

October 20, 2025

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U.S. Election Assistance Commission
633 3rd Street N.W., Suite 200
Washington, DC 20001

**Re: Comment in Response to Petition of America First Legal Foundation for
Rulemaking Before the Election Assistance Commission (August 21, 2025)**

Docket No. EAC-2025-0236

To Whom It May Concern:

The undersigned current and former local election officials urge the EAC to reject any petition to add documentary proof of citizenship (“DPOC”) requirements to the federal voter registration form (the “Federal Form”). With many decades of collective experience administering and overseeing elections, serving millions of eligible voters, the twenty-three signatories understand the practicalities of running elections, including the significant impact that the design and processing of paperwork like voter registration forms can have on voters. They write to offer their perspective that a DPOC requirement on the Federal Form would be harmful. Local election officials across the country do not share the exact same day-to-day experience—some operate bustling offices serving hundreds of thousands of voters, while others serve as the sole election administrator for individual townships. But while their day-to-day operations may differ, the undersigned local election officials agree: a DPOC requirement would make it harder for eligible voters to register and would disrupt local election administration, resulting in confusion, disenfranchisement, and resource strains. The EAC should adhere to the National Voter Registration Act (“NVRA”) and its own precedents and reject the petition for a DPOC requirement.

I. A DPOC Requirement Would Make It More Difficult for Local Election Officials to Fulfill Their Duty to Promote the Exercise of Voting Rights.

The NVRA affirms that the right of U.S. citizens to vote is a “fundamental right” and that federal, state, and local governments all have a “duty to promote the exercise of that right,” 52 U.S.C. § 20501(a), including by increasing voter registration and participation, *id.* § 20501(b). Local election officials assume these duties upon taking office, and many also pledge to uphold or

defend the Constitution—including the right to vote—when swearing in.¹ Amending the Federal Form to require DPOC would frustrate the efforts of local election officials to fulfil their statutory duties to increase voter registration and participation.

As two federal district courts recently observed, Congress explicitly considered *and rejected* a DPOC requirement when passing the NVRA.² Congress instead determined that citizenship could be adequately assessed by including an attestation from the voter that they are eligible to vote.³ In keeping the citizenship verification requirements simple, “the Federal Form guarantees that a simple means of registering to vote in federal elections will be available.”⁴ Any attempt to institute a DPOC requirement would complicate this well-established process with additional paperwork burdens for Federal Form applications that would in turn decrease voter registration and participation, contrary to local election officials’ duties and the purpose of the NVRA. The experience of states that have attempted to implement DPOC requirements makes clear that voter disenfranchisement is not speculation, but the reality of a DPOC requirement.

A. Many eligible voters do not have DPOC readily available.

Many eligible voters do not have DPOC readily available, so it would be harder for them to register to vote using the Federal Form, including at designated voter registration agencies. 52 U.S. Code § 20506. The rule offered by the petition would require a voter to produce one of the following documents when registering with the Federal Form: (1) a U.S. Passport; (2) a Real ID driver’s license indicating citizenship; (3) a military ID indicating citizenship; or (4) “a valid

¹ See, e.g., Pa. Const. art. VI, § 3 (County officers all swear to “support, obey and defend the Constitution of the United States”); Mich. Const. art. XI, § 1 (“All officers . . . [swear to] support the Constitution of the United States”); Wis. Const. art. IV, § 28 (All officers “shall . . . take and subscribe to an oath or affirmation to support the constitution of the United States . . .”).

² “[W]hen enacting the NVRA, Congress considered and rejected a proposal that would have allowed States to impose . . . [a] documentary proof of citizenship requirement” *California v. Trump*, 786 F. Supp. 3d 359, 381 (D. Mass. 2025) (quoting *League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 196 (D.D.C. 2025) (both citing H.R. Rep. No. 103-66, at 23 (1993)) (Conf. Rep.) (concluding that requiring “presentation of documentation relating to citizenship” is “not necessary or consistent with the purposes of [the NVRA]”). See also *Kobach v. U.S. Election Assistance Comm’n*, 772 F.3d 1183, 1195 n.7 (10th Cir. 2014) (“Both houses of Congress debated and voted on the specific question of whether to permit states to require documentary proof of citizenship in connection with the Federal Form, and ultimately rejected such a proposal.”).

