



July 16, 2025

Re: Petition for Rulemaking

Via Email - clearinghouse@eac.gov and ckelliher@eac.gov

Camden Kelliher, General Counsel
Office of the General Counsel
U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

Dear Mr. Kelliher,

Please find enclosed a petition for rulemaking submitted by America First Legal Foundation.

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Enclosure: Petition of America First Legal Foundation for Rulemaking
Before The Election Assistance Commission



Petition of America First Legal Foundation for Rulemaking

Petition to Issue Rule Requiring Documentary Proof of Citizenship on Federal Voter Registration Forms

PETITION FOR RULEMAKING

SUMMARY OF PETITION

1. This petition for rulemaking is submitted pursuant to 5 U.S.C. § 553(e) and 11 C.F.R. § 200.2, which grants any interested person the right to petition a federal agency for the issuance, amendment, or repeal of a rule. America First Legal Foundation (AFL) respectfully requests that the Election Assistance Commission (EAC) amend 11 C.F.R. § 9428.4 and the federal voter registration form to require Documentary Proof of Citizenship (DPOC). The DPOC requirement for the federal voter registration form is essential to enhance the integrity and reliability of voter registration processes, ensuring that only eligible U.S. citizens are permitted to register and vote in federal elections. The EAC's prompt implementation of these changes is essential to preserving the appearance and reality of free and fair elections and to ensure that only U.S. citizens vote in federal, state, and local elections.

STATEMENT OF INTEREST

2. AFL is a national, 501(c)(3) nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States.

BACKGROUND

3. Only U.S. citizens are allowed to vote in federal elections. It is a federal crime for foreigners to vote for "President, Vice President, Presidential elector, Member of the Senate, [or] Member of the House of Representatives."¹ It is also a crime for a foreigner to falsely claim U.S. citizenship to register to vote.²

¹ 18 U.S.C. § 611 (criminal statute subjecting aliens who vote in federal elections to up to one year in prison or criminal fine).

² *E.g.* 18 U.S.C. § 911 ("Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined under this title or imprisoned not more than three years, or both."); 18 U.S.C. § 1015(f) (knowingly making "any false statement or claim that he is a citizen of the United States in

4. The National Voter Registration Act (NVRA) mandates that states “accept and use the mail voter registration application form prescribed by the [EAC] . . . for the registration of voters in elections for Federal office”³ ; that the form contain the following question: “Are you a citizen of the United States of America?”⁴; and that the form “include a statement that . . . specifies each eligibility requirement (including citizenship)” and “requires the signature of the applicant, under penalty of perjury.”⁵ The NVRA also empowers the EAC to “require . . . information . . . necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.”⁶
5. The current form fails to require sufficient information to determine whether registrants are U.S. citizens. Specifically, the form requires voter registrants to sign “under penalty of perjury,” affirming that “I am a United States citizen.”⁷ Although the form warns that providing false information may lead to legal consequences, including being “fined, imprisoned,” and, for aliens, “deported from or refused entry to the United States,” the credibility of this threat is undermined by its nearly non-existent enforcement.⁸
6. The Help America Vote Act (HAVA) exacerbates this inadequacy by requiring a question about U.S. citizenship status and a checkbox to indicate the answer, but similarly does not include DPOC.⁹ The current EAC-issued form continues to require only attestation of citizenship under penalty of perjury without necessitating DPOC.¹⁰ This reliance on self-attestation is inherently inadequate as it depends entirely on the honesty of applicants, leaving the system vulnerable to fraudulent registrations by foreign citizens.
7. The NVRA, commonly known as the Motor Voter Law, is a federal law designed to enhance voting opportunities for every American citizen by requiring states

order to register to vote or to vote in any Federal, State, or local election” subjects an alien to five years’ imprisonment or fine); 52 U.S.C. § 21144(b) (making it a crime to “knowingly commit[] fraud or knowingly make[] a false statement with respect to the naturalization, citizenry, or alien registry” in connection with voter registration and voting); *see also* 8 U.S.C. § 1182(6)(C)(ii)(I) (making ineligible for a visa and inadmissible into the United States “[a]ny alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit . . . any . . . Federal or State law”).

