encourage participation while ensuring election integrity and security.

Citations and Additional Resources

¹ Amy Gardner and Patrick Marley, “Trump backers flood election offices with requests as 2022 vote nears,” The Washington Post, September 11, 2022, <https://www.washingtonpost.com/nation/2022/09/11/trump-election-deniers-voting/>

² Jen Fifield, “Where’s Celia?” Votebeat, updated October 13, 2023, <https://www.votebeat.org/arizona/2023/9/15/23874134/celia-nabor-maricopa-county-arizona-election-fraud-signature-verification-public-records/>

³ Nathan Layne, “Insight: Pro-Trump activists swamp election officials with sprawling records requests,” Reuters, August 3, 2022, <https://www.reuters.com/world/us/pro-trump-activists-swamp-election-officials-with-sprawling-records-requests-2022-08-03/>

⁴ Fifield, “Where’s Celia?”; Jane C. Timm, “Amateur fraud hunters bury election officials in public records requests,” NBC News, updated March 23, 2023, <https://www.nbcnews.com/politics/elections/amateur-fraud-hunters-bury-election-officials-public-records-requests-rcna15432>

⁵ Jess Bidgood, “America’s Election Workers Are Leaving in Droves,” The Boston Globe, October 23, 2022, <https://apps.bostonglobe.com/nation/politics/2022/10/democracy-under-siege/election-workers-leaving-in-droves/>; Gardner and Marley, “Trump backers flood election offices with requests as 2022 vote nears.”

⁶ Vittoria Elliott, “Election Workers Are Drowning in Records Requests. AI Chatbots Could Make It Worse,” WIRED, April 10, 2024, <https://www.wired.com/story/ai-chatbots-foia-requests-election-workers/>

⁷ SB 5459 (2023), Washington State Legislature, accessed September 26, 2023, <https://app.leg.wa.gov/billsummary?BillNumber=5459&Year=2023&Initiative=false#documentSection>.

⁸ SB 402 (2023), Michigan Legislature, accessed September 26, 2023, [http://www.legislature.mi.gov/\(S\(yy3fstwlosjzaqmpqjt52ej4\)\)/mileg.aspx?page=BillStatus&objectname=2023-SB-0402](http://www.legislature.mi.gov/(S(yy3fstwlosjzaqmpqjt52ej4))/mileg.aspx?page=BillStatus&objectname=2023-SB-0402); SB 657 (2023), New York State Assembly, accessed September 26, 2023, <https://nyassembly.gov/leg/?bn=S00657&term=2023>; AB 885 (2023), New York State Assembly, accessed September 26, 2023, <https://nyassembly.gov/leg/?bn=A00885&term=2023>.

⁹ HB 1751 (2024), Hawaii State Legislature, accessed March 29, 2024, https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=1751&year=2024; SB 260 (2023), Kansas State Legislature, accessed March 29, 2024, https://www.kslegislature.org/li/b2023_24/measures/sb260/; SB 657 (2023), New York State Assembly; AB 885 (2023), New York State Assembly.

¹⁰ AB 6212 (2023), New York State Assembly, accessed March 29, 2024, <https://nyassembly.gov/leg/?bn=A06212&term=2023>.

¹¹ Md. General Provisions Code Ann. §§ 4-1B-04 and 4-1A-04; COMAR 14.02.05.05.

¹² Tenn. Code Ann. § 10-7-503, as amended by 2021 Tenn. SB 135.

¹³ SB 3438 (2023), New York State Assembly, accessed September 26, 2023, https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=SB%252B3438&term=2023&Summary=Y; AB 6831 (2023), New York State Assembly, accessed September 26, 2023, https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A06831&term=2023&Summary=Y&Text=Y; HB 99 (2023), Pennsylvania General Assembly, accessed September 26, 2023, <https://www.legis.state.pa.us/CFDOCS/billInfo/billInfo.cfm?syear=2023&sInd=0&body=H&type=B&bn=99>; SB 525 (2023), Pennsylvania General Assembly, accessed September 26, 2023, <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&sInd=0&body=s&type=b&bn=525>; HB 302 (2023), Pennsylvania General Assembly, accessed September 26, 2023, <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?syear=2023&sind=0&body=H&type=B&bn=302>.

¹⁴ NJ P.L.2024, c.16 (2024 NJ SB 2930).

¹⁵ Tenn. Code Ann. § 10-7-503, as amended by 2021 Tenn. SB 1682.

¹⁶ Tenn. Code Ann. § 10-7-503; Idaho Code § 74-102 and 74-103, as amended by 2020 Ida. HB 601 and 2022 Ida. HB 811.

¹⁷ Code of Ala. § 36-12-44(c)-(e), as added by 2024 Ala. SB 270.

¹⁸ HB 1755 (2023), Pennsylvania General Assembly, accessed April 2, 2024, <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&sInd=0&body=h&type=b&bn=1755>.

¹⁹ C.R.S. 24-72-203(3), as amended by 2024 CO SB 210.