³ 52 U.S.C. § 20508(b)(2)-(3) (specifying that the form “shall include” such an attestation and “may not include any requirement for notarization or other formal authentication.”).

⁴ *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 12 (2013).

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.”⁵ To someone removed from realities of election administration, a DPOC requirement might seem like a reasonable addition to the required citizenship attestation. However, the undersigned local election officials know that many of their eligible voters—and some groups in particular—do not have easy access to these documents.

To begin, many eligible voters simply do not have the listed documents. U.S. Department of State data indicates that only about half of Americans have a U.S. Passport.⁶ The inclusion of Real IDs in the proposed list suggests that many drivers carry proof of citizenship in their pockets, but that simply is not the case. First, in many states, fewer than half of drivers have REAL IDs;⁷ and second, the REAL ID Act does not require states to indicate citizenship status on the REAL ID card, and thus few do.⁸ Nor do military IDs indicate citizenship status. As to what documents might qualify as additional proof of citizenship to accompany a “valid Federal or State government-issued photo identification,” the petition provides no guidance for local election officials or other voter registration agencies to follow, which will lead to confusion for both voters and those processing registration forms. The petition also notably excludes Tribal IDs from the list of acceptable DPOC, even though Tribal IDs are accepted as proof of citizenship in other contexts.⁹

⁵ Petition of America First Legal Foundation for Rulemaking Before the Election Assistance Commission, 90 Fed. Reg. 40825 (Aug. 21, 2025).

⁶ *Reports and Statistics: Valid Passports in Circulation by Fiscal Year (1989-2024)*, U.S. DEPT. OF STATE (Oct. 9, 2024), <https://perma.cc/6SQA-CTA8> (There were almost 170 million valid passports in 2024.); *U.S. and World Population Clock*, U.S. CENSUS BUREAU (Oct. 5, 2025), <https://perma.cc/CZG7-CR4Q> (The U.S. population passed 340 million by the end of 2024.).

⁷ See, e.g., *Be REAL ID Ready for Internships, Job Interviews, and Upcoming Holiday Travel*, Commonwealth of Pennsylvania (Aug. 26, 2025), <https://perma.cc/G5EL-5M7W> (As of August 2025, months past the highly-publicized May 2025 deadline for REAL IDs or passports to be required for domestic air travel, only about a third of Pennsylvanian driver’s licenses were REAL IDs).

⁸ REAL ID Act § 202(c)(2)(B) (codified at 49 U.S.C. § 30301 note). Only Michigan, Minnesota, New York, Vermont, and Washington offer a citizen-only REAL ID alternative. Christina A. Cassidy, *How the House’s requirement to prove U.S. citizenship could affect the ability to register to vote*, WHYY (Apr. 10, 2025), <https://perma.cc/CFF2-SNX8>.

⁹ See, e.g., Ariz. Rev. Stat. § 160166(F)(6) (allowing Native Americans to submit tribal ID numbers as proof of citizenship for voter registration purposes); 42 U.S.C. § 435.407(a)(5) (listing documents issued by federally recognized Indian Tribes that must be accepted as stand-alone evidence of citizenship to qualify for Medical Assistance Programs under Medicare).

In addition to those who do not have the listed documents at all, millions of eligible voters do not have other forms of DPOC on hand to readily produce.¹⁰ This includes elderly voters, whose birth certificates were issued before modern recordkeeping practices, or who may live in a nursing home while relatives hold on to their important paperwork elsewhere; unhoused people, who may not have secure locations to store documentation or reliable mailing addresses to receive documentation; university students, who may live away from the place where their DPOC is stored for part of the year; and eligible incarcerated voters, whose access to documentation is restricted, among many others.

When voters lack ready access to DPOC, it is more challenging for them to register to vote, including through community voter registration efforts. In service of their duty to increase registration, some local election administrators hold community registration events at places with heavy foot traffic like food pantries, botanical gardens, pizza shops, libraries, and churches.¹¹ A DPOC requirement would render such efforts ineffective to the extent that they rely on the Federal Form: most people do not bring their passports or birth certificates to pick up their pizza.

