



October 20, 2025

RE: Comment of America First Legal Foundation on Petition of America First Legal Foundation for Rulemaking Before the Election Assistance Commission, 90 Fed. Reg. 40,825 (Aug. 21, 2025)

Mr. 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:

America First Legal Foundation (“AFL”) is a nonprofit law firm founded to boldly and unapologetically defend the rights of everyday Americans. AFL works to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and promote public knowledge and understanding of the individual rights guaranteed under the Constitution and laws of the United States.

As part of our mission to promote the rule of law and protect Americans’ constitutional rights, AFL takes the issue of election integrity very seriously. The Petition for Rulemaking requests that the Election Assistance Commission (“EAC” or “the Commission”) rectify a substantial vulnerability in the security of American election. AFL therefore writes today to support the Petition.

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Enclosure: Comment of America First Legal Foundation on Petition for Rulemaking



COMMENT OF AMERICA FIRST LEGAL FOUNDATION ON PETITION FOR RULEMAKING

SUMMARY OF COMMENT

This comment supports America First Legal Foundation’s (“AFL”) petition for rulemaking pursuant to 5 U.S.C. § 553(e) and 11 C.F.R. § 200.2, urging the Election Assistance Commission (“EAC”) to amend 11 C.F.R. § 9428.4 and the federal voter registration form¹ to require Documentary Proof of Citizenship (“DPOC”) on the federal voter registration form to verify citizenship and safeguard election integrity. The DPOC requirement is necessary to verify the citizenship of those registering to vote and, thereby, prevent fraud and safeguard both the appearance and reality of free and fair elections.

As the tens of thousands of comments posted thus far in support of AFL’s petition for rulemaking make clear, this proposed rulemaking is a necessary, and long overdue, commonsense measure to promote the integrity of American elections. Those few comments that oppose the rulemaking rely on many of the same tired arguments that are raised any time a measure is proposed to promote election integrity, and, just as the concerns of election integrity opponents have never meaningfully materialized before, there is no reason to believe they will materialize now. The EAC should initiate a rulemaking to amend 11 C.F.R. § 9428.4 and the federal voter registration form to require DPOC and adopt a final rule implementing a DPOC requirement.

I. The Current Federal Form Invites Fraud, Undermining Americans’ Confidence in the Integrity of Our Elections

As AFL explained in its initial petition, the current federal form is inadequate to prevent aliens from registering to vote and thereby undermines the integrity of federal, state, and local elections. Although 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,”² or to falsely claim U.S. citizenship to register to vote,³ foreigners appearing on voting roles is routine.

¹ OMB Control No. 3265-0015.

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

³ *See, 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 order to register to vote or

For example, a North Carolina audit before the 2014 midterm elections found that 1,454 registrants were not naturalized before Election Day.⁴ Further investigation showed that 89 of these registrants showed up to vote, and 24 were challenged, with 11 challenges being sustained.⁵ 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.⁶ Since 2021, the State of Texas has removed over 6,500 potential foreign citizens from its voter rolls.⁷ Of those 6,500 foreign citizens, 1,930 actually voted.⁸ 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.⁹ 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.¹⁰ 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.”¹¹ The Heritage Foundation’s database includes 1,499 proven instances of voter fraud, with 1,275 criminal convictions.¹²

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”).

⁴ *Motor Voter at 30: The Problem and the Hindrance to the Solution*, PUB. INT. LEGAL FOUND. at 19 (2023), <https://perma.cc/TU5M-DMW8>.

⁵ *Id.*

⁶ *Secretary Whitley Issues Advisory On Voter Registration List Maintenance Activity*, TEXAS SECRETARY OF STATE (Jan. 25, 2019), <https://perma.cc/3DJ7-AJ7W>.

⁷ *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>.

⁸ *Id.*

⁹ *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>.

¹⁰ *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>.

¹¹ Va. Exec. Order No. 35 at 2 (2024), available at <https://perma.cc/JU3V-J5UE>.

¹² *Election Fraud Map: A Sampling of Proven Instances of Election Fraud*, HERITAGE FOUND., <https://perma.cc/TZT4-CUSZ>.

