
IN THE MATTER OF HAVA 2026-001

FINAL AGENCY DETERMINATION

I, Andrew Kline, Deputy Secretary of State, designee of Secretary of State Jena Griswold, have reviewed the complaint, exhibits, supporting materials, objections, and emails submitted by the Complainants; the Declaration submitted by Caleb Thornton; and applicable law in this matter, and pursuant to section 1-1.5-105(2)(i), C.R.S., find as follows.

At its core, Complainants allege that the Colorado Secretary of State violated the Help America Vote Act (“HAVA”) by unlawfully deleting or adding vote history records tied to individual voters in Colorado’s statewide voter registration system (“SCORE”). Consistent with her obligations under HAVA and state law, the Department’s Elections Division conducted a thorough investigation of these allegations, assisted by a public hearing in which the Complainants offered evidence for their claims.

Ultimately, it is my determination that the Secretary lacks jurisdiction to consider Complainants’ claims. However, based on the investigation conducted by the Elections Division, I also conclude that there is no credible evidence to support the merits of Complainants’ allegations. In fact, the investigation concluded that Colorado’s statewide voter registration database does not even permit the types of modifications that Complainants allege were made. Instead, the alleged discrepancies identified by Complainants arise from standard voter list maintenance conducted by Colorado and its counties on an ongoing basis and required by HAVA. This conclusion is bolstered by a thorough review of the allegedly modified records that uncovered no evidence that any voter’s vote history had been modified or otherwise altered.

Based on these findings and conclusions, and after reviewing the evidence submitted by Complainants and the results of the Elections Division’s investigation into Complainants’ allegations, I dismiss the Complaint.

Procedural History

On February 20, 2026, Michael Cahoon and Peter Bernegger (the “Complainants”) filed a properly certified complaint under the Help America Vote Act (HAVA) against the Colorado Secretary of State¹ (the “Respondent”). While the Complaint identifies seven alleged violations of HAVA, all but one of those alleged violations are based on the Complainants’ core allegation that the Department of State is unlawfully deleting or adding vote history records to Colorado’s

¹ See attached Administrative Complaint (“Complaint”) and Petition Under the Help America Vote Act of 2002.

voter rolls in violation of Title III of HAVA. The Complaint also alleges, as a separate violation, that the Secretary of State failed to update the Colorado HAVA State Plan with the U.S. Election Assistance Commission (EAC), as required by HAVA.

Consistent with Colorado law, the Secretary has promulgated rules to govern the investigation of HAVA complaints, which are located at 8 CCR 1505-1, Rule 13.2. Those rules outline an investigatory procedure and permit the Secretary or her designee to, among other things: (1) review documents; (2) conduct interviews; (3) test equipment; or (4) take other steps necessary to investigate the complaint.

On March 31, 2026, although not required by HAVA or corresponding state statutes, the Secretary offered to refer Complainants' allegations to the Department's Administrative Hearing Officer for processing consistent with the Department's General Procedural Rules for Administrative Hearings outlined in 8 CCR 1505-3. However, because those procedures establish a timeline that would have extended beyond 90 days, the Secretary informed Complainants that such a referral would require Complainants to waive their right to a final determination within 90 days. As is their right, Complainants did not agree to an extension of time or to those procedures.

As a result, on May 11, 2026, an investigatory hearing was conducted on the record by the Secretary's designee pursuant to section 1-1.5-105 (2)(g), C.R.S., and 8 CCR 1505-1, Rule 13.2. Prior to the hearing, the Secretary required Complainants to provide documentary evidence of their alleged violations and to identify the witnesses who would testify at the hearing. The Complainants timely provided multiple exhibits² and a witness list.³ At the hearing, both Complainants testified, as did one additional witness.

Following the hearing, Elections Division investigators thoroughly reviewed the exhibits and considered the testimony presented at the hearing. Investigators compared the data presented by the Complainants with data contained in the statewide voter registration database (commonly referred to as "SCORE") and interviewed multiple Elections Division employees with relevant expertise. Ultimately, investigators recommended dismissal of the claims as not supported by credible evidence.

As required by law and rule, after the investigation and hearing, the Secretary's designee may: (1) dismiss the complaint as not supported by credible evidence; (2) refer the complaint to a prosecuting authority; or (3) find a violation and recommend a resolution.⁴

Analysis

I. Claims I – VI, Alleged Improper Voter Roll Modifications

Although claims I through VI of the Complaint assert that a variety of HAVA provisions have been violated, each claim relies on the same fundamental assertion that the Department modified

² See Exhibits A, B, C, D, E, G, G-1, G-2, H, I, J, and K

³ See April 10, 2026, Email; Subject: Re: Confidential HAVA Complaint 2026-001; Hearing Dates

⁴ 8 CCR 1505-1, Rule 13.2.9(b)

voter participation histories after the certification of elections. Because each of these alleged violations rely on the same underlying data and interpretation thereof, I will consider them together.

