



Arizona State Senate
Office of the President

October 20, 2025

Via Federal eRulemaking Portal

U.S. Election Assistance Commission
Attn: Office of the General Counsel
633 3rd Street NW, Suite 200
Washington, D.C. 20001

Re: Docket No. EAC-2025-0236; Federal Register No. 2025-15930

To the U.S. Election Assistance Commission:

I write in my capacity as the President of the Arizona State Senate in support of the petition to amend 11 C.F.R. § 9428.4 and the federal mail voter registration form (the “Federal Form”) to require that applicants must provide one of several specified forms of documentary proof of citizenship as a condition precedent to voting in federal elections.

Twenty years ago, Arizona successfully pioneered the nation’s first documentary proof of citizenship law. All individuals must present a U.S. passport, a REAL ID-compliant driver’s license number, or comparable corroboration of citizenship before they can vote for state and local offices in Arizona. *See* Ariz. Rev. Stat. § 16-166(F). The crux of this statute has withstood two sustained legal assaults over the years, and has been a critical bulwark in securing Arizona’s elections.

Arizona’s experience with implementing, defending, and enhancing our documentary proof of citizenship law imparts three key points, all of which underscore the importance of the petition’s proposed amendment.

1700 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007

602-926-4136

www.azleg.gov

I. Documentary Proof of Citizenship Is Necessary to Assess Eligibility and Administer Voter Registration

The U.S. Supreme Court has, on two occasions, confirmed that documentary proof of citizenship 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), within the meaning of Section 9(b) of the National Voter Registration Act of 1993 (“NVRA”).

In 2013, the court held that while Arizona could not itself require Federal Form applicants to provide proof of citizenship, it emphasized that the Commission could establish such a mandate and may even have “a nondiscretionary duty to include Arizona’s concrete evidence [of citizenship] requirement on the Federal Form.” *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 19-20 (2013). Further, the court explained that Arizona could incorporate a documentary proof of citizenship field into its own state-specific registration form, noting that, under Section 9(b), “state-developed forms may require information the Federal Form does not.” *Id.* at 12. That point is important; because the Section 9(b) rubric governs both the Federal Form and state-specific forms that are used to register voters in federal elections, the necessary implication is that Section 9(b) countenances the Commission’s addition of a proof of citizenship element to the Federal Form as well. *See* 52 U.S.C. § 20505(a)(2).

The Supreme Court indicated last year that it is poised to again affirm that documentary proof of citizenship is a necessary component of verifying prospective voters’ eligibility. In 2022, the Arizona Legislature strengthened the proof of citizenship requirement by (among other things) mandating that officials must “reject” any state form application “that is not accompanied by satisfactory evidence of citizenship.” Ariz. Rev. Stat. § 16-121.01(C). I, as a presiding officer of the Arizona Legislature, obtained from the U.S. Supreme Court a stay of the lower courts’ injunction against enforcement of this statute. *See Republican Nat’l Comm. v. Mi Familia Vota*, 145 S. Ct. 108 (Mem.) (2024). In staying the injunction, the Supreme Court implicitly but necessarily conveyed that there likely is “no basis to overrule Arizona’s determination that documentary proof of citizenship is ‘necessary to enable [its] election official[s] to assess the eligibility of the applicant.’” *Mi Familia Vota v. Fontes*, 129 F.4th 691, 749 (9th Cir. 2024) (Bumatay, J., dissenting) (quoting NVRA Section 9(b)); *see also Nken v. Holder*, 556 U.S. 418, 434 (2009) (Supreme Court will grant a stay only if, *inter alia*, the “applicant has made a strong showing that he is likely to succeed on the merits”). An ineluctable corollary is that Section 9(b)—which also regulates the content of the Federal Form—likewise empowers the Commission to assimilate a documentary proof of citizenship element into the Federal Form.

In short, the petition’s position that a documentary proof of citizenship facet on the Federal Form 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” under Section 9(b) aligns squarely with U.S. Supreme Court precedent.

