



OFFICE OF THE  
**STATE AUDITOR**

January 3, 2025

The Honorable Deidre Henderson  
Lieutenant Governor  
Utah State Capitol  
Suite 200  
Salt Lake City, UT 84114

Lieutenant Governor Henderson:

The Office of the State Auditor (“OSA”) recently began a limited review of certain policies and procedures of Utah’s election processes.<sup>1</sup> We have concluded our limited review and write to notify you of our additional observations.

This update focuses primarily on the control and disclosure of information provided by individuals who signed nomination petitions (Petitions) during the current election cycle as described in *Utah Code* 20A Chapter 9, “Candidate Qualifications and Nominating Procedures.” During our review, we noted various inconsistencies and concerns in the statutes governing the Petition signature verification process. In particular, we note the inconsistency between the rigid protection over voter names and signatures for observing Petition information and signature verification, versus the rather broad disclosure of information allowed by statute for voter registration data. We also note the untenable position election officials are placed in with conflicting statutory requirements between transparency and privacy of the Petition signature verification process. These issues impede the Petition process’s transparency, potentially weakening the public’s trust in the integrity and reliability of that election process. We encourage you to recommend remedial statutory changes during the upcoming legislative session.

## Background

### I. Voter Registration Data

*Utah Code* Title 20A Election Code (Election Code) sets forth the statutes governing Utah’s elections processes, including the voter registration process and the government’s handling of voter registration data. To register to vote, an individual must complete a voter registration form “in substantially the [same] form” as a sample form in the Election Code.<sup>2</sup> The sample voter registration form requires the individual to provide their name, address, birthday, driver license number or state identification number, and the last four digits of their Social Security number. Under the sample form, the individual also has the option to provide their email address and phone number. Finally, the sample form requires

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<sup>1</sup> <https://reporting.auditor.utah.gov/servlet/servlet.FileDownload?file=015Do0000017cLIIAI>

<sup>2</sup> *Utah Code* 20A-2-104(2)

the voter to sign the registration form, attesting that the information provided is accurate and that the voter meets age, residency, and citizenship eligibility requirements. This voter registration data, including signature, is stored in the Voter Information and State Tracking Application (VISTA) which is a state-wide database used by election officials across the state.

Access to, and protection of, voter registration data is governed primarily by the Government Records Access and Management Act<sup>3</sup> (GRAMA) with additional guidance in the Election Code.<sup>4</sup> The intent of GRAMA is to balance the public’s right of access to information concerning the conduct of the public’s business with an individual’s right to privacy in relation to personal data gathered by governmental entities.<sup>5</sup> Records are considered “public” unless GRAMA classifies them as “private, controlled, or protected” or if access is “restricted pursuant to court rule, another state statute, federal statute, or federal regulation.”<sup>6</sup> Table 1 shows the general classifications of various voter registration data elements under GRAMA.

**Table 1 – GRAMA Classification of Voter Registration Data Elements**

	GRAMA Classification		
	Public <sup>7</sup>	Private <sup>8</sup>	Protected <sup>9</sup>
<b>Full Name</b>	X		
<b>Addresses</b>	X		
<b>Date of Birth</b>		X	
<b>Driver License Number or State Identification Number</b>		X	
<b>Partial Social Security Number</b>		X	
<b>Signature</b>			X
<b>Email Address</b>		X	
<b>Phone Number</b>		X	
<b>Voter Demographics and Statistics<sup>10</sup> (Statistics)</b>	X		

In general, private records contain sensitive information about individuals for which disclosure may infringe on personal privacy, while protected records contain highly sensitive information that is not solely related to personal privacy matters, but that may nonetheless cause harm if released. GRAMA specifies the conditions under which private and protected records may be disclosed and rarely

<sup>3</sup> Per *Utah Code* 63G-2, GRAMA is a generally applicable statute governing access to public entities’ records. GRAMA presumes that a public entity’s records are public “unless otherwise expressly provided by statute.”

<sup>4</sup> The Election Code is a specific statute that constrains GRAMA regarding disclosure of certain voter registration data elements.

<sup>5</sup> *Utah Code* 63G-2-102

<sup>6</sup> *Utah Code* 63G-2-201(3)

<sup>7</sup> *Utah Code* 63G-2-301(2)(l)

<sup>8</sup> *Utah Code* 63G-2-302(1)(j)

<sup>9</sup> *Utah Code* 63G-2-305(75)

<sup>10</sup> Voter demographics and statistics recorded in VISTA include each voter’s party affiliation, voting participation history, last registration update date, county, precinct, and district information. These data items are collectively referred to as “Statistics” in this report.

allows public disclosure of these records. In addition to GRAMA, the Election Code provides guidance regarding access to, and protection of, voter registration data. When GRAMA and the Election Code differ, the Election Code prevails.