a. Jurisdiction

i. Failure to Timely File

HAVA requires states to “establish and maintain State-based administrative complaint procedures” to review alleged violations of Title III of the Act. 52 U.S.C. § 21112 (a)(1). To implement this requirement, Colorado state law imposes several requirements on Complainants, including a provision that requires a complaint to be filed, “no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later[.]” C.R.S. § 1-1.5-105 (2)(d); 8 CCR 1505-1, Rule 13.2.4. Although both state and federal law allow Complainants to file a complaint alleging that a violation “is occurring, or is about to occur,” federal law does not limit a state’s ability to require a complaint to be filed in a timely manner. 52 U.S.C. § 21112 (2)(B). In fact, the requirement that a HAVA complaint be filed within one year of the alleged violation or the election giving rise to the complaint was included in the state’s filed state plan with the EAC in 2008⁵ and noticed in the federal register.⁶ Other states also have deadlines for HAVA complaints, and many are more restrictive than Colorado, requiring complaints to be filed within 30 days after the relevant election or alleged violation.⁷

Here, the Complainants allege HAVA violations that “are ongoing and continuous in nature, with the most recent documented modifications occurring through December 22, 2025.” The complaint purports to be based on discovered violations that are “still occurring now, and will continue to occur in the future.”⁸ However, the exhibits presented by the Complainants and testimony offered at the hearing paint a different picture.

At their core, Complainants assert that the Secretary violated HAVA by adding or deleting votes from individual voters’ vote history. Their evidence for such activity is drawn from voters’ vote histories in the 2024, 2022, and 2020 General Elections.⁹ Thus, although Complainants try and characterize their claims as forward-looking, each relates to a specific federal election in the past. And although Complainants assert that modifications of vote history occurred “through December 22, 2025,” the elections at issue were held at least 1 year and 4 months before they filed their complaint. Fundamentally, the Complainants’ alleged violations are tied to specific

⁵ Mike Coffman, *State of Colorado Help America Vote Act Revised State Plan*, Brennan Center, <https://www.brennancenter.org/sites/default/files/legacy/Democracy/CCvCO.Exhibit%2023.pdf> (last visited May 14, 2026).

⁶ Rosemary Rodriguez, *Publication of State Plan Pursuant to the Help America Vote Act*, Federal Register, <https://www.federalregister.gov/documents/2008/07/14/E8-15871/publication-of-state-plan-pursuant-to-the-help-america-vote-act> (last visited May 14, 2026).

⁷ See e.g., 15 CSR 30-12.010 (3) (requiring a complaint to be filed in Missouri within 30 days of the certification of the election in which the violation is alleged to have occurred); WAC 434-263-020(4) (requiring a complaint to be filed in Washington, “no later than thirty days after the certification of the election at issue.”)

⁸ Complaint pg. 5

⁹ See exhibits C, D, and E which describe vote history reports linked to the 2020, 2022, and 2024 General elections.

elections that fall beyond the statute of limitations for HAVA complaints set by Colorado law. C.R.S. § 1-1.5-105 (2)(d); 8 CCR 1505-1, Rule 13.2.4. Complainants’ allegations that violations are still occurring and will continue to occur in the future are conclusory in nature and not supported by credible evidence.

Finally, even if Complainants’ claims were specific to the Secretary’s alleged modifications of vote histories, rather than the specified federal elections, those claims would still fall beyond the statute of limitations. First, any allegations that modifications took place prior to February 20, 2025, are barred given the complaint’s filing on February 20, 2026. Second, Complainants offer no argument—in their complaint, or in testimony, which would specify when any of the alleged modifications, actually occurred; only that they occurred at some point between December 5, 2024, and December 22, 2025.¹⁰ This non-specific and conclusory allegation is not supported by credible evidence and is insufficient to overcome the one-year statute of limitations.

Given these facts and the law, I find that claims one through six must be dismissed because they were not timely filed. Notwithstanding this dispositive impediment, I nonetheless address the substance of Complainants’ challenges below.

b. Misinterpretation of the law

Even if these claims had been timely filed, Claims V and VI must be dismissed because they misinterpret what is required by HAVA and therefore there is no credible evidence to support those claims.

- i. Claim V: Records that must be produced and maintained under 52 U.S.C. § 21081(a)(2) do not include records from the statewide voter registration database.

In Claim V of their complaint, Complainants assert that the alleged alteration of voter history records, if true, violates HAVA’s requirement that a voting system deployed in a state must produce, “a permanent paper record with manual audit capacity . . .” 52 U.S.C. § 21081 (a)(2). While it is true that HAVA requires states to be able to produce a paper record that is auditable, this requirement applies to a *voting system*, not the *voter registration database*. Section 21081(a)(2) does not apply to a voter registration system,

HAVA defines the term “voting system” as:

- (1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—
 - (A) to define ballots;
 - (B) to cast and count votes;
 - (C) to report or display election results; and
 - (D) to maintain and produce any audit trail information; and

¹⁰ See exhibit A.

- (2) the practices and associated documentation used—
- (A) to identify system components and versions of such components;
 - (B) to test the system during its development and maintenance;
 - (C) to maintain records of system errors and defects;
 - (D) to determine specific system changes to be made to a system after the initial qualification of the system; and
 - (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

52 U.S.C. § 21081 (b). Importantly, this definition does not include records tied to a voter. Instead, the definition of voting system is focused on ballots, and the votes contained on those ballots.