These purges contradict claims of voter fraud being rare, especially given the infrequent enforcement of voter fraud laws and perjury penalties, with only “400 voting-fraud charges filed nationwide [from] 2017” to September 2022.¹³ The “honor system” of attestation invites continued abuse, as aliens face low prosecution risks. A DPOC requirement shifts verification to the point of registration, preventing fraud proactively and reducing post-election disputes. This aligns with the federal statutory mandate to equip states with adequate eligibility assessment tools.¹⁴ As Arizona has demonstrated with its statewide voter registration system, a DPOC requirement strengthens democracy without disenfranchising eligible voters.

Nationwide, the problem has only gotten worse. The Biden Administration’s era of unprecedented illegal immigration and lax enforcement of citizenship laws has only exacerbated this problem, raising the risk of aliens effectively stripping citizens of the right to vote by way of illegal dilution. Citizens alone have the sacred right to choose their leaders, yet the current federal voter registration form relies on an “honor system” of mere attestation to prevent fraud—relying, in an exercise of absurdity, on a registrant’s honesty to prevent dishonesty.

Opponents, such as the League of Women Voters and the National Women’s Law Center, assert that alien voting poses no significant threat to election security.¹⁵ This narrative is wrong, both factually and logically. As explained above, studies and audits routinely find thousands of aliens on voter rolls—more than enough to influence or decide a close race. Indeed, some studies estimate that as many as 10%–27% of the tens of millions of aliens present in this country are illegally registered to vote.¹⁶

Other opponents argue that current tools for detecting fraud are sufficient.¹⁷ Not only are current tools often inadequate, as the routine discovery of extensive

¹³ Michael Wines, *In Voter Fraud, Penalties Often Depend on Who’s Voting*, NY Times, (Sept. 7, 2022).

¹⁴ 52 U.S.C. § 20508(b)(1).

¹⁵ LEAGUE OF WOMEN VOTERS, *Urge the EAC Not to Require Documentary Proof of Citizenship* (accessed Oct. 16, 2025), <https://perma.cc/ZS95-XX84>; NAT’L WOMEN’S L. CTR., *Comments on Petition to Issue Rule Requiring Documentary Proof of Citizenship on Federal Voter Registration Forms, Dkt. No. EAC-2025-0236* (Oct. 10, 2025), <https://perma.cc/HP29-PU5M> (claiming “no evidence that noncitizen voting is an issue that impacts the security of our elections and plenty of evidence that this policy change would disenfranchise voters”).

¹⁶ James Agresti, *Study: 10% to 27% of Non-Citizens Are Illegally Registered to Vote*, Just Facts (May 13, 2024), <https://perma.cc/2BSL-EJE2> (estimating high non-citizen registration rates).

¹⁷ See, e.g., LEAGUE OF WOMEN VOTERS OF WASHTENAW COUNTY, MICHIGAN, *Re: Docket number EAC-2025-0236* (Oct. 8, 2025) <https://perma.cc/RLW4-BTE7> (arguing that “election officials have systems to verify an individual voter’s eligibility and ensure

fraudulent registrations demonstrate, but states often lack the resources or political will to ensure the integrity of their voter rolls. Indeed, some states have gone so far as to *actively resist* reasonable voter roll maintenance efforts.¹⁸ To illustrate, the Department of Justice recently had to sue six states just to get access to voter rolls in support of maintenance oversight; the six states actively resisting voter roll maintenance, alone, make up 130 electoral college votes, nearly half of the amount needed to elect a president.

The argument that current fraud detection works is precisely backwards. One would naturally expect that surreptitious, felonious behavior like voter fraud, committed by taking advantage of lax enforcement and an inadequate federal voter registration form, would be difficult to detect. In other words, despite the extensive evidence that the problem is severe, the actual scope of the problem is almost certainly greater than we know simply because, by its nature, voter fraud is intentionally concealed.

On the other hand, with well-funded organizations like the League of Women Voters and the American Civil Liberties Union opposing virtually every election integrity measure proposed, one would expect that, if the often-voiced concern about voters being disenfranchised by basic election integrity measures were serious, we would be inundated with examples of it. But we're not.