## II. Voters May Request Privacy Protections Over Voter Registration Data

The Election Code<sup>11</sup> allows voters to request privacy protections on their voter registration data. *Utah Code* 20A-2-104(4)(h) requires election officials to classify voter registration data as a private record if a voter requests protection by:

- Submitting a written request on an application created by the Lieutenant Governor;
- Checking a box on the voter registration form requesting that the registration record be classified as private; or
- Submitting a withholding request form indicating that the voter is or will likely be a victim of domestic violence or that meets certain other statutory requirements.

As a result, election officials are required to classify various elements of voter registration data as either public, private, or withheld. The effect of any of these classifications is that the information should only be disclosed when specific conditions are met in *both* GRAMA and the Election Code.

**Table 2 – Classification of Voter Registration Data When Additional Protections Invoked**

	GRAMA Classification		
	Public	Private	Protected
Full Name		X	
Addresses		X	
Date of Birth		X	
Driver License Number or State Identification Number		X	
Partial Social Security Number		X	
Signature			X
Email Address		X	
Phone Number		X	
Statistics		X	

## III. Statute Controls Disclosure of Voter Registration Data

GRAMA and the Election Code allow election officials to disclose certain private or protected voter registration data under certain circumstances to individuals who are defined in the Election Code as *qualified persons*.<sup>12</sup> A qualified person is defined as:

<sup>11</sup> *Utah Code* 20A-2-104(2)

<sup>12</sup> *Utah Code* 20A-2-104(4)(a)

- A government official acting in the government official’s or government employee’s official capacity;
- A political party, its agent, employee, or independent contractor; and
- A candidate for public office, or their employee, independent contractor, or volunteer.

Authority to disclose VISTA voter registration data varies based upon the particular data element, the privacy protections that have been invoked by the voter, and the type of the individual requesting the data.

As shown in Table 3 below, a government official acting in their official capacity (GOV) may access more data elements than political parties, candidates, and their agents (QPPC). For example, if a voter is classified as withheld, or a “protected individual,” a QPPC may not receive the voter’s full name or year of birth, whereas a GOV may receive it.<sup>13</sup> In these cases, an election official provides the QPPC with the age range<sup>14</sup> of the voter.

If a voter requests privacy protections, their signature(s) on VISTA are protected and may not be provided to, nor viewed by, a QPPC. In those cases, signatures may still be accessed by a GOV. As noted previously, if a voter does not invoke protections, some data elements are available to the public (Public).

**Table 3 - Disclosure of VISTA Voter Registration Data Elements by Requestor Type<sup>15</sup>**

	<b>Voter who does not request privacy protections</b>	<b>Voter who requests “Private” status</b>	<b>Voter who requests “Withheld” status</b>
<b>Full Name</b>	Public	QPPC	GOV
<b>Addresses</b>	Public	QPPC	QPPC
<b>Full Dates of Birth</b>	GOV	GOV	GOV
<b>Year of Birth</b>	QPPC	QPPC	GOV
<b>Age Range</b>	N/A	N/A	QPPC
<b>Driver License Number or State Identification Number</b>	GOV	GOV	GOV
<b>Partial Social Security Number</b>	GOV	GOV	GOV
<b>Voter’s Signature</b>	GOV (Public & QPPC may view but not copy)	GOV	GOV
<b>Email Address</b>	GOV	GOV	GOV
<b>Phone Number</b>	GOV	GOV	GOV
<b>Statistics</b>	Public	QPPC	QPPC

<sup>13</sup> *Utah Code* 63G-2-305.5(2); *Utah Code* 20A-2-104(10)(a)(iii)

<sup>14</sup> *Utah Code* 20A-2-104(4)(o)(vii)

<sup>15</sup> Voter registration data available to GOV and QPPC is specified in *Utah Code* sections 63G-2-302(1)(j) through (1)(m), 63G-2-305(75), 63G-2-305.5(2), 20A-2-104(4), and 20A-2-104(10)(a). Voter registration data that is publicly available when no privacy protections are invoked is listed in *Utah Code* 63G-2-301.

#### IV. Petition Data Is More Restricted Than Voter Registration Data

Utah allows certain political candidates access to a primary ballot by submitting Petitions signed by a minimum number of eligible voters.<sup>16</sup> These Petitions contain the signer's name, signature, and address. A signer may also specify age or birth date, if they choose.

These candidates turn in the completed Petitions to the appropriate state or county election official for signature verification. The Petitions are maintained as election records by those officials. GRAMA<sup>17</sup> classifies the signatures on Petitions as protected information. However, if the signer has not requested privacy protections of their voter registration data, the GRAMA provision below allows the signer's name to be released and their signature to be viewed by requesting parties.