The statutory context of 52 U.S.C. § 21081 makes clear that the intent of this section of HAVA is to regulate the systems used to cast and count ballots. For example, § 21081(a)(1) defines standards for how a voting system should operate as a voter uses it to cast their ballot. Likewise, § 21081(a)(3) sets standards for the accessibility of those same systems. Section 21081(a)(2), which Complainants assert mandates recordkeeping from SCORE is no different than its counterparts; it was meant to regulate the records produced out of the system that casts and counts ballots.¹¹

Because this section of HAVA does not apply to voter registration records found in SCORE, Claim V must be dismissed as not supported by any credible evidence or applicable law.

- ii. Claim VI: Complainants fail to argue that SCORE is not a single statewide system, which is all that is required by 52 U.S.C. § 21083(a)(1).

In Claim VI, Complainants allege that the modification of voter participation records, if true, violates HAVA’s requirement that each state maintain a, “single system for storing and managing the official list of registered voters throughout the State.” 52 U.S.C. § 21083 (a)(1)(A)(i). Again, even if Complainants underlying allegations were correct, which they are not, the alleged modification of individual voter’s vote history records would not constitute a violation of this subsection.

This requirement contained in HAVA is a simple one – states must maintain a singular system for voter registration throughout the state. While this section of HAVA requires some basic information to be contained in that system, including the “name and registration information of every legally registered voter in the State,” there is no reference to vote history or participation

¹¹ Complainants seem to acknowledge this issue in their complaint, where they note, “While § 301(a)(2) is directed primarily at voting systems hardware and paper records, the post-certification alteration of voter participation histories fundamentally undermines that audit framework HAVA was designed to protect.” Complaint pg. 12. What Complainants fail to recognize is the audit capability required in this section of HAVA is directed at an audit of the ballots and votes cast in an election, not the voters who participated in one. Indeed, in Colorado as in many states, there is no comparison between the specific votes cast for a candidate and the voter who cast them because the voter has a constitutional right to cast their ballot anonymously, making an audit of this kind impossible. *See* Colo. Const. Art. VII, Section 8.

records. *See* 52 U.S.C. § 21083 (a)(1)(A)(ii). A state could comply with this requirement by maintaining a voter registration list that includes no vote history at all, should it choose.

Complainants' sole allegation in support of this count which ties vote history to § 21083(a)(1) appears to argue that by changing voter participation records, SCORE no longer operates as a single statewide system.¹² Not only does this misrepresent what is required by § 21083(a)(1), it also defies the logic of having a statewide voter registration system. Over time, voters may move, and voters may die. Some voters may turn eighteen and become eligible to vote, others may be convicted of a felony and be sentenced to a term of incarceration, thereby losing their eligibility to vote. Any of these changes require the statewide voter registration system to be updated. HAVA contemplates that the voter registration system must be dynamic and imposes obligations on states to do the work to update their records. *See id.* at (4) (requiring voter registration records to be, "updated regularly"). There is no requirement in HAVA that the voter registration system remain static as the Complainants seem to argue here, and records changing over time is not evidence that SCORE is no longer operating as a single statewide registration system. In fact, SCORE remains the single statewide system for these purposes.

Because the Complainants have failed to demonstrate that SCORE is not operating as a single, statewide system, claim VI must be dismissed as not supported by any credible evidence.

c. Merits of the complaint

Assuming, *arguendo*, that the Department has jurisdiction to reach the merits of Complainants' claims I-VI, they still warrant dismissal because Complainants have failed to offer any credible evidence to substantiate their allegations. Since the Complainants' allegations all appear to rest primarily on the Department's EX-002 reports produced after several elections,¹³ it is first necessary to understand what the EX-002 report does and does not provide.

i. Explanation of EX-002

At the investigatory hearing, Complainants introduced into evidence Exhibit A, an alleged "Vote Tampering Report," which they assert was created by comparing multiple EX-002 reports. They also introduced into evidence Exhibits C–E, which are spreadsheets of unique voter identification numbers that the Complainants claim appear on various EX-002 reports. However, the Complainants fundamentally misunderstand the import of an EX-002 file.

The EX-002 is a public voter list tied to a specific election.¹⁴ The list contains all the active and inactive voters registered to vote on election day for that specific election and includes voters' publicly available data (for example, name, address, year of birth, etc.).¹⁵ For each voter on the

¹² Complaint, pg. 13

¹³ *See* exhibit A.

¹⁴ Thornton Decl. ¶ 11 (May 21, 2026).

¹⁵ Thornton Decl. ¶ 11 (May 21, 2026).

list, the EX-002 also shows prior elections in which that voter has cast a ballot.¹⁶ The list does not include voter records that were confidential as of election day.¹⁷

The EX-002 does not contain the vote history for every voter who has ever cast a ballot in a previous election in Colorado. Instead, it only contains the vote history for voters who were active or inactive on election day for the election for which the EX-002 was run. By way of example, the EX-002 compiled following the 2024 general election contains active and inactive voters *as of the date of that election only*. While the EX-002 compiled for the 2024 general election contains the past voter history for those voters, it does not give a full accounting of all voters who have cast a ballot or who were eligible to cast a ballot in prior Colorado elections.