³ 52 U.S.C. § 20505(a)(1).

⁴ 52 U.S.C. § 21083(b)(4)(A)(i).

⁵ 52 U.S.C. § 20508(b)(2); *see also* 52 U.S.C. § 20504(c)(2)(C).

⁶ 52 U.S.C. § 20508(b)(1).

⁷ 11 C.F.R. § 9428.4(b)(3); Office of Management and Budget, *Information Collection Request: OMB Control No. 3265-0015*, (2024), <https://perma.cc/K6FT-7DKM>.

⁸ *Id.*

⁹ 52 U.S.C. § 21083(b)(4)(A).

¹⁰ *Id.*; 11 C.F.R. § 9428.4(b)(3).

to offer voter registration at motor vehicle departments and other public assistance agencies.¹¹ The lack of stringent verification processes, such as requiring DPOC, has led to instances where foreign citizens, who are often unaware of the implications, are registered to vote. This jeopardizes the integrity of the election process by allowing potentially ineligible individuals to participate in federal elections.¹²

8. There are numerous instances of foreigners appearing on voter rolls.¹³ For example, a North Carolina audit before the 2014 midterm elections found that 1,454 registrants were not naturalized before Election Day.¹⁴ Further investigation showed that 89 of these registrants showed up to vote, and 24 were challenged, with 11 challenges being sustained.¹⁵ Similarly, in 2019, Texas identified nearly 100,000 possible foreigners on their voter rolls, of which around 58,000 may have voted in previous elections.¹⁶ Since 2021, the State of Texas has removed over 6,500 potential foreign citizens from its voter rolls.¹⁷ Of those 6,500 foreign citizens, 1,930 actually voted.¹⁸ Between January 16, 2024, and August 13, 2024, the office of Alabama Secretary of State Wes Allen identified and purged from voter rolls 3,251 foreign citizens who were registered to vote in the State.¹⁹ On August 21, 2024, Ohio Secretary of State Frank LaRose announced that his office had identified 597 foreign citizens who were registered to vote in Ohio and that 138 of them had actually voted.²⁰ On August 7, 2024, Virginia Governor Glenn Youngkin issued an executive order requiring more thorough list maintenance procedures because “between January 2022 and July 2024, records indicate we removed 6,303 non-citizens from the voter rolls.”²¹ The Heritage Foundation’s database includes 1,499 proven instances of voter fraud, with 1,275 criminal convictions.²² This data highlights significant vulnerabilities in the current voter registration system.

¹¹ National Voter Registration Act of 1993, 52 U.S.C. §§ 20501-20511.

¹² *Motor Voter at 30: The Problem and the Hindrance to the Solution*, PUB. INT. LEGAL FOUND. at 19 (2023), <https://perma.cc/TU5M-DMW8>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Secretary Whitley Issues Advisory On Voter Registration List Maintenance Activity*, TEXAS SECRETARY OF STATE (Jan. 25, 2019), <https://perma.cc/3DJ7-AJ7W>.

¹⁷ *Governor Abbott Announces Over 1 Million Ineligible Voters Removed From Voter Rolls*, OFFICE OF THE TEXAS GOVERNOR (Aug. 26, 2024), <https://perma.cc/SPG8-GWPB>.

¹⁸ *Id.*

¹⁹ *Secretary of State Wes Allen Implements Process to Remove Noncitizens Registered to Vote in Alabama*, ALABAMA SECRETARY OF STATE’S OFFICE (Aug. 13, 2024), <https://perma.cc/SD8M-GNVR>.

²⁰ *Secretary LaRose Refers Evidence of Non-Citizen Voter Registrations to Ohio Attorney General for Potential Prosecution*, OHIO SECRETARY OF STATE’S OFFICE (Aug. 21, 2024), <https://perma.cc/H3TZ-YMVS>.