II. Documentary Proof of Citizenship Requirements Improve Election Security Without Disenfranchising Eligible Individuals

Arizona’s two decades of experience with administering a documentary proof of citizenship requirement demonstrate that such mandates fortify election integrity without compromising voter access. Critics of citizenship verification laws often claim that reported incidents of illegal voting are rare. But courts and experts have acknowledged that election crimes evade easy detection, and reported rates hence do not necessarily reflect actual incidence. Stated another way, the absence of evidence is not always evidence of absence. *See Mi Familia Vota v. Fontes*, 719 F. Supp. 3d 929, 966 (D. Ariz. 2024), *aff’d in part, vacated in part on other grounds*, 129 F.4th 691 (9th Cir. 2025) (noting that even plaintiffs’ expert witness had conceded “that voter fraud can be difficult to detect”). Further, the lexicon of “fraud” obscures that unintentional violations—for example, a registration form signed by a longtime permanent resident who subjectively but mistakenly believes he is a naturalized citizen—also corrode election security, even though they may not be charged or prosecuted. *See Mi Familia Vota*, 719 F. Supp. 3d at 1011 (“The State’s interests in preventing voter fraud and unintentional non-citizen voting are both legitimate, as both forms of non-citizen voting can undermine the integrity of Arizona’s elections.”). Requiring that paper representations of one’s qualifications be confirmed with common forms of documentary proof necessarily curtails the risk of good faith, but still illicit, registration and voting by ineligible individuals.

Arizona also has wholly refuted a second common objection to proof of citizenship laws—namely, that they prevent eligible citizens from registering to vote. Since its enactment, our state’s statute has been targeted by a panoply of well-funded left-wing interest groups desperate to obtain in court what they could not accomplish at the ballot box. Despite these plaintiffs’ fevered claims of disenfranchisement, two different judges—in two different proceedings spanning nearly two decades—found *zero* confirmed instances of known citizens being excluded from the voter rolls as a result of Arizona’s proof of citizenship law. *See Mi Familia Vota*, 719 F. Supp. 3d at 1008 (finding, after a nine-day trial, that “Plaintiffs offered no witness testimony or other ‘concrete evidence’ to corroborate that the [documentary proof of citizenship requirement] will in fact impede any qualified voter from registering to vote or staying on the voter rolls.”), *aff’d in part, vacated in part on other grounds*, 129 F.4th 691 (9th Cir. 2025); *Gonzalez v. Arizona*, 2006 WL 8431038, at *7 (D. Ariz. Oct. 12, 2006) (denying preliminary injunction after finding that “it is not clear what percentage of these individuals wish to vote but are *actually* unable to obtain identification”).

III. The Commission's Adoption of a Proof of Citizenship Requirement Will Create a More Uniform, Secure, and Efficient Voter Registration System

Following the Supreme Court's ruling in *Inter Tribal Council*, Arizona has maintained bifurcated voter registration rolls. Registrants whose citizenship status has not been verified (other than individuals who registered to vote prior to the 2004 law's effective date) have a "federal only" designation and are issued ballots that contain only races for federal offices. *See* Ariz. Atty. Gen. Op. I13-011, 2013 WL 5676943 (Oct. 7, 2013). While this system generally works well and allows Arizona to verify the citizenship status of the vast majority of its registrants, the growing roster of "federal only" voters—whose citizenship status necessarily is uncorroborated—is not optimal. Most, if not all, of these individuals could produce adequate proof of citizenship, if required to do so. *See Mi Familia Vota*, 719 F. Supp. 3d at 1008 (finding that "even assuming some Federal-Only Voters do not possess [proof of citizenship], the evidence does not reliably illustrate the likelihood that voters will encounter obstacles to obtaining this information").

The addition of a documentary proof of citizenship component to the Federal Form will close this informational and election security gap, and enable Arizona (and other States) to migrate towards a uniform and unitary voter registration regime.

For all these reasons, I strongly support the petition and respectfully urge the Commission to initiate a rulemaking.

Respectfully,



Warren Petersen
Senate President
Arizona Senate, LD 14