Thus, if a voter voted in the 2022 general election, left the state between 2023 and 2025, and returned to vote in the 2026 election, that voter—and their 2022 vote history—would appear on the 2022 EX-002 and the 2026 EX-002, but would not appear on the 2024 EX-002. As a result, to someone tracking that voter across elections, it would seem as if the vote record disappeared on the 2024 EX-002, only to reappear on the 2026 EX-002. In reality, this would reflect regular list maintenance being conducted on that voter’s record.

ii. Flaws in the Complainants’ analysis

Throughout their complaint and during testimony at the hearing, Complainants repeatedly alleged that their analysis showed that:

1. Voter records were added following an election;
2. Voter records were deleted following an election;
3. Voter history records were added to a voter record following an election; and
4. Voter history records were deleted from a voter record following an election.¹⁸

However, the Complainants’ analysis is fundamentally flawed because, as described, the EX-002 for any particular election will contain a different universe of voters than the EX-002 for a previous or subsequent election.¹⁹ While some voter records may appear on multiple EX-002 files, others will not, for the simple reason that their voter registration status changed between elections.²⁰ For example, a voter who appeared on the EX-002 for the 2023 coordinated election, but who then died and was subsequently cancelled prior to the 2024 general election will not then appear on the EX-002 for the 2024 general election. This is not an indication that the voter record was “deleted” as the Complainants suggest. Rather, it is an indication that the state conducted regular list maintenance that resulted in the cancellation of that voter record. Because the 2024 EX-002 only contains voters who were *eligible* to participate in that election as of election day, a voter who died would not appear on that subsequent list.

¹⁶ See “Colorado Department of State Election Data Request Form”, Colorado Secretary of State Website, <https://www.sos.state.co.us/pubs/elections/forms/dataRequests.pdf> (last visited May 14, 2026).

¹⁷ Thornton Decl. ¶ 13 (May 21, 2026).

¹⁸ Complaint pgs. 8-10.

¹⁹ Thornton Decl. ¶¶ 11, 13 and 14 (May 21, 2026).

²⁰ Thornton Decl. ¶¶ 13-25 (May 21, 2026).

Inversely, a voter record that appears to show that a voter participated in the 2023 coordinated election may appear for the first time on the 2024 EX-002. This is possible because a voter may have had their confidential status removed after the 2023 coordinated election (confidential voter records are not included on any publicly available EX-002).²¹ Voters in this situation would have had vote record history in SCORE, but would only be included on the latter EX-002 when their information was made publicly available.

Likewise, vote record history being added to a voter record in a subsequent EX-002 is likely the result of regular list maintenance.²² Colorado regularly compares voter records across the state to identify duplicate records that can then be merged. For example, a voter might register in one county as Richard Doe, and re-register upon moving to a different county as Ricky Doe. When these vote records are merged, the vote history for those records is also merged. If the vote record for Richard Doe included vote history for the 2022 general election, the vote record for Ricky Doe, the surviving record, will now also include the vote history for the 2022 general election. The result is that Ricky Doe may appear in a later EX-002 with vote credit for the 2022 general election that it previously did not contain.

While investigating the Complaint, the investigative team identified one additional explanation for the data presented in Exhibits C–E: the 2025 EX-002 includes canceled, pending, and incomplete voter profiles, which were not included in prior EX-002 files.²³ It therefore includes individuals who were at one time registered to vote in Colorado or who attempted to register to vote in Colorado, but did not complete their registration.²⁴ These individuals were not registered to vote on election day in 2025, did not receive a ballot, and did not cast any votes. The inclusion of these voter records on the 2025 EX-002 explains why the Complainants believed hundreds of thousands of voters were “added” on that report. Their inclusion on the 2025 EX-002 does not indicate that votes or voters were “added.” Instead, it indicates that the 2025 EX-002 was a broader report than prior EX-002s. This is apparent from the face of the 2025 EX-002, because each “added” record is identified as “pending” “incomplete” or “canceled.”²⁵ Ultimately, this in no way alters the overall conclusion that comparing EX-002 reports over time will not account for all voters who have cast a ballot in prior elections in Colorado or who will be eligible to do so in the future.

In order to assess the specific claims contained in Exhibits C–E, Election Division investigators compared randomly selected voter ID numbers from the Complainants’ lists.²⁶ The investigators analyzed individual voter numbers to determine whether the alleged voter record change derived from an improper modification or from ordinary list maintenance activities.²⁷ This analysis uncovered no instances of a voter’s vote history being altered. In every case analyzed by Elections Division investigators, the voter ID numbers in Exhibits C–E were either: 1) not present on the EX-002 file that the relevant exhibit claimed they were derived from; 2) explained by ordinary list maintenance activities described above; or 3) included in 2025 EX-002 because

²¹ Thornton Decl. ¶ 13 (May 21, 2026).

²² 52 U.S.C. § 21083 (a)(2)(B)(iii)

²³ Thornton Decl. ¶¶ 26-28 (May 21, 2026).

²⁴ Thornton Decl. ¶ 27 (May 21, 2026)

²⁵ Thornton Decl. ¶ 31 (May 21, 2026).

²⁶ Thornton Decl. ¶¶ 16-25 (May 21, 2026).

²⁷ Thornton Decl. ¶¶ 16 and 18 (May 21, 2026).

it contains additional categories of individuals. These explanations disprove the Complainants' allegations that voter histories were improperly modified post-certification.

The comparison performed by Elections Division investigators is supported by the fact that the unlawful activity alleged in the Complaint is not technologically possible in SCORE. As the Division's investigators noted, vote history cannot be added or removed from a voter record after an election is closed and certified.²⁸ Once vote credit is assigned by a county to a voter record, that vote credit cannot be altered by anyone, including anyone at the Secretary of State's office.²⁹ Although Complainants have concluded that vote credit data changed over time, the difference they have identified is actually a reflection of standard list maintenance and a change to vote record availability on the EX-002, as previously noted. This comparison revealed that there is no credible evidence supporting the Complainants' allegation that voter records were improperly modified.