²¹ Va. Exec. Order No. 35 at 2 (2024), available at <https://perma.cc/JU3V-J5UE>.

²² *Election Fraud Map: A Sampling of Proven Instances of Election Fraud*, HERITAGE FOUND., <https://perma.cc/TZT4-CUSZ>.

9. Although some dismiss the issue by arguing there is not enough fraud to be of significance,²³ “flagrant examples of [voter] fraud . . . demonstrate that not only is the risk of voter fraud real but that it could affect the outcome of a close election.” See *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008). Perhaps the most infamous example is the 2000 presidential election, in which George W. Bush won Florida by a mere 537 votes.²⁴ In 2008, the Minnesota Senate race involved a recount that shifted the final vote total from a Republican victory by 215 votes to a Democrat victory by 312 votes out of over 2.4 million votes cast.²⁵ Another example is the 1974 New Hampshire Senate race, in which the margin of victory was only two votes.²⁶ With close elections being far from unusual, every effort should be made to ensure that only eligible voters can cast ballots.

SUPREME COURT PRECEDENTS

10. In 2004, Arizona voters adopted Proposition 200.²⁷ Among other things, it targeted voter “fraud by requiring voters to present proof of citizenship when they register to vote and to present identification when they vote on election day.” *Arizona v. Inter Tribal Council of Arizona, Inc.* (“*Inter Tribal Council*”), 570 U.S. 1, 6 (2013) (quotations omitted). Various groups sued, alleging that this DPOC requirement violated federal law. Justice Scalia, writing for the Court, held that the NVRA preempted Arizona’s proof-of-citizenship requirement but noted that states could deny registration based on information in their possession establishing an applicant’s ineligibility. *Id.* at 15. Justice Scalia emphasized that Congress has the authority to regulate federal election procedures, and the NVRA’s requirement to “accept and use” the federal form implies that states must treat it as sufficient evidence of voter eligibility without additional documentation. *Id.*
11. However, the Court also indicated that states could petition the EAC to include additional requirements, such as DPOC, in the federal form’s instructions. *Id.* at 20. In other words, the Court held that the EAC could add a DPOC requirement to the federal voter registration form in response to a rulemaking petition from an interested party. *Inter Tribal Council* makes clear that the EAC is in control of whether to include a DPOC requirement on the voter registration form. The lack of any such requirement compromises the integrity of the voter registration process and undermines public confidence in the electoral system.
12. According to 52 U.S.C. § 20508(b)(1), “[the Federal Form] may require only such identifying information . . . as is necessary to enable the appropriate State

²³ See, e.g., Miles Parks, *Conservatives Are Warning About Noncitizens Voting. It’s a Myth with a Long History*, NPR (Mar. 13, 2024), <https://perma.cc/47ZW-N8AX>.

²⁴ *The American Presidency Project: 2000*, <https://perma.cc/R9JN-ZPG3>.

²⁵ *Minnesota’s Historic 2008 Election*, MINNESOTA SECRETARY OF STATE, <https://perma.cc/3UTT-CG9W>.

²⁶ *Closest Election in Senate History*, U.S. SENATE, <https://perma.cc/WFS2-9FRU>.

²⁷ *2004 Ballot Propositions: Proposition 200*, ARIZONA SECRETARY OF STATE, <https://perma.cc/F8B6-T7VM>.

election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1). As the D.C. Circuit has explained, this provision “at once *requires* and restricts the inclusion of certain information on the Federal Form.” *League of Women Voters of the United States v. Newby*, 838 F.3d, 1, 5 (D.C. Cir. 2016) (emphasis added). Thus, 52 U.S.C. § 20508(b)(1) *requires* the EAC to update the Federal Form’s instructions if state election officials lack the necessary information to verify citizenship and voter eligibility.