II. A DPOC Requirement Will Not Disenfranchise Eligible Voters

Unlike fraudulent voters, whose illegal activity we would expect to remain surreptitious, a disenfranchised citizen can—and should—be expected to loudly voice their dissatisfaction with the system that has deprived them of rights. Yet, no matter how often this tired talking point is rolled out by election integrity opponents, it is never supported by facts.

Indeed, the precise issue of access to identification related to election integrity measures has been litigated all the way up to the Supreme Court—without well-funded election integrity opponents being able to find *anyone* who was disenfran-

voter rolls are accurate,” without identifying any such systems or how they could be effective when registration is based only attestation)

¹⁸ See *Justice Department Sues Six States for Failure to Provide Voter Registration Rolls*, DEPT. OF JUST. (Sept. 25, 2025) <https://perma.cc/JQ82-T9UJ>; see also *United States v. Weber*, No. 2:25-cv-09149 (C.D. Cal. filed Sept. 25, 2025) (California); *United States v. Benson*, No. 1:25-cv-01148 (W.D. Mich. filed Sept. 25, 2025) (Michigan); *United States v. Simon*, No. 0:25-cv-03761 (D. Minn. filed Sept. 25, 2025) (Minnesota); *United States v. Bd. of Elections of the State of New York*, No. 1:25-cv-01338 (N.D.N.Y. filed Sept. 25, 2025) (New York); *United States v. Scanlon*, No. 1:25-cv-00371 (D.N.H. filed Sept. 25, 2025) (New Hampshire); *United States v. Pennsylvania*, No. 2:25-cv-01481 (W.D. Penn. filed Sept. 25, 2025) (Pennsylvania).

chised by such measures. For example, in 2008 the Supreme Court upheld a requirement in Indiana that voters present photo identification on election day, despite challenges that such a requirement could disenfranchise voters without access to identification. *See Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008). The Court noted that the district judge had “found that petitioners had ‘not introduced evidence of a single, individual Indiana resident who will be unable to vote as a result of [the requirement] or who will have his or her right to vote unduly burdened by its requirements.’” *Id.* at 187. By contrast, the Court had no difficulty finding proof of “that not only is the risk of voter fraud real but that it could affect the outcome of a close election.” *Id.* at 196.

Yet, critics of the Proposed Rulemaking persist in offering exaggerated, unrealistic versions of this tired argument. The League of Women Voters of Washtenaw County, Michigan, for example, offers the absurd estimate that, because many women change their names when they get married, “69 million American women . . . lack paperwork that reflects their current name,”¹⁹ apparently unaware that this number is higher than the estimated number of currently married American women who changed their name when they got married.²⁰ There is also no evidence, despite 36 states requiring photo identification to vote, of millions of American women being disenfranchised.

The reality is that identification is a routine requirement for daily life, and the proposed rulemaking would ensure that there were multiple options for Americans to comply with the DPOC requirement—enough to prevent any reasonable concern over disenfranchisement. Everyday activities, from driving to adopting a pet to boarding a commercial aircraft, and even accessing financial assistance programs like the Supplemental Nutrition Assistance Program require ID without claims of suppression.²¹ Options like passports, passport cards, Real ID-compliant driver’s licenses, military IDs, and Enhanced Tribal Cards are widely available. The proposed rule lists

¹⁹ LEAGUE OF WOMEN VOTERS OF WASHTENAW COUNTY, MICHIGAN, *supra* note 16.

²⁰ There are an estimated 168 million women in this country, of whom an estimated 46.4% are currently married, of whom an estimated 85% changed their names. That’s approximately 66.3 million currently married women who changed their names—somehow, nearly 3 million fewer than the League’s estimate for women who lack proper identification as a result of getting married. *See Women’s History Month: March 2024*, United States Census Bureau (Mar. 6, 2024) <https://perma.cc/YGK6-T4UV> (168 million women estimate); Jaden Loo, *Marriage: More than a Century of Change, 1900-2022*, BOWLING GREEN STATE UNIV. (last updated July 29, 2024) <https://perma.cc/XWH2-8B33>; Luona Lin, *About 8 in 10 women in opposite-sex marriages say they took their husband’s last name*, PEW RSCH. CTR. (Sept. 7, 2023) <https://perma.cc/F33K-BR9Y>.