At its core, the data comparison conducted by Complainants is flawed because it presumes that an accurate comparison can be made across static voter lists, when the underlying data those lists are built on is inherently *dynamic*. Federal and state law requires the State of Colorado to conduct regular list maintenance. This list maintenance results in records coming onto and falling off publicly available lists of information. It also results in changes to voter records over time. None of this is evidence that voters are being added or deleted from an election, nor is it evidence that voter history records are being added or deleted. Instead, it is evidence that the Department is following the law as required.

iii. Issues with the data provided as evidence

As already noted, comparing data across multiple EX-002 reports is not determinative because of ordinary updates to data in the voter registration system between elections. In addition, the Complainants did not show that the data in their exhibits comes from a true comparison across EX-002 reports created by the Department.

To support Claims I–VI, the Complainants provided five exhibits. Exhibit A, titled a “Colorado Vote Tampering Report,” provided generalized statistics that the Complainants claimed to have gathered while analyzing Colorado voter records.³⁰ These statistics came with no underlying data, but did include a footnote claiming that the Complainants compared various EX-002 data files produced by the Department. However, the footnote also appeared to claim that other data was used in the comparison, specifically, data that the Complainants titled “voter roll files.” The document included no other information. These files are not produced by this office³¹ and were not provided with the Complaint, and so the reliability, veracity, and relevance of them cannot be assessed or determined. As a result, although the Division's investigation encompassed the allegations included in Exhibit A, Complainants' failure to include the data underlying its calculations leave it with no standalone evidentiary value.

²⁸ Thornton Decl. ¶ 12 (May 21, 2026).

²⁹ *Id.*

³⁰ Exhibit A

³¹ Thornton Decl. ¶ 15 (May 21, 2026).

Exhibit B, titled, “Help America Vote Act Violations Analysis,” again provided generalized statistics with no underlying data. Because no underlying data was provided with this exhibit, the veracity, reliability, and relevance of the statistics cannot be assessed or determined with any reliability, and it is accordingly of no evidentiary value in the investigation of this complaint.

Exhibits C–E were spreadsheets.³² Each spreadsheet appears to consist of data from a single election (2020, 2022, and 2024). The spreadsheets include tabs which show a list of voter identification numbers that the Complainants allege are the basis for their purported statistics. Although these spreadsheets did allow the investigators to review the voter records on which the Complainants appear to base their claims, they otherwise provided little to no insight into how the data was gathered, what analysis was done to generate these “voter records,” and how that analysis supports the Complainants’ claims.³³

The data the Complainants failed to include in their complaint or exhibits is notable. The Complainants did not include the original EX-002 reports that they appear to have used in their comparison. Although the Department does maintain those reports, there is no way to verify that the data which is the basis for this complaint came from those reports. The Complainants also did not include the “Voter Roll files” which were repeatedly referenced in their exhibits and do not originate from the Department.³⁴ Without this originating data, the Department must rely on supposition and imperfect reverse-engineering in an attempt to make sense of the import of the data that has been provided.

In all, although three exhibits offered by the Complainants provide a glimpse into their arguments and data, they fall far short of providing any substantive evidence that could bolster the Complainants’ substantial claims.

iv. The lack of evidence provided to support individual claims

The analysis conducted by the Complainants is flawed, and the data provided by the Complainants is either absent or incomplete. Additionally, many of the claims assert violations of HAVA without offering any evidence to support those claims.

In Claims I, II, and IV, Complainants argue that voters were improperly “removed” from the voter list or otherwise “modified.” The Complainants claim that their analysis shows, “ongoing retroactive alteration across multiple years.”³⁵ They further assert that, “the volume and post-

³² Exhibits C-E

³³ The Complainants note in their complaint that they conducted a “sequential comparison of official Colorado voter history files and voter roll files,” and that they, “reviewed, read, analyzed the raw data and the derived output.” Exhibit A, pg.8. However, there is no explanation as to the methodology or steps taken in this analysis, nor by whom it was completed. *Id.* In the hearing Michael Cahoon testified that “The underlying snapshots are official Colorado voter history files and voter roll files obtained from the Colorado Secretary of State’s office. The data analysis, the pairwise comparisons between snapshots, was performed by Unite for Freedom in February of 2026.” The Complainants made many similar statements during the course of the hearing, but none of the statements provide any insight to the Department which would show how these lists of voter records produced on Exhibits C through E were derived. HAVA 2026-001 Hearing: Hearing Before Deputy Secretary of State, Andrew Kline (May 11, 2026) (Statement of Michael Cahoon at 24:42).

³⁴ See complaint pgs. 3 and 8, and Exhibits C, D, E.

³⁵ Complaint pg. 10.

certification timing of these removals raises a substantial question regarding whether the NVRA’s procedures requirements . . . were followed for each deletion.”³⁶ They later argue that their analysis “raises a significant risk that eligible voters have been removed in error.”³⁷ Relying solely on the volume and timing of what the Complainants identified as voter registration removals, Complainants appear to claim, without any evidence, that voter records were cancelled outside the requirements of HAVA, erroneously cancelled, or otherwise modified.