13. The current federal voter registration form fails to require the minimum amount of information necessary for state election officials to verify an applicant’s eligibility. The reliance on self-attestation, without DPOC, is nearly self-refuting. How does it make any sense to rely on an applicant’s honesty to prevent dishonesty? States are unable to meaningfully verify citizenship, allowing ineligible aliens to register and vote. The risk is not hypothetical. As explained above in paragraph 8 and below in paragraphs 24 to 26, aliens *are* exploiting this flaw in the voter registration process and *are* registering to vote. This compromises the integrity of the voter registration process and undermines public confidence in the electoral system.

FAILURES UNDER THE CURRENT VOTER REGISTRATION FORM

14. Some states have attempted to address the gap created by the lack of a DPOC requirement by attempting to verify citizenship through other means. However, these methods all have significant flaws. The only full solution is to require DPOC at the time of voter registration.
15. HAVA requires that, if a voter registration applicant has a driver’s license or a Social Security number (SSN), states must collect either the driver’s license number or the last four digits of the SSN. 52 U.S.C. § 21083(a)(5)(A)(i). If the information matches existing state records, the applicant is exempt from certain additional identification requirements for first-time voters in federal elections. 52 U.S.C. § 21083(b)(3). While this provision aims to bolster voter verification by establishing some minimum requirements, it is entirely insufficient to verify the citizenship of applicants.
16. Some states use a DHS database called Systematic Alien Verification for Entitlements (SAVE) for the purpose of verifying that voter registration applicants are citizens. However, SAVE was created by the Immigration Reform and Control Act of 1986 (IRCA) for the purpose of “verify[ing] alien eligibility for public benefits,” and not for voter list maintenance.²⁸ Through Memoranda of Agreement with

²⁸ Pub. L. No. 99–603 (“IRCA”), § 121, 100 Stat 3359 (1986) (heading for the IRCA section that created SAVE explaining its purpose as “VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.”); *Peters v. United States*, 853 F.2d 692, 700 n. 3 and 9 (9th Cir. 1988).

the USCIS, states use the SAVE system to assist in verifying the citizenship of naturalized and derived citizens registering to vote, and to maintain and update existing voting rolls. Arizona,²⁹ Colorado,³⁰ D.C.,³¹ Florida,³² Georgia,³³ Mississippi,³⁴ Tennessee,³⁵ and Virginia,³⁶ among others, all use SAVE as part of their official voter registration and verification processes

17. However, SAVE is not a foolproof tool for verifying the citizenship of potential voters.³⁷ For instance, SAVE only has access to “existing USCIS, DHS, and external source systems,”³⁸ which means that so-called “gotaway” aliens who illegally crossed the border without being apprehended by DHS will not be in the system. Additionally, “SAVE cannot search for native-born citizens.”³⁹
18. The current federal voter registration form falls critically short of its statutory obligations. By relying solely on self-attestation of citizenship without requiring any form of DPOC, the form fails to provide state election officials with the minimum necessary tools needed to verify the citizenship of applicants. This reliance on an honor system is grossly inadequate in an era where the integrity of the electoral process is paramount. The lack of a requirement for DPOC leaves the door open for aliens to potentially register and vote, undermining our free and fair elections.
19. Moreover, the current EAC voter registration form is inherently flawed because the last four digits of a SSN are not unique and can be associated with multiple individuals, which prohibits effective verification and increases the risk of false positives or negatives in the verification process. This limitation severely restricts the capacity of state officials to ensure that only eligible U.S. citizens are registering to vote. These regulatory shortcomings emphasize the need for a more comprehensive and reliable system of citizenship verification using DPOC to protect the electoral process from potential fraud and ensure that only eligible citizens participate in federal elections.

²⁹ STATE OF ARIZONA, ELECTIONS PROCEDURES MANUAL (2023).

³⁰ *Election Integrity Scorecard: Colorado*, HERITAGE FOUND., <https://perma.cc/H92W-EPV5>.

³¹ *Election Integrity Scorecard: D.C.*, HERITAGE FOUND., <https://perma.cc/UJ64-EW7N>.

³² *Election Integrity Scorecard: Florida*, HERITAGE FOUND., <https://perma.cc/DS5R-ZNEG>.