##### **63G-2-305.5 Viewing or obtaining lists of signatures**

- (1) The records custodian of a signature described in Subsection 63G-2-305(74) [Signature on a Petition] shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration: (a) Provide a list of the names of the individuals who signed the petition or request: and (b) permit an individual to view, but not take a copy or other image of the signatures on a political petition described in Subsection 63G-2-305(74).

We note that if a voter has invoked privacy protections as described above, election officials are prohibited from providing that voter's name and signature to a requestor. GRAMA does not clearly specify whether the signer's address or other optional information on the Petition may be disclosed.

#### **General Observations Regarding the Petition Signature Verification Process**

The Elections Office received various requests for the list of voters who signed Petitions in the most recent election cycle, as well as requests to view original signed Petitions. In response, the Elections Office informed requestors it could only provide a list of the names of voters who had not requested private or withheld status of their voter registration data, and would only allow the requestor to view, but not make a copy, of these voters' signatures on the Petitions. The Elections Office held that it could not disclose the names of the signers who requested private or withheld status of their voter registration data and the associated signatures could not be viewed based on restrictions in GRAMA and the Elections Code. As a result, the Election Office held that this information would have to be redacted prior to release.

While this position appears to comply with the provisions of GRAMA and the Election Code, it illustrates a gap in transparency statute for the Petition signature verification process. It also highlights inconsistencies between transparency efforts over the election process and how similar information is treated under different sections of the Election Code. In particular, we note the inconsistency between the rigid protection over voter names and signatures when it comes to observing Petition information and signature verification versus the rather broad disclosure allowed by statute for voter registration data.

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<sup>16</sup> *Utah Code* 20A-9-403(3)

<sup>17</sup> *Utah Code* 63G-2-305(74)

Without the ability to view unredacted Petitions, a requestor, particularly a QPPC, is unable to independently assess the integrity of the Petition signature validation process. This has the potential to reduce public trust in a portion of the election process.

## Specific Areas for Improvement

We identified three specific areas where the Election Code could be revised to improve transparency.

### I. Statutory Restrictions Prevent Effective Public Oversight of Petition Signature Verification Process

Under *Utah Code* 20A-3a-801(2)(a), any Utah voter may request to be a “watcher”<sup>18</sup> to observe functions related to elections. Watchers may observe the process as election officials check in voters, certify election results, and verify ballot signatures,<sup>19</sup> with certain exceptions to ensure a polling place’s operational efficiency. Election officers must designate space for watchers to observe these events from no more than six feet away.<sup>20</sup> Under these conditions, it is likely that a watcher may observe voter information, including voters who have invoked private and withheld status.

The Election Code allows a watcher to observe the private information in this setting despite the fact a records request for the same information would be denied. Therefore, it is clear that the legislature intended to allow transparency of the balloting process, recognizing that certain private data would be subject to observation under statutorily controlled conditions.

Although the Election Code explicitly provides a watching mechanism for the balloting portion of the election process, it does not explicitly provide for a watching mechanism over the Petition signature verification portion of the election process. Further, since GRAMA<sup>21</sup> prohibits an individual from viewing the name or signature on a Petition if the signer is a voter with private or withheld status, there is effectively no practical mechanism for a watcher to observe the Petition signature validation process when a voter has invoked privacy protections.

However, the legislature has indicated through statute that they anticipated some level of transparency in the Petition review process:

- *Utah Code* 20A-9-403(d) mandates that the filing officer shall verify signatures on Petitions in a *transparent* and orderly manner.
- *Utah Code* 20A-9-403(3)(f) mandates that the Elections Office may make rules that provide for the *transparent*, orderly, and timely submission, verification, and certification of Petition signatures.

The use of the word “transparent” implies that the legislature intended to permit some level of watching activity over signature verification as a measure to ensure integrity. Given the existing statutory restrictions prohibiting anyone other than a GOV from viewing private and withheld names and signatures on a Petition, it is impossible for an election officer to comply with that statutory

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<sup>18</sup> Colloquially referred to as “poll watchers.”

<sup>19</sup> *Utah Code* 20A-3a-801(4)

<sup>20</sup> *Utah Code* 20A-3a-801(5)(b)

<sup>21</sup> *Utah Code* 63G-2-305(74) and *Utah Code* 63G-2-305.5(1)

prohibition while simultaneously complying with the requirement for the process to be transparent via a watcher scenario.

Therefore, in the absence of clear statutory guidance allowing effective observation of the Petition signature verification process, election officials face a dilemma due to conflicting statutory provisions:

1. If an election official prevents a watcher from observing the Petition signature verification process due to the required statutory privacy protections, required transparency cannot be achieved; or,
2. If an election official permits a watcher to observe the full Petition signature verification process, the election official would likely violate statutory privacy protections.