B. State DPOC requirements provide cautionary tales of disenfranchisement.

Arizona, one of the few States that enacted and currently enforces a DPOC requirement for state and local voter registration, provides a useful case study of how a DPOC requirement leads to disenfranchisement. Arizona voters must present DPOC to register to vote a “full ballot” including federal, state, county, and local races, while no DPOC is required for a federal-only ballot.¹² Arizona has approximately 40,000 federal-only voters who are ineligible for a full ballot because they have no DPOC on file.¹³ These voters tend to be college students, tribal members, or

¹⁰ A University of Maryland Survey conducted to gauge the potential impact of the SAVE Act, legislation that would require DPOC to register to vote, found that “[o]ver 21.2 million eligible voters (9%) across the county do not have, or do not have easy access to, DPOC.” *Who Lacks Documentary Proof of Citizenship?*, CTR. FOR DEMOCRACY & CIVIC ENGAGEMENT (Mar. 2025) at 3, <https://perma.cc/484E-MZZX>.

¹¹ See, e.g., *Celebrate National Voter Registration Day!*, CITY OF MADISON (Sept. 16, 2024), <https://perma.cc/LMH7-ZX8D>. See also *Mobile Voter Services Satellite Office Outreach*, MONTGOMERY COUNTY (May 2, 2025), <https://perma.cc/9ZYS-2RZP>; *Mobile Voter Services Satellite Office Outreach*, MONTGOMERY COUNTY (May 8, 2025), <https://perma.cc/N2PC-K34K>.

¹² *Registering to Vote*, ARIZ. SEC’Y OF STATE, <https://perma.cc/KUH3-BQNU>.

¹³ *Federal Only Registrants as of January 2nd, 2025*, ARIZ. SEC’Y OF STATE, <https://perma.cc/5UET-ECNE>.

individuals experiencing homelessness—three groups that are less likely to have DPOC readily available, and as a result have no voice in Arizona elections.¹⁴

When New Hampshire’s newly-enacted DPOC requirement was first tested in local elections in March this year, a voter organization identified at least 96 people who were turned away from the polls in the State, which offers same-day registration.¹⁵ Same-day registrants struggled to find the right documentation and some women who could not find paperwork documenting past marriages and name changes could not cast a vote, with one town clerk reporting that the policy was “disenfranchising women.”¹⁶ Given that the first test took place in a smaller local election, it is likely that federal election days—with more voter participation and larger lines—will result in more disenfranchisement.

Additionally, when Kansas attempted to impose DPOC requirements in 2011, over 30,000 new voter registrants’ applications were cancelled or suspended for failure to provide DPOC. *Fish v. Schwab*, 957 F.3d 1105, 1128 (10th Cir. 2020). Meanwhile, the State was only able to prove that 39 noncitizens were on the rolls between 1999 and 2013, while the court pointed out that many or most of the 39 could be accounted for by administrative anomalies rather than deliberate attempts by noncitizens to register. *Id.* at 1142.

These disenfranchising DPOC requirements, like the petition at issue here, are a solution in search of a problem. Noncitizen voting is extremely rare, as the EAC acknowledged in 2014.¹⁷ Recent investigations by states into their own voter rolls have only confirmed that noncitizens

¹⁴ Kae Petrin & Jen Fifield, *Who are the Arizona voters without proof of citizenship? They may surprise you.*, VOTEBEAT ARIZ. (Dec. 13, 2024), <https://perma.cc/MQ9J-CLCR>.

¹⁵ Ethan Dewitt, *At least 96 people turned away from town meeting polls due to new state voting law, group says*, N. H. BULL. (Mar. 26, 2025), <https://perma.cc/9GJG-FRXV>. The organization that conducted the survey noted it was limited to twenty-two polling locations, and that the statewide number was likely higher. *Id.*

¹⁶ Holly Ramer, Michael Casey & Christina A. Cassidy, *New Hampshire town elections offer a preview of citizenship voting rules being considered nationwide*, ASSOCIATED PRESS (Mar. 25, 2025), <https://perma.cc/9BD5-3MFC>.

¹⁷ In 2014, the EAC considered evidence of a certain number of noncitizens registered to vote submitted by Arizona and Kansas when they requested that the EAC add DPOC to the Federal Form. U.S. Election Assistance Comm’n, Dkt. No. EAC-2013-0004, Mem. Concerning State Requests to Include Additional Proof-of-Citizenship Instructions on the National Voter Registration Form (Jan. 17, 2014). The EAC noticed that if the data that the states submitted were accurate, it would mean that only .007% of registered voters could have been noncitizens in Arizona and only .001% in Kansas. *Id.* at 34.

almost never end up on voter rolls, and it is even rarer for them to cast a ballot.¹⁸ Many local election officials have had to spend additional time in recent years addressing misinformation that strongly exaggerates the likelihood of noncitizens appearing on voter rolls.¹⁹ However, a far greater threat to voting rights would be a nationwide DPOC rule when similar rules have denied, delayed, or limited the right to vote for tens of thousands of *eligible citizens* in states that have attempted to impose them.