³³ O.C.G.A. § 21-2-216(g).

³⁴ MISS. CODE ANN. § 23-15-150.

³⁵ TENN. CODE ANN. § 2-2-141(a).

³⁶ VA. CODE ANN. § 24.2-404(E).

³⁷ Angie Drobnic Holan, *League of Women Voters Says Homeland Security Warned Florida in 2011 about Vulnerabilities in Voter Database*, POLITIFACT (Oct. 30, 2013), <https://perma.cc/WM4U-Y39N>.

³⁸ *Privacy Impact Assessment for the Systematic Alien Verification for Entitlements Program*, DHS Reference No. DHS/USCIS/PIA-006(c), U.S. DEPT OF HOMELAND SECURITY at 1 (June 30, 2020), <https://perma.cc/UW64-6KVJ>.

³⁹ *Mi Familia Vota v. Fontes*, 719 F. Supp. 3d 929, 974 (D. Ariz. 2024), *aff'd in part, vacated in part, remanded*, 129 F.4th 691 (9th Cir. 2025), and *aff'd in part, vacated in part, remanded*, 129 F.4th 691 (9th Cir. 2025).

20. Implementing a DPOC requirement is essential to provide state election officials with the necessary tools to verify citizenship accurately and maintain reliable voter rolls.

VOTER FRAUD WITHOUT DPOC

21. The current framework, as prescribed by the EAC, essentially ties the hands of state election officials, rendering them incapable of performing thorough eligibility assessments. The form's instructions do not require the collection of critical data such as full SSNs or driver's license numbers in a manner that would allow for cross-referencing with existing databases like SAVE, which is necessary for effective citizenship verification. This omission creates significant vulnerabilities and facilitates voter fraud. This deficiency undermines the integrity of the voter registration process by allowing aliens to potentially register and vote, which contravenes the statutory goal of ensuring that only eligible U.S. citizens participate in elections.
22. Several states have attempted to address these deficiencies by implementing or proposing DPOC requirements. In line with the ruling in *Arizona v. Inter Tribal Council*, Arizona maintains separate state and federal voter rolls, creating a dual system where individuals who have not provided DPOC may only vote in federal elections.⁴⁰ As of January 2, 2025, approximately 50,000 people in Arizona were registered to vote only in federal elections, having failed to provide the documents necessary to register to vote in state elections.⁴¹ Over 40,000 of these had failed to provide DPOC,⁴² meaning the number of Arizona voters who have not verified their citizenship account for nearly four times as many votes as the 10,457 margin by which the presidential election was decided in Arizona in 2020.⁴³ In other words, if even a fourth of those federal-only voters failed to provide DPOC because they are not in fact eligible to vote, they provide enough illegal votes to swing an election.
23. Georgia, Alabama, and Kansas all have laws on the books requiring DPOC.⁴⁴ However, these laws were never fully implemented due to a series of legal chal-

⁴⁰ *Mi Familia Vota*, 719 F. Supp. 3d at 948.

⁴¹ *Federal Only Registrants as of January 2nd, 2025*, ARIZONA SECRETARY OF STATE'S OFFICE, <https://perma.cc/GH53-BBN9>.

⁴² *Id.* The remaining approximately 8,000 federal-only voters are listed as having failed to provide proof of residency, rather than proof of citizenship.

⁴³ *State of Arizona Official Canvas*, ARIZONA SECRETARY OF STATE'S OFFICE (Nov. 24, 2020), <https://perma.cc/7KP3-5NMV>.