²¹ Soc. Sec. Admin., *Supplemental Nutrition Assistance Program (SNAP) Facts*, Pub. No. 05-10101 (Mar. 2025), <https://perma.cc/V64F-7KRJ> (requiring ID for welfare).

passports as a sufficient form of DPOC—that alone secures registration for nearly half of Americans.²²

A. Married women will not be disenfranchised.

The latest tactic among opponents of commonsense election integrity measures is to claim that married women who change their names will struggle to prove their citizenship and, thereby, be disenfranchised by such a rule. This concern is meritless but does raise one issue that should be considered when the EAC proceeds with the rulemaking process.

As to the merits of the objection, thousands of years of history prove that women who choose to change their names when they marry (or for any other reason, for that matter) are perfectly capable of taking the steps necessary to ensure that such a legal change is properly documented and that they have the paperwork necessary to function in society under their new name. The steps for ensuring adequate documentation of a name change are accessible and comprehensible.²³ As noted above, during other challenges to identification requirements, such as requirements to produce ID at the polling place, election integrity opponents have been unable to produce a woman who had been disenfranchised by her name change.

Here, the concern is especially misplaced. Unlike requirements to produce ID on election day, which married women have had no difficulty complying with, a requirement for DPOC to register allows a virtually indefinite preparatory period. Put different, voter ID laws require proper identification on election day, but a DPOC requirement to register requires identification only at some unspecified time ahead of the election. A woman planning to marry therefore has many options. She can register before she has changed her name and then update her registration as necessary once the legal paperwork has gone through; she can register to vote after she has completed necessary name-change paperwork (possibly even using much of the documentation required for the name change in the first place); she can even register under her maiden name in between the wedding itself and when her name change is legally completed, and update her registration later. Just as married women have been successfully procuring passports, driver's licenses (including Real ID compliant licenses that should also be sufficient to register to vote), and all the other accoutrements of modern life, there is no reason to believe they will struggle with voter registration.

That said, there is one legitimate consideration the EAC should account for when drafting the requested rule: an appropriately comprehensive list of adequate

²² *How Many US Passports are in Circulation?*, USAFACTS (Mar. 4, 2024), <https://perma.cc/5YB4-7N35> (estimating nearly 0.48 passports per person).

²³ *How to Change Your Name and What Government Agencies to Notify*, USA GOV. (Feb 2, 2024), <https://perma.cc/N3FU-LME5>.

forms of DPOC, with multiple options for proving citizenship. For example, to prevent anyone from being disenfranchised if they attempt to register after submitting a formal name change but before receiving new documentation (such as a new passport or Real ID driver's license), the EAC should specify that appropriate proof of name change combined with proof of citizenship under the prior name is sufficient.

B. Other groups will not be disenfranchised either.

Some commenters also raised concern about other groups, such as rural voters, disaster victims, Native Americans, and military servicemembers. First, like married women, these groups can expect to face even less of a burden from registration identification requirements than voter ID requirements because of the extended time ahead of an election during which one may register, and voter ID requirements have been successfully implemented across the country for decades without critics' concerns about disenfranchisement being vindicated.

That said, rural voters benefit from over 7,400 passport facilities and planned expansions, with more than 99 percent of Americans already living within 25 miles of an acceptance facility.²⁴ Further, the need for transportation is paramount in rural communities, and a Real ID compliant driver's license is also a proposed adequate form of DPOC.

For disaster victims, federal procedures offer free replacements, remedying losses without compromising security.²⁵ The loss of life or property due to natural disasters is undeniably tragic, but the loss of identification documents is readily remedied through established federal procedures. For passports, for example, the State Department maintains a comprehensive list of recognized natural disasters, organized by year, that qualify affected citizens for free replacement of lost or damaged passports.²⁶ Keep in mind that the only disaster victims who would be affected at all are those who have not registered to vote before the disaster and who endure the disaster so close to election day that they have not had time to replace their documents—quite the low-probability niche.