In fact, the cancellation of voters on the voter roll happens on a regular basis in Colorado, the volume and cadence of which is evidence of Colorado’s compliance with HAVA. As described previously, the appearance of different data on different EX-002 lists is a result of this ongoing list maintenance. Were the lists to remain static over time, this would be an indication that voter registration records were not being updated. Instead, voter records being moved on and off these lists demonstrates that Colorado is regularly updating voter records to reflect changes in voter status. Ultimately, there is no evidence in the record that shows that the Department is “removing” voters in a manner that is inconsistent with its federal obligations, erroneously canceling voters, or modifying voter records in a manner that makes them no longer accurate.

In Claim III, Complainants argue that the “changes” they identified to voter records indicate that SCORE “permits bulk write operations on official voter participation history records . . . including the ability to add or delete entire voter records.”³⁸ The Complainants seem to suggest that this is evidence that there are not adequate technological security measures in place to prevent unauthorized access to SCORE.³⁹ However, as already noted, the only records that Complainants claim to have analyzed are publicly available voter files that change over time because they reflect a dynamic system,. These changes are not evidence of unauthorized access into the system. The Complainants provide no evidence otherwise suggesting that this is the case, instead arguing that their flawed analysis, “raise a substantial compliance question.”⁴⁰ This mere suggestion, without evidence, is insufficient to support a claim that unauthorized access has occurred.

II. Claim VII, Alleged Failure to File State Plan

a. The Department Lacks Jurisdiction to Consider the Complainants’ State Plan Claim

i. Requirements related to state plans are located in Title II of HAVA, not Title III

The Complainants allege that the Respondent violated Title II of HAVA by not updating the HAVA State Plan with the EAC after 2008. When it was passed, HAVA required each state to submit to that body a “state plan” that would outline how it would comply with various

³⁶ Complaint pgs. 10-11. While Complainants repeatedly use the terms “delete” or “remove” to describe voter records which they claim no longer appear on public voter lists, no record in SCORE is actually deleted. Rather, a record may be moved to “canceled”, “pending,” or “incomplete” status. Decl. ¶ 14 (May 21, 2026). A voter in in this status is retained in SCORE but is generally no longer available on public voter lists because they are no longer a registered voter in the state. *Id.*

³⁷ Complaint pg. 12.

³⁸ Complaint pg. 11

³⁹ *Id.*

⁴⁰ *Id.*

provisions of the Act. Help America Vote Act of 2002, Pub. L. No. 107-252, § 254, 116 Stat. 1666, (2002). Notably, the state plan requirements of HAVA are found in *Title II* of that Act.

However, only alleged violations of *Title III* of HAVA can be brought as a HAVA complaint. *Id.* at § 402 (permitting any individuals who believe “there is a violation of any provision of *title III* [of HAVA]” to file a complaint) (emphasis added); C.R.S. § 1-1.5-105 (3)(a) (2025) (“No complaint shall be brought pursuant to the procedure created by this section unless the complaint alleges a violation of Title III of HAVA[.]”) Because the state plan requirement that Complainants allege was violated is not found in Title III of HAVA, the Secretary of State does not have the jurisdiction to hear this claim. As a result, Claim VII must be dismissed.

ii. A complaint based on the state plan is barred by HAVA

Even if Complainants could overcome this foundational jurisdictional issue, federal law bars them from bringing any civil action based on the contents of a state plan. The relevant portion of HAVA states: “No action may be brought under this Act against a state or other jurisdiction on the basis of any information contained in the State plan . . .” 52 U.S.C. § 21004 (c)(1). Claim VII argues that the information currently contained in Colorado’s state plan is incorrect or must otherwise be updated. However, this provision of HAVA clearly contemplates and disallows litigants from filing a complaint or lawsuit based on the contents of a state plan. As a result of this provision of federal law, Claim VII must be dismissed.

iii. A complaint based on the state plan is time barred

As discussed above, Colorado’s HAVA implementation imposes a one-year statute of limitations on HAVA complaints. Assuming, *arguendo*, that the Complaint clears the jurisdictional issues identified above, it further fails the statute of limitations restriction. Specifically, the Complaint’s alleged state plan violation is predicated on the plan’s supposed failure to incorporate two material changes to the administration of Colorado’s elections that were not included in the version of the plan submitted in 2008: 1) Universal Mail Ballot Elections (enacted in 2013); and 2) Automatic Voter registration (enacted in 2019).⁴¹ Given that both pieces of legislation were enacted and implemented more than a decade ago, to the extent the Complaint alleges that the Department failed to update the state plan to reflect these changes, those claims are time barred by C.R.S. § 1-1.5-105 (2)(d) and 8 CCR 1505-1, Rule 13.2.4.

Holding

Based on the foregoing, all seven claims of the Complaint are dismissed for lack of jurisdiction. Claims I–VI of the complaint are further dismissed because they fail to articulate a cognizable violation of HAVA, and because they are not supported by credible evidence. Specifically, an analysis of the evidence presented revealed no credible evidence in support of: retroactive modification of voter records, unauthorized access to data, inaccurate safeguarding provisions, or a single instance of voter records producing inconsistent information about whether a particular individual voted in a given election, or any of the other allegations made in the Complaint.