II. Requiring Documentary Proof of Citizenship Would Disrupt Election Administration, Requiring Significant Time and Resource Investment.

A DPOC requirement on the Federal Form would cause confusion and demand new policy development, more staff training, widespread voter education efforts, and additional resources to review each Federal Form registration—all at the cost of other critical functions.

These time and resource costs would begin long before a voter submits a registration form. Implementing the policies and processes required for a local election official to review DPOC could start with significant planning and development time across departments, including seeking advice from the state; drafting policies; conducting legal review of the draft policies; coordinating with IT over system capabilities and needs; and responding to voter concerns at public meetings. Each of these tasks is time-consuming. For example, in evaluating IT needs, local election officials would need to consider that DPOC review could require collection and storage of personal data like social security numbers—an endeavor that could require building new databases and increasing cybersecurity resources at a time when the federal government has been reducing its support for election security at the local level.²⁰

Once policies were settled and infrastructure built to handle DPOC requirements on the Federal Form, local election officials would then need to train staff and educate voters about acceptable DPOC and how and when to provide it. There would be confusion over the differences between the Federal Form and state registration forms. Outreach to clarify requirements in time to

¹⁸ Peter Charalambous, *Election fact check: Noncitizens can't vote, and instances are 'vanishingly rare,'* ABC NEWS (Oct. 28, 2024), <https://perma.cc/8BF9-FVKT>.

¹⁹ Jude Joffe-Block, *6 facts about false noncitizen voting claims and the election*, NPR (Nov. 5, 2024), <https://perma.cc/W74Q-NF6E>.

²⁰ For example, this year, the Department of Government Efficiency cut funding to the Elections Infrastructure Information Sharing and Analysis Center, a program that provides resources and services to local elections offices to combat cybersecurity threats. Many local election officials relied on its no-cost and low-cost cybersecurity defense software and security operations center, among other services that local elections offices cannot fund on their own. Steve Simon, *ICYMI: Secretary Simon Remarks on Federal Support for Election Security*, OFF. OF THE MINN. SEC'Y OF STATE (Mar. 4, 2025), <https://perma.cc/4T76-TPMX>.

educate voters ahead of registration deadlines would vary by jurisdiction depending on resources and voter needs, but could include updating website and social media materials, taking out ad space on the radio, sending mailers, translating all such outreach materials into languages sufficient to reach all voters in their communities, and answering inquiries from confused or concerned voters—all in service of the Signatories’ duties to enhance voter participation despite a new onerous DPOC requirement.

Finally, a DPOC requirement would increase the time required to process each voter registration form as local officials examined and recorded the documentation. While every office is different, if every voter registration application took even only a few more minutes to process, a local office could be overwhelmed. Local election officials would then have to engage in the costly updating of voter registration files to reflect DPOC. This would create real administrative challenges: when Arizona identified over two hundred thousand voter records that did not include citizenship confirmation, for example, local election officials were tasked with making the correction by notifying affected voters and re-processing the required documentation—a time-consuming process that took them away from other duties for months.²¹

A DPOC requirement would impose significant time and resource costs on local election offices and other local government departments. In creating confusion and administrative hurdles, the requirement would draw local election officials away from their statutory duties to promote the exercise of the right to vote.

III. Conclusion

Running statewide elections requires the coordinated efforts of thousands of state and local election officials, all of whom are charged with the duty to protect voting rights and the voting process. The petition’s proposal risks undermining their essential work. The undersigned local election officials respectfully ask that the EAC refrain from adopting a nationwide rule requiring documentary proof of citizenship on the Federal Form.

Respectfully submitted,

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²¹ Wayne Schutsky, *Arizona counties are contacting 200,000 voters who haven’t provided proof of citizenship*, KJZZ PHOENIX (Apr. 2, 2025), <https://perma.cc/89DN-6X2H>. One county recorder said she is handling notification in batches, “to give my small staff the ability to keep up with the influx of calls and responses.” *Id.*

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