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October 20<sup>th</sup>, 2025

## Honest Elections Project Comments Regarding America First Legal's Petition for Rulemaking

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The Honest Elections Project supports America First Legal Foundation's petition for rulemaking. For far too long, the EAC has promulgated a Federal Form for voter registration that does not allow states to meaningfully assess whether the applicant meets the state's minimum qualifications to be a voter. AFL's petition seeks to remedy this problem and should be granted.

Citizenship is a prerequisite to voting both federally and in all fifty states. The Federal Form, however, does not require proof that the applicant is a citizen beyond a checkbox and attestation. The deficient Federal Form, along with Supreme Court precedent, forces states to register people who have not demonstrated they are eligible.

And this matters to states. Each voter registration application that arrives without proof of citizenship requires the state to run multiple database checks to prove the applicant is a citizen. Mississippi estimates that each of these inquiries takes an hour. With thousands of new applications every year, these checks are a tremendous burden on state and local election officials. It is much more efficient to require the applicant to provide the proof at registration.

Even with states taking on this burden and doing their best to keep the voter rolls clean, non-citizens are still getting registered to vote. In the last few years, we have seen states like Ohio, Texas, and Virginia remove thousands of non-citizens from their rolls. The easiest way to prevent non-citizens from registering in the first place is to require proof of citizenship with the voter registration application. But the current Federal Form does not do this.

States have consistently requested that the EAC fix the Federal Form and have made multiple requests to both you and to the courts consistent with the AFL petition. Over the past twenty years, the States of Arizona, Georgia, Kansas, and Louisiana, among others, have repeatedly asked the EAC to update their states' corresponding instructions for the federal voter registration form so applicants would be required to provide documentary proof of citizenship to successfully register. Indeed, Secretaries of State of 11 states have asked Congress to review the Federal Form and fix the problem. We have attached a copy of their letter to our comment for your convenience.

We ask that you grant America First Legal's petition and start the rulemaking process to amend the Federal Form to require documentary proof of citizenship at the time of registration.

A handwritten signature in black ink, appearing to read "Jason Snead", written in a cursive style.

Jason Snead  
Executive Director  
Honest Elections Project



October 20, 2025

Majority Leader John Thune  
United States Senate SD-511  
Washington, DC 20510

Speaker Mike Johnson  
H-232, The Capitol  
Washington, D.C. 20515

Chairman Mitch McConnell  
Senate Rules Committee  
399 Russell Senate Office  
Washington, D.C., 20510

Chairman Bryan Steil  
House Administration Committee  
1309 Longworth House Office Building  
Washington, DC 20515

Dear Congressional Leaders,

We write to you to express our concerns with the manner in which the U.S. Election Assistance Commission (“EAC” or the “Commission”) has disregarded numerous states with respect to the National Mail Voter Registration Form. Each state requires that to vote, a person must be a U.S. citizen. Unfortunately, the EAC has consistently refused to change the form to require proof of citizenship, preferring a general attestation instead. As our states’ chief election officials, we respectfully seek your help in fixing this persistent problem.

Over the past twenty years, the States of Arizona, Georgia, Kansas, and Louisiana, among others, have repeatedly asked the EAC to update their states’ corresponding instructions for the federal voter registration form (“Federal Form”) so applicants would be required to provide documentary proof of citizenship (“DPOC”) in order to successfully register – a mandatory requirement for all prospective voters under each of their respective laws. As recently as September of this year, the EAC denied Louisiana’s request to change the form. And although Louisiana has the constitutional and statutory authority to request DPOC, it instead proposed a more moderate modification to the Federal Form to request additional identifying information in lieu of DPOC. Louisiana’s request was still denied. The EAC has consistently rejected all requests, insisting a mere oath attesting to citizenship in the Federal Form was sufficient to enforce these provisions.<sup>1</sup>

The Federal Form’s citizenship oath remains unchanged today, but the level of concern amongst states and the general public regarding noncitizen voting has only increased. In 2024, voters in eight different states approved state constitutional amendments directed towards preventing noncitizens from voting, bringing the total number of states with explicit constitutional prohibitions up to fifteen.<sup>2</sup> The EAC’s refusal to change the Federal Form

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<sup>1</sup> See *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 6 (2013); *Kobach v. U.S. Election Assistance Commission*, 772 F.3d 1183, 1197 (10th Cir. 2014).

<sup>2</sup> <https://www.ncsl.org/state-legislatures-news/details/states-consider-options-to-ensure-that-noncitizens-arent-voting>.

instructions has forced election administrators to process and approve voter registration applications which do not themselves satisfy the requirements laid out in state law. By allowing individuals to register without providing DPOC, the Federal Form has made it impossible for our states' election officials to ensure the U.S. citizenship qualification mandated by our laws is uniformly satisfied by the individuals respectively registered to vote in our states.