⁴⁴ *League of Women Voters v. Newby*, 838 F.3d 1, 5 (D.C. Cir. 2016) (citing ALA. CODE §§ 31-13-28(c)–(l), GA. CODE ANN. § 21-2-216(g); KAN. STAT. ANN. §§ 25-2309(l)–(t)).

lenges, first for the states' failure to secure the EAC's approval for state-specific instructions that differ from the federal form, and later challenges to the approval itself when EAC approval was eventually granted.⁴⁵

24. Despite efforts and precautions taken by states, alarming numbers of aliens successfully cast ballots in American elections. There is a plethora of evidence demonstrating the long-running, alien voter fraud crisis. One Pew study indicated that as many as 24 million nationwide voter registrations were inaccurate.⁴⁶ The Heritage Foundation has compiled a list of over 200 criminal convictions resulting from ineligible voting (i.e. voters who are not eligible to vote because they are aliens, convicted felons, etc.).⁴⁷
25. Examples from states like North Carolina, Pennsylvania, and Virginia illustrate the severity of these verification issues. In North Carolina, a 2014 audit revealed that 1,454 aliens were registered to vote.⁴⁸ In 2018, over 100,000 alien voters were found on Pennsylvania voter rolls, and one city official found that at least 90 aliens cast ballots in a Philadelphia election.⁴⁹ In 2024, Virginia found and removed 1,481 aliens from the official voter rolls, some of whom had been voting since 2019.⁵⁰
26. A recent survey found that 10-20% of aliens are illegally registered to vote.⁵¹ Based on that data, the author of that survey predicted that roughly 1 million to 2.7 million aliens would vote in the 2024 election;⁵² the actual number who did, of course, will never be known.
27. The experiences of states like Arizona, Kansas, Georgia, Alabama, North Carolina, Virginia, and Pennsylvania demonstrate that the current federal voter registration form does not meet the statutory requirement to provide the minimum necessary information for state election officials to verify citizenship. The reliance on self-attestation without DPOC undermines the integrity of the voter registration process and fails to equip state officials with adequate tools to ensure that only eligible U.S. citizens can register and vote. Therefore, there is a compelling need to amend the federal voter registration form to include a

⁴⁵ *Id.*

⁴⁶ *Pew: One in Eight Voter Registrations Inaccurate; 51 Million Citizens Unregistered*, PEW RSCH. CTR. (Feb. 14, 2012), <https://perma.cc/CXQ3-T9ZD>.

⁴⁷ HERITAGE FOUND., *supra* note 22.

⁴⁸ *Records from PILF Litigation: North Carolina Identified 1,400 Registrants Who Appeared to be Foreign Nationals*, PUB. INT. LEGAL FOUND. (June 22, 2023), <https://perma.cc/CJ4N-27Z4>.

⁴⁹ *PILF Sues Pennsylvania to Release Data on '100k' Noncitizen Voter Registrants*, PUB. INT. LEGAL FOUND. (Feb. 26, 2018), <https://perma.cc/2UVG-YFV8>.

⁵⁰ Erin Marie Joyce, *VA Records Show Non-Citizens Voting*, ELECTORAL PROCESS EDUC. CORP. (Mar. 22, 2024), <https://perma.cc/9TCT-2URD>.

⁵¹ James Agresti, *Study: 10% to 27% of Non-Citizens Are Illegally Registered to Vote*, JUSTFACTS (May 13, 2024), <https://perma.cc/2BSL-EJE2>.

⁵² *Id.*

DPOC requirement, aligning it with the goals of maintaining a fair and secure electoral system.

28. Voter fraud of *any* amount should be of utmost concern for the United States government. Even one fraudulent vote cancels out a citizen's vote, effectively denying a citizen the right to have a voice in government.
29. Critics of DPOC requirements for voter registration complain about the potential for disenfranchisement of members of disadvantaged groups. However, such concerns typically ignore that sufficient identification is already a requirement for common daily activities, from banking to travel.⁵³ In other words, the overwhelming majority of U.S. citizens already possess such identification; the percentage to whom this concern even applies is vanishingly small. If it does not infringe a traveler's rights by requiring identification to board a plane, there is no logical reason it would infringe anyone's rights to require proof of citizenship to vote.