Native American citizens have a unique available option: Enhanced Tribal Card (ETC). The ETC is a federally recognized, Western Hemisphere Travel Initiative (WHTI)-compliant identification card issued by participating Native American

²⁴ Press Statement, Antony J. Blinken, U.S. DEP'T OF STATE, *Expanding Passport Agencies Across the United States* (June 18, 2024), <https://perma.cc/EL2Z-6PQF> (announcing expansions).

²⁵ See, e.g., *Replacing Your Passport After a Disaster*, U.S. DEP'T OF STATE (last updated Sept. 22, 2025), <https://perma.cc/WJU2-K26F> (providing free replacements).

²⁶ *Id.*

tribes to their members for crossing the United States borders with Canada and Mexico, for domestic air travel, and entering federal buildings. It should also be considered adequate DPOC under the proposed regulation.

Some commenters voiced concerns about military members. Again, this ignores the fact that members of the military can register to vote before being deployed and avoid the risk entirely. There is also already extensive infrastructure in place to help deployed military members vote early or absentee, which could just as easily assist with registration. A U.S. Department of Defense ID is already classified as acceptable identification at TSA checkpoints and includes clear citizenship indicators.²⁷ Indeed, because it indicates citizenship status through color-coding, Military ID is one of the forms of DPOC proposed in the Petition.²⁸

Opponents like the U.S. Vote Foundation warn of burdens on overseas and military voters, citing insecure transmission risks, but states can implement visual inspections or secure protocols, mirroring DMV practices, without retention.²⁹

In short, concerns about disenfranchisement in response to the Petition are chimerical, just as they have been when raised in response to virtually every other election integrity measure implemented over the past several decades. Voter ID requirements did not cause the widespread disenfranchisement critics feared, and registration ID is even less likely to cause anyone harm.

But even if such concerns were valid, the Petition proposes numerous solutions for obtaining an ID by requesting a comprehensive list of acceptable forms of DPOC. For example, obtaining a passport or passport card is a fairly simple process, and it is accessible to any American. As of 2024, there are 169,915,821 valid passports in circulation in the United States.³⁰ This number has seen a dramatic increase post-COVID and represents the highest number of passports the State Department has on record.³¹

States can (and many do) issue non-driver identification cards; if Real ID compliant, they would suffice to prove citizenship. A voter can present a military ID, a Real ID compliant driver's license, certificate of naturalization, or other acceptable

²⁷ *Acceptable Identification at the TSA Checkpoint*, TRANSP. SEC. ADMIN., (last visited Oct. 3, 2025), <https://perma.cc/75RJ-CB6U>.

²⁸ 32 C.F.R. § 161.7 (requiring color bars for citizenship indication at appendix 2).

²⁹ U.S. VOTE FOUND., *US Vote Comment to EAC on Voter Proof of Citizenship Risks* (Oct. 7, 2025), <https://perma.cc/T2NQ-HJLQ> (warning of transmission risks for UOCAVA voters).

³⁰ *Reports and Statistics*, U.S. DEPT OF STATE (last visited Oct. 3, 2025), <https://perma.cc/PGB4-8XUF>.

³¹ *Id.*

forms of DPOC that sufficiently indicate citizenship to ensure that only citizens participate in our elections.

You need acceptable identification to drive a car, open a bank account, apply for welfare assistance³², apply for Social Security³³, to get married³⁴, to pick up a prescription³⁵, or even to adopt a pet.³⁶ In most states, you need it to vote. It only makes sense to require appropriate identification to register to vote.

III. Other Concerns Are Vastly Overblown

Other concerns raised by commenters are also vastly blown out of proportion. For example, the U.S. Vote Foundation raised concerns about security, but concerns about insecure transmission are addressed by non-retention protocols, ensuring no new risks beyond current systems.³⁷ Such objections also ignore the reality that registrations using the federal form are often completed in-person, where election offices can use secure visual inspections, deterring fraud while protecting voters.

Claims of excessive costs are unfounded. Arizona has required DPOC to register to vote in statewide elections for years, and Arizona's rollout saw only modest cost increases. By mitigating the need for post-registration voter roll cleanups, a DPOC requirement also saves resources, as evidenced by Arizona's stable election expenditures post-2006.³⁸ Opponents overlook these efficiencies, focusing on hypothetical burdens while ignoring the costs of unchecked non-citizen voting.