With this apparent statutory conflict in regard to observing the Petition signature verification process, the legislature appears to have placed election officials in an untenable position.

## II. Statute Treats Similar Data in VISTA and Petitions Inconsistently

As shown in Table 3 above, a QPPC may obtain the full name and address of a voter from VISTA’s voter registration data, even when the voter requested privacy protection. In contrast, for Petitions, GRAMA does not allow the name of any voter with private status to be disclosed to a requestor, QPPC or otherwise. Therefore, a QPPC’s ability to access the name of a voter with private status depends on whether they request that data from the voter registration data (access granted) or from a Petition (access denied).

Table 4 illustrates the disparity in treatment of similar data dependency upon whether that data element is held in VISTA or on a Petition. The table also shows where statute does not clearly specify treatment of a data element.

**Table 4 - Disclosure Disparity Between VISTA and Petition Data Elements for QPPC Requestors**

Data Element	VISTA			Petition		
	Default Status Voter	Private Status Voter	Withheld Status Voter	Default Status Voter	Private Status Voter	Withheld Status Voter
<b>Full Name</b>	Disclosable	Disclosable	Not Disclosable	Disclosable	Not Disclosable	Not Disclosable
<b>Signature</b>	Viewable only	Not Disclosable	Not Disclosable	Viewable only	Not Disclosable	Not Disclosable
<b>Address</b>	Disclosable	Disclosable	Disclosable	Unspecified	Unspecified	Unspecified
<b>Year of Birth</b>	Disclosable	Disclosable	Not Disclosable	Unspecified	Unspecified	Unspecified

The Election Code<sup>22</sup> makes no distinction between a QPPC and any other requestor for Petition information requests. In addition, neither GRAMA nor the Election Code addresses whether the Petition signer's address or birthday may be disclosed or should be protected. These inconsistencies compound the problem of not having an effective watching function over the Petition signature verification process, making it impossible for any requestor, QPPC or otherwise, to view sufficient information to enable an effective independent observation.

### III. Optional Privacy Protections Likely Give Voters False Sense of Security

A QPPC may obtain certain VISTA data upon request and payment of a fee. A QPPC is then provided with certain voter registration data for political purposes as shown in Table 3. The Election Code<sup>23</sup> enumerates in great detail the attestations required from a QPPC and the measures a QPPC should take to ensure private information is not improperly distributed or used for a prohibited purpose. However, the Election Code contains no indication that any election official must take steps to ensure that a QPPC complies with this attestation. Nor does it appear that election officials follow up with QPPCs to ensure compliance.

In practice, it appears that some QPPCs commingle private voter registration data with their own voter information, stripping the privacy status field from the data in the process. They then disclose that data to others, such as campaign workers, consultants, and vendors, who also reshare without knowledge of any data restrictions or protections. While privacy protection may be requested and granted to a voter, this privacy status likely fails to flow down to every sub-recipient of the supposedly protected data. Therefore, candidates and their campaign support personnel who receive that data may have no indication whether the voter registration data is considered public or private.

Given the multitude of individuals who may come into possession of private voter registration data, it appears that government privacy protections are not as robust as voters likely believe. We also note that there is a lack of an enforcement mechanism to ensure that QPPCs properly protect private voter registration data that is provided to them under statute.

## Conclusion

Despite the need for various elements of voter registration data to remain private, public interest is best served by greater transparency in the review of Petitions, particularly by opposing campaigns or by political parties. At a minimum, we recommend these issues should be remedied:

- The lack of a statutorily defined mechanism for effective observation of the Petition signature verification process;
- The lack of consistent treatment of the same voter registration data elements between VISTA and Petitions;
- The conflicting statutes regarding transparency in the Petition review process while demanding privacy of protected voters; and,

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<sup>22</sup> *Utah Code* 63G-2-305.5(1)

<sup>23</sup> *Utah Code* 20A-2-104(4)(a) through 20A-2-104(4)(g)

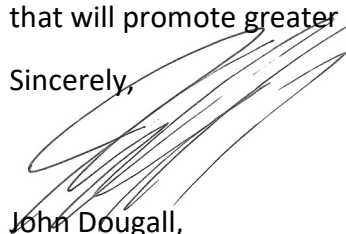


- The lack of an effective enforcement mechanism over QPPC's handling of private voter registration data.

Addressing the issues identified in this report should promote greater trust in the election process. As the State's chief election official, you are best positioned to promote these statutory provisions.

We appreciate the Elections Office's professionalism and cooperation during our limited review. We hope that you and the Elections Office will take any unilateral measures available to you to improve the process and that you use your influence in the election realm to argue for statutory amendments that will promote greater confidence in the integrity of Utah's elections.

Sincerely,



John Dougall,  
State Auditor