⁴¹ Complaint, pg. 14.

Therefore, the entirety of HAVA Complaint 2026-001 is dismissed under C.R.S. § 1-1.5-105 and 8 CCR 1505-1, Rule 13.2.

SO ORDERED
May 21, 2026

A handwritten signature in black ink, appearing to read "Andrew Kline", with a horizontal line extending to the right from the end of the signature.

Andrew Kline
Deputy Secretary of State

CERTIFICATE OF SERVICE

The undersigned hereby states and certifies that one true copy of this Final Agency Determination herein was sent via email on May 21, 2026, to the following:

Michael Cahoon
5036 Cresthill Place
Highlands Ranch, CO 80130
Mike.cahoon@usa4freedom.org
Complainant

Peter Bernegger
1806 Brynwood Trace
New London, WI 54961
peter@electionwatch.info
Complainant

/s/ Katy Wallace
Kathleen Wallace,
Legal Analyst, Elections Division

IN THE MATTER OF HAVA 2026-001

DECLARATION

DECLARATION OF CALEB THORNTON

I, Caleb Thornton, hereby declare the following:

1. I am the Legal, Policy, and Rulemaking Manager of the Elections Division of the Colorado Department of State (the “Department”).
2. I have been employed by the Department’s Election Division since 2016 and have been the Legal, Policy, and Rulemaking Manager since 2018.
3. In my role, I supervise the Election’s Division public voter data program, which includes providing access on a one-time basis to public data files or access to our data subscription service.
4. In my role, I also have access to view all records in SCORE, the Colorado Voter Registration Database.
5. Part of my role also consists of overseeing investigations of complaints filed with the Department pursuant to the Help America Vote Act (“HAVA”), the corresponding state implementation statute 1-1.5-105, C.R.S., and relevant Rules located at 8 CCR 1505-1, Rule 13.2.
6. For the purposes of the HAVA complaint submitted to the Department by Peter Bernegger and Michael Cahoon (together, the “Complainants”) on February 20, 2026, I was assigned to supervise the investigative team to assess the allegations set forth therein.
7. Consistent with my role as the Legal, Policy and Rulemaking manager, I have “view access” permissions for voter records, including cancelled, pending, incomplete, and confidential records. I cannot change or edit voter records in SCORE.
8. I received the Complainants’ exhibits “A,” “B,” “C,” “D,” “E,” “G,” “G-1,” “G-2,” “H,” “I,” “J”, and “K,” on the evening of May 7, 2026.
9. After receiving the exhibits, I compared the Complainants’ data with the records contained in SCORE to make an assessment as to whether the allegations contained in the Complaint were accurate. My analysis began with review of the data received in exhibits “C” through “E” which were the exhibits that contained the Complainants’ data analysis.

My review found that the data included what appeared to be voter identification numbers which the Complainants claim came from various EX-002 reports obtained from the Department.

10. Exhibit “C” purports to provide data for the 2020 general election. Exhibit “D” purports to provide data for the 2022 general election. Exhibit “E” purports to provide data for the 2024 general election.
11. The EX-002 report is a public voter list run once after each election which contains the non-confidential active and inactive voters registered to vote on election day for that specific election and includes their publicly available data (e.g: name, address, year of birth, etc.). It is a snapshot in time and only includes publicly available information for this universe of voters. The EX-002 fundamentally is not designed for year-over-year comparisons because the registration status of individual voters necessarily changes over time.
12. For each voter on the list, the EX-002 also shows prior election vote history, i.e. the elections in which a voter has previously cast a ballot. Vote history cannot be added or removed from a voter record after an election is closed and certified.
13. The EX-002 report does not contain the records of voters whose records are marked confidential at the time of the election.
14. Apart from the 2025 EX-002 as set forth below, the report does not include voters who are no longer registered to vote. This includes voters whose records have been canceled, or whose voter records are marked “pending” or “incomplete.” Voter records are never actually deleted from SCORE but rather are moved to one of these two statuses when list maintenance is performed on a record which results in that record no longer being registered to vote. Generally, vote records in these statuses are not available on public voter files because they are no longer records of registered voters in the state.
15. I understand that the Complaint alleges that the Department altered (or allowed the alteration of) voter records, either through the post-certification addition or deletion of voter records or vote history. Exhibits C, D, and E purports to identify specific voter identification numbers of records which they allege were subject to improper modification. Because the Complainants did not provide the originating data files with their exhibits, I cannot confirm that these voter identification numbers came from any specific EX-002 produced by this office. I can however confirm that our office does not produce any of the files characterized by the Complainants in various footnotes as “Voter Roll files.”
16. As a result, my investigation consisted of comparing the voter identification numbers provided by the Complainants to the data found in SCORE. My analysis revealed that the subject records were not altered post-certification. Rather, the data analysis performed by the Complainants appears to have identified ordinary changes made to voter registrations through the Election Division's standard voter roll list maintenance process.