BENEFITS OF UNIFORM DPOC REQUIREMENT

30. Implementing a uniform DPOC requirement across all states offers significant advantages in terms of consistency and administrative efficiency. By standardizing the requirement for DPOC, the federal voter registration process can align more closely with state practices, thereby reducing the administrative burdens that arise from differing state and federal requirements. This uniformity simplifies the verification process for election officials, streamlining operations and minimizing errors.
31. The significant increase in illegal immigration during the Biden Administration, during which time U.S. Customs and Border Protection reported record numbers of apprehensions and gotaways, also increases the concerns about voter fraud by aliens. The lasting effects of that illegal immigration surge, combined with inadequate verification processes, increase the risk of aliens registering to vote, compromising the integrity of U.S. elections.
32. A consistent DPOC requirement would also significantly enhance public confidence in the electoral system. Public opinion surveys indicate 81% of Americans support stricter voter registration requirements, such as requiring all voters to show government-issued photo identification to vote, reflecting a general consensus on the need for robust verification processes. The Pew Research

⁵³ See, e.g., Real ID Act, Pub. L. No. 109-13, 119 Stat. 311, 312 (2005) (Requiring Real ID compliant identification for "any official purpose," including boarding federally regulated commercial aircraft or accessing Federal facilities).

Center found that nearly all Republicans (95%) and a super-majority of Democrats (69%) favor a requirement for all voters to show government-issued identification to vote.⁵⁴

33. Ensuring that only eligible citizens can register and vote addresses widespread concern about voter fraud and electoral integrity, fostering greater trust in the democratic process. Bolstering public confidence is crucial for maintaining the legitimacy and fairness of elections and reinforces the foundational principle that only every legitimate vote should count.

**EXECUTIVE ORDER 14,248:
PRESERVING AND PROTECTING THE INTEGRITY OF AMERICAN ELECTIONS**

34. President Trump responded to the widespread support for increased election integrity measures by signing, on March 25, 2025, Executive Order 14,248, titled “Preserving and Protecting the Integrity of American Elections.”⁵⁵
35. The Executive Order explains that “Free, fair, and honest elections unmarred by fraud, errors, or suspicion are fundamental to maintaining our constitutional Republic. The right of American citizens to have their votes properly counted and tabulated, without illegal dilution, is vital to determining the rightful winner of an election.”⁵⁶
36. In support of this vital objective, the Executive Order directs several important actions to be taken by various entities within the Executive Branch. Relevant here, Section 2(a) of the Order directs the Election Assistance Commission to require DPOC on the federal form.⁵⁷
37. As has been the case with virtually all of President Trump’s policies, his political opponents promptly sued to prevent the enforcement of this Executive Order.⁵⁸ Three cases were consolidated in the United States District Court for the District of Columbia (referred to collectively as *LULAC v. Trump*), one, filed by Washington State, is ongoing in the Western District of Washington, and another, filed by a coalition of states led by California, is ongoing in the United States District Court for the District of Massachusetts.

⁵⁴ *Bipartisan Support for Early In-Person Voting, Voter ID, Election Day National Holiday*, PEW RSCH. CTR. (Feb. 7, 2024), <https://perma.cc/77RJ-NJZS>.

⁵⁵ 90 Fed. Reg. 14,005 (March 25, 2025).

⁵⁶ *Id.*

⁵⁷ *Id.* at 14,006.

⁵⁸ *League of United Latin American Citizens v. Trump*, 1:25-cv-0946 (CKK) (D.D.C.); *Democratic National Committee v. Trump*, 1:25-cv-0952 (CKK) (D.D.C.); *League of Women Voters Education Fund v. Trump*, 1:25-cv-0955 (CKK) (D.D.C.) (these three cases have been consolidated and are therefore collectively hereinafter referred to as “*LULAC v. Trump*”); *California v. Trump*, 1:25-cv-10810 (D. Mass. Filed Apr. 3, 2025); *Washington v. Trump*, 2:25-cv-0602 (W.D. Wash. Filed Apr. 4, 2025).