In the litigation spawned by the EAC's prior decisions, the U.S. Supreme Court explained that because the states retain the right to determine *who* is eligible to vote, there would be "serious constitutional doubts" if the Federal Form prevented a state from obtaining information necessary to enforce any voter qualifications required under its laws.<sup>3</sup> Lower courts have previously allowed the Federal Form to remain unchanged, once affirming the Commission's refusal and later reversing the Commission when it tried to assent, each time citing a lack of evidence to sufficiently demonstrate why DPOC was "necessary" for the states to effectively enforce their citizenship qualification.<sup>4</sup>

We know that DPOC is necessary. States such as Ohio,<sup>5</sup> Texas,<sup>6</sup> and Virginia<sup>7</sup> are just a few examples where thousands of non-citizens have been found and removed from the voter rolls. These non-citizens' voter registrations are a direct result of EAC's action, or lack thereof, forcing states to register anyone who uses the Federal Form.

This decision does not just impact the Federal Form but can impact state prescribed forms as well. Because the Federal Form establishes the baseline of what must be provided by an applicant attempting to register to vote for a federal election, states must conform to this with their own forms or bifurcate their voter registration list into having a category for federal-only voters, which can be a costly and complicated process.

We receive thousands of new voter registration applications each year for processing, having to check citizenship on each one is a large task. Although online applications have become the most common method in recent years, paper application forms are still frequently used. Mississippi, for example, does not have online voter registration and received over 100,000 paper applications in 2024.<sup>8</sup> Each paper form requires our election officials to make individualized inquiries into state records and consult with other state databases to process them and determine citizenship. In Mississippi, these checks can require up to roughly an hour of an employee's time, depending on how far into the required state process a check must go. This is an enormous aggregate expense both in employee time and tax dollars.

Election officials in each of our states continue to receive voter registration applications from individuals identified as non-citizens, as shown by the removals of non-citizens. Highlighting just how useless the Federal Form's oath truly is for our election officials, the vast majority of the non-citizens removed from the voter lists were initially registered using the Federal Form. Despite our best efforts to proactively identify and prevent noncitizens from voting in

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<sup>3</sup> See *Arizona*, at 19.

<sup>4</sup> See *League of Women Voters of the United States v. Newby*, 838 F.3d 1, 13-14 (D.C. Cir. 2016); *Kobach*, 772 F.3d at 1196-97.

<sup>5</sup> <https://www.ohiosos.gov/media-center/press-releases/2024/2024-08-01/>

<sup>6</sup> <https://gov.texas.gov/news/post/governor-abbott-announces-over-1-million-ineligible-voters-removed-from-voter-rolls>

<sup>7</sup> <https://www.scotusblog.com/2024/10/supreme-court-allows-virginia-to-remove-suspected-non-citizens-from-voter-rolls/>

<sup>8</sup> This includes Federal Forms and the Mississippi Form which is almost identical to the Federal Form.

our states, each of us continue to make referrals to law enforcement. We have an obligation to protect the integrity of our electoral processes and to ensure our voters have confidence in them. In its current state, the Federal Form actively makes this more difficult to achieve.

For the reasons discussed above, we request and urge Congress to address the problems created by the EAC through their Federal Form. Our ask is that you do one of three things. Urge the Senate to work with the chief election officials to implement the goals of the Safeguard American Voter Eligibility (SAVE) Act. As you are well aware, this legislation would make huge strides to keep non-citizens off the voter rolls by requiring DPOC at the point of registration and other reforms. Second, you can simply amend the Help America Vote Act to add a requirement to provide DPOC at the time of registration with the Federal Form. This would not go as far as the SAVE Act but would be a meaningful step in the right direction. Finally, at a minimum, you should hold hearings to require the EAC to explain why they continue to reject meaningful citizenship checks in direct defiance of the states.

Thanks for your consideration of this matter.

Sincerely,



Michael Watson  
Mississippi Secretary of State



Wes Allen  
Alabama Secretary of State



Denny Hoskins  
Missouri Secretary of State



Paul Pate  
Iowa Secretary of State



David Scanlan  
New Hampshire Secretary of State



Diego Morales  
Indiana Secretary of State



Frank LaRose  
Ohio Secretary of State



Scott Schwab  
Kansas Secretary of State



Kris Warner  
West Virginia Secretary of State



Nancy Landry  
Louisiana Secretary of State



Chuck Gray  
Wyoming Secretary of State