17. This conclusion was based on investigating a large volume of the identified voter ID records and identifying the actual explanations as to why some of the voters whom the Complainants identified appear on some lists, and not on others. I also found that there were perfectly reasonable explanations for why some voter records may appear to have added vote histories, while others may appear to have removed vote histories. After my review, I discussed and reviewed my findings with several data analysts from the SCORE team and with the SCORE manager. They agreed with my findings and analysis.
18. My review indicates that all the following explanations are both permitted and required as list maintenance activities under federal and state law.
19. The first explanation I found was of a voter merge:
 - a. A “merge” occurs when a search of the voter registration database reveals that there is more than one voter registration record open for the same individual. When this happens, county clerk staff must “merge” the two records into one, single record in the database.
 - b. For example, I examined voter ID# 601653566 (“Record A”) in SCORE, which was one on a list of records which the complainants indicated had voter history added over time. *See* Exhibit E, tab “U24-CO-Grp1_Col3_Row2_records
 - c. My review revealed that Record A is the survivor of a merge with voter ID# 603833392 (Record B). That merge occurred after the 2024 General Election.
 - d. Record B included vote history in the 2024 General Election.
 - e. When Record B was merged with record A, the vote history was also merged.
 - f. Therefore, when Record A appeared on the EX-002 after the 2025 Coordinated Election, it included vote history for the 2024 General Election. When Record A appeared on the EX-002 after the 2024 General Election, it did not include vote history for the 2024 General Election. This difference is due to the merging of Record A with Record B.
20. I found numerous other examples of merged records during my review of records identified by the complainants as having added vote history.
21. The second explanation I found to be of import was that of a confidential status having been added:
 - a. For example, I looked up voter ID# 601578765 in SCORE, which was one on a list of records which the complainants indicated had been “removed” from an EX-002 over time. *See* Exhibit E, tab “U24-CO-Grp1_Col3_Row3_records
 - b. I found that the record was not confidential until July of 2025 and therefore appeared on the 2024 General Election EX-002.
 - c. However, this voter requested confidential status in July of 2025. Therefore, this voter was excluded from the 2025 EX-002 and will be excluded from all subsequent public reports unless or until the voter expressly requests the reversal of their confidential status.

22. Notably, I found significantly more examples of confidential status that were properly added during my review of records that the complainants had claimed had been improperly “removed” from EX-002 files.
23. The third explanation I found was of a confidential status removed:
 - a. For example, I looked up voter ID# 2758987 which the complainants indicated had been “added” to an EX-002 over time. *See* Exhibit E, tab “U24-CO-Grp1_Col3_Row4_records
 - b. What I found is that ID# 2758987 was confidential and therefore did not appear on public reports for the 2024 General, including the EX-002 list generated after that election.
 - c. The voter’s confidential status was removed in October 2025 at the request of the voter.
 - d. Because this voter was no longer confidential, the voter appeared on the 2025 EX-002, and on that list the voter includes vote history in the 2024 General Election.
24. Similarly, I found many more examples of voters’ confidential status having been removed during my review of records that the complainants had claimed had been improperly “added” to EX-002 files.
25. I also found examples of voter identification numbers that the complainants appeared to claim appeared on an EX-002, but did not actually appear on that list:
 - a. I reviewed Exhibit E, which indicated that on the tab, “U24-CO-Grp1_Col3_Row1_records” there were voter ID numbers which appeared on both the 2024 EX-002 and the 2025 EX-002. It also indicated that those voter ID numbers had vote history removed between the 2024 EX-002 and 2025 EX-002. *See* Exhibit E, tab “U24-CO-Grp1_Col3_Row3_records
 - b. I picked, at random, several voter ID numbers from that tab and asked that they be searched against the 2025 EX-002 data list.
 - c. This included the following voter ID numbers: 601381393; 603529901; 2349465.
 - d. The search revealed that none of these voter ID numbers were included on the 2025 EX-002 data list.
 - e. Based on this analysis, I concluded that the list of voter ID numbers provided by the complainants contains multiple errors and is not a reliable representation of voter IDs that did or did not appear on any particular EX-002.
26. During my investigation, I also discovered that the EX-002 list generated after the 2025 coordinated election contains voters who were “canceled,” “pending,” or “incomplete.”
27. After discussions with the data analysts who perform this data pull, it was determined that these records were included in the 2025 EX-002. These categories include individuals who at one time were registered to vote, or who attempted to register to vote in Colorado, but who did not complete their registration. These individuals were not registered to vote on Election Day in 2025, and none of them received a ballot.

28. It is my understanding that voters with a “canceled,” “pending,” or “incomplete” status are not usually included on a post-election EX-002 list.
29. However, the inclusion of these voters on the 2025 EX-002 list does explain why Complainants appear to believe that hundreds of thousands of records were “added” to the 2025 EX-002 data.
30. While many voter identification numbers may appear to have been added to the 2025 EX-002, it is in no way evidence of Complainants’ allegations. These voters had participated in previous elections; however, they had not been included on prior EX-002s because those exports did not include canceled, pending, or incomplete registrations.
31. This fact was clear on the face of the 2025 EX-002 because voter records included on an EX-002 include their status. Next to these voters the status “canceled,” “pending,” or “incomplete” appears. This was unique to the 2025 EX-002; voters with these statuses did not appear on prior EX-002s.
32. It is the Department’s legal duty to maintain the voter rolls in SCORE, by cancelling voters who have died, or moved away, merging voters with duplicate records, and making records confidential when the voter qualifies and requests to be a confidential voter.
33. Thus, my investigation revealed that the complainants' assertions were factually inaccurate and thus without merit.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 21st day of May 2026.

 /s/ Caleb Thornton
(Declarant’s signature)

Print name: Caleb Thornton