38. Although the merits of the cases are still being litigated, two courts have entered preliminary injunctions against the implementation of § 2(a). Crucially, however, these injunctions are based entirely on separation of powers principles. *See, LULAC v. Trump*, No. CV 25-0946 (CKK), 2025 WL 1187730, at *1 (D.D.C. Apr. 24, 2025) (“These consolidated cases are about the separation of powers.”); *California v. Trump*, No. 25-CV-10810-DJC, 2025 WL 1667949, at *7 (D. Mass. June 13, 2025) (expressly endorsing the separation of powers reasoning in *LULAC*).
39. In other words, the injunctions are based entirely on the premise that the *President* likely cannot *require* this Commission to act. This premise remains contested in court, but it also leaves this Commission with the freedom to take commonsense election integrity measures on its own volition.
40. The *California* Court, for example, explained: “Nothing in this Memorandum or the accompanying Order shall prevent the Executive Branch from taking any lawful action that is not based upon §§ 2(a), 2(d), 3(d), 7(a), or 7(b) of the Executive Order as described herein and in the accompanying order.” *California*, 2025 WL 1667949, at *21. Acting independently or in response to this petition would be “lawful action that is not based upon §[] 2(a). . . of the Executive Order.”
41. The *LULAC* Court, upon which the *California* court largely relied for its analysis of § 2(a), was even more explicit: “[N]othing in this Memorandum Opinion or the Court’s preliminary injunction should be taken to restrain the EAC or its Members from independently determining whether or not documentary proof of citizenship is or is not ‘necessary to enable’ State election officials to assess voters’ eligibility or from revising the Federal Form with the assent of three Members and following the appropriate notice-and-comment rulemaking process. *See* 52 U.S.C. §§ 20508(b)(1), 20928, 20929. As the Court has explained, its holding here is limited to the conclusion that the President cannot unilaterally mandate that action by executive order.” *LULAC*, 2025 WL 1187730, at *60.
42. In short, nothing restricts this Commission from undertaking the rulemaking proposed in this petition. To the contrary, at least so far as these district courts’ preliminary analysis goes, the requested rulemaking is the *only* currently feasible way to accomplish the overwhelming policy preference of the American people.

REQUESTED ACTION

43. To enhance the accuracy and integrity of the voter registration process, 11 C.F.R. § 9428.4 and the federal voter registration form should be revised to require applicants to provide one of the following as proof of citizenship: U.S.

Passport, State-issued Real ID-compliant driver's license indicating that the applicant is a citizen, an official military identification card that indicates the applicant is a citizen of the United States, or a valid Federal or State government-issued photo identification if such identification indicates that the applicant is a United States citizen or if such identification is otherwise accompanied by proof of United States citizenship. This amendment aligns with the statutory requirements of the National Voter Registration Act (NVRA) and Supreme Court precedent, ensuring that only eligible U.S. citizens can register to vote.

CONCLUSION

44. The implementation of DPOC on federal voter registration forms is a necessary measure to uphold the integrity and reliability of the electoral process. The right to vote and to have one's vote counted is a fundamental right of American citizens and a principle that our democracy depends on.⁵⁹ Only American citizens' votes should determine the outcome of an election. The federal voter registration form's failure to require DPOC is a critical oversight that must be addressed to ensure the integrity and reliability of the voter registration process. By amending the form to include mandatory DPOC, the EAC can provide state election officials with the tools needed to verify voter eligibility.
45. This amendment would comply with statutory requirements and enhance public confidence in the electoral system by ensuring that only eligible U.S. citizens can register to vote, thus fulfilling the fundamental goal of the EAC in preserving the democratic process and maintaining public trust in election outcomes. We urge the EAC to initiate a rulemaking process to amend 11 C.F.R. § 9428.4 and the national mail voter registration form.

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Respectfully Submitted,

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⁵⁹ See *Reynolds v. Simms*, 377 U.S. 533, 554–55 (1964) (“Undeniably the Constitution of the United States protects the right of all qualified citizens to vote in state as well as in federal, elections. A consistent line of decisions by this Court in cases involving attempts to deny or restrict the right of suffrage has made this indelibly clear. It has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote and to have their votes counted.” (internal citations omitted)).