Some comments even went so far as to express concerns about State sovereignty, apparently unaware that the language in the NVRA mandating creation of the Federal Form also expressly preempts State control over whether to use the Federal Form and what can be required on the Federal Form. *See Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 5 (2013). Indeed, in the *Inter Tribal Council of Arizona* case the Court explicitly noted that the EAC had power on its own to create

³² *Supplemental Nutrition Assistance Program (SNAP) Facts*, *supra* note 20.

³³ *Learn What Documents You Will Need to Get a Social Security Card*, SOC. SEC. ADMIN., (last visited Oct. 3, 2025), <https://perma.cc/232G-4KHQ>.

³⁴ Jaimie Mackey & Krisiti Kellogg, *A Marriage License and Certificate are Both Essential in Making Your Union Legal – Here's How to Get Each*, BRIDES (Aug. 22, 2025), <https://perma.cc/57NK-PESV>.

³⁵ Tegan Smedley, *Picking Up a Prescription for Someone Else? Here's What You Need to Know*, GOODRX (Apr. 5, 2023), <https://perma.cc/4B2W-3KZY>.

³⁶ Heather Berst, *What are the Requirements to Adopt a Pet?*, ZOETIS (last visited Oct. 3, 2025) <https://perma.cc/YX5B-8TT2>.

³⁷ U.S. VOTE FOUND., *supra* note 28 (highlighting risks).

³⁸ *State of Arizona Annual Financial Report for the Fiscal Year Ending June 30, 2007*, Ariz. Gen. Acct. Off. (2007), <https://perma.cc/2Z2C-N68S> (showing minimal cost increases after implementation).

such a requirement. *Id.* at 19 (“[P]ursuant to the Government’s concession, a State may request the EAC alter the Federal Form to include information the State deems necessary to determine eligibility.”).

In short, implementing a DPOC requirement is a low-cost, low-risk measure to significantly improve election security and prevent fraud, that aligns with federal law and respects State sovereignty within our established system of election law.

IV. The DPOC Requirement Better Aligns the Federal Form with Federal Law.

Implementing the requested DPOC requirement will also help bring the federal form more into line with current federal law.

The Help America Vote Act (HAVA) explicitly requires a question about U.S. citizenship status and a checkbox to indicate the answer. The National Voter Registration Act requires further verification of eligibility to vote. The Federal Form “may require only such identifying information . . . as is 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.” 52 U.S.C. § 20508(b)(1). 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).

The checkbox required by HAVA is a statutory minimum, but experience proves the necessity of DPOC to *verify* eligibility; DPOC *is* “such identifying information . . . as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration.” It is not only within the EAC’s scope of authority to require DPOC, but also its duty.

V. The American People Overwhelmingly Support A DPOC Requirement

A consistent DPOC requirement would also serve the important objective of increasing public confidence in our elections. 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 consensus on the need for robust verification processes. The Pew Research Center found that nearly all Republicans (95%) and a super-majority of Democrats (69%) favor the requirement for all voters to show government-issued identification to vote.³⁹

³⁹ *Bipartisan Support for Early In-Person Voting, Voter ID, Election Day National Holiday*, PEW RSCH. CTR. (Feb. 7, 2024), <https://perma.cc/77RJ-NJZS>.

Similarly, a Gallup survey found 84% support for requiring photo identification to vote and 83% support for providing proof of citizenship when registering to vote for the first time.⁴⁰

The commentary to this docket is similarly lopsided, with most comments supporting the Petition. Requiring DPOC to register to vote will increase the integrity of American elections, while also increasing confidence that our elections are being decided fairly—by American voters.

CONCLUSION

The EAC should grant AFL's Petition for Rulemaking and adopt a DPOC requirement on the Federal Form. This will enhance election integrity, align with the NVRA's mandate to provide state officials with the information they need to verify voter eligibility, and increase voter confidence in the reliability of American elections.

Dated October 20, 2025

Respectfully Submitted,

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⁴⁰ Megan Brenan, *Americans Endorse Both Early Voting and Voter Verification*, Gallup (Oct. 24, 2024) <https://perma.cc/QMQ5-37J4>.