October 19, 2025

SUBMITTED VIA REGULATIONS.GOV

U.S. Election Assistance Commission (EAC) 633 3rd Street NW, Suite 200, Washington, DC 20001

RE: Comment to Notice of Petition for Rulemaking, Election Assistance Commission (Docket ID: EAC-2025-0236)

Dear Members of the U.S. Election Assistance Commission:

Thank you for the opportunity to comment on the petition for rulemaking submitted by the American First Legal Foundation to amend 11 CFR 9428.4 and the federal voter registration form to require documentary proof of citizenship ("DPOC"). By way of background, I am a Professor of Political Science and Public Policy at Duke University and the Director of the Duke Initiative on Survey Methodology. Before joining Duke University's faculty in 2009, I was a faculty member at Harvard University, where I was also the founding director of the Program on Survey Research. My areas of research and teaching are electoral behavior, public opinion, and survey methodology, and I have written numerous books and academic journal articles on these topics. I earned my PhD in political science at Stanford University in 2003. Based on my professional expertise and backed by substantial empirical evidence, I write to express serious concerns about the measures proposed in this petition.

Under current U.S. law, only citizens are eligible to register to vote in federal elections. The voter registration process already requires individuals to legally attest to their citizenship status, and noncitizens who falsely claim citizenship to vote face serious legal penalties, including fines, imprisonment, and deportation. A requirement for voters to provide DPOC to register to vote or to update an existing registration is unnecessary and burdensome.

While this requirement might seem straightforward at first glance, it can create significant barriers for eligible voters. The type of documents used to prove citizenship aren't documents that many people regularly carry around. Not everyone has them, and even those that do may not have easy access to them. In many cases, documents may be under a different name—particularly for women—or may be expired.

In this comment, I report on the currently available survey evidence of relevance and on understanding the consequences of the proposed DPOC requirement. For the survey results I report, I have reviewed the design, implementation, and analyses of these surveys and determined that they offer reliable results. Based on this evidence, it is clear the proposed rule will significantly increase the cost of voting for millions of eligible voters. Given there is no credible evidence of widespread voting by noncitizens in federal elections², the proposed rule would unnecessarily undermine the fundamental right to vote.

¹ Titles and affiliations are provided for identification purposes only; the views expressed are mine alone and do not reflect the views of Duke University or any of its constituent institutions.

² For example, David Cottrell, Michael Herron, and Sean Westwood, "An Exploration of Donald Trump's Allegations of Massive Voter Fraud in the 2016 General Election," *Electoral Studies* 51 (2018): 123–142; Andrew Eggers, Haritz Garro, and Justin Grimmer, "No Evidence for Systematic Voter Fraud: A Guide to Statistical Claims About the 2020

I. Not all documents listed in the petition establish citizenship.

The petition requires one of the following as proofs 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."

It is first worth noting that many official military identification cards cannot be used to establish United States citizenship since non-citizens may serve in the United States Armed Forces. As of February 2024, more than 40,000 foreign nationals were serving in active and reserve components of the Armed Forces.³ Likewise, most state-issued Real ID-compliant driver's licenses do not indicate that an applicant is a citizen because citizenship is not a requirement for possessing a REAL ID. Although there are no publicly-available statistics on the number of REAL IDs that have been issued to noncitizens, noncitizens lawfully admitted for permanent or temporary residence, noncitizens with conditional permanent resident status, noncitizens with an approved application for asylum, and noncitizens who have entered the United States as refugees are all eligible for a REAL ID.⁴

Only five states—New York, Michigan, Minnesota, Vermont, and Washington—offer Enhanced Drivers Licenses that are issued only to citizens.⁵ These Enhanced Drivers Licenses are used to provide proof of identity and U.S. citizenship when crossing the U.S. border in a vehicle. Enhanced Drivers Licenses are REAL ID-compliant but cost more than a REAL ID (with a cost of \$45-\$100, depending on the state). There are no publicly-available statistics of the number of Enhanced Drivers Licenses that have been issued, but given the limited availability, extra cost, and narrow use case, they would provide documentary proof of citizenship for only a very small fraction of voters.

II. U.S. Passport Ownership is Limited

The petition identifies a U.S. passport as an approved DPOC, but most U.S. citizens do not currently have a passport that could be used for purposes of voter registration. The U.S. Department of State reports 169,915,821 valid U.S. passports in circulation, including passport books and cards.⁶ However, the actual number of eligible voters with valid passports is lower than the total number of passports issued for several reasons: Some people own both passport books and passport cards; Some passport holders may be deceased; Some of the passports have been issued to children not yet eligible to register to vote. Given these limitations in interpreting administrative records, scientific surveys can provide an estimate of the percentage of voting-eligible Americans with a U.S. passport.

Election," *Proceedings of the National Academy of Sciences* 118, no. 45 (2021); Lorraine C. Minnite, *The Myth of Voter Fraud* (Ithaca, NY: Cornell University Press, 2010).

³ Holly Straut-Eppsteiner, Foreign Nationals in the U.S. Armed Forces: Immigration Issues, CRS Report No. R48163 (Washington, DC: Congressional Research Service, August 19, 2024), https://www.congress.gov/crs-product/R48163; According to the U.S. Citizenship and Immigration Services, more than 187,000 members of the U.S. military have naturalized since 2002. U.S. Citizenship and Immigration Services, "Military Naturalization Statistics," https://www.uscis.gov/military/military-naturalization-statistics.

⁴ U.S. Dept. of Homeland Security, "REAL ID Act of 2005," https://www.dhs.gov/xlibrary/assets/real-id-act-text.pdf.

⁵ U.S. Department of Homeland Security. "Enhanced Drivers Licenses: What Are They?" DHS.gov, https://www.dhs.gov/enhanced-drivers-licenses-what-are-they.

⁶U.S. Department of State. "Reports and Statistics," https://travel.state.gov/content/travel/en/about-us/reports-and-statistics.html.

One high-quality survey for such estimates is the American National Election Study (ANES), a federally funded, nationally representative survey with a long-standing reputation for methodological rigor. The 2024 ANES in-person survey found that 48% of the voting eligible population (adult U.S. citizens) reported having a valid passport. Another reliable national survey, the 2024 Survey of Performance of American Elections (SPAE), asks a slightly different question of more than 10,000 citizens already registered to vote. The SPAE found that 56% of registered voters report having a passport. However, 13% stated that it was expired and 2% indicated that it did not have their legal name, meaning, in total, the majority of already-registered citizens (52%) reported not having an unexpired passport with their current name. Possession of a passport also does not imply that the document will be easily accessible. Passports are not a document that people regularly carry around with them. For example, a 2023 University of Maryland (UMD) probability-based sample of 2,386 voting-age citizens found 54% reported having a passport, but only 45% had a passport in a place they could quickly find it to show it tomorrow.

In sum, across different survey questions and populations, the empirical evidence indicates that the majority of American citizens do not have ready access to a valid U.S. passport that can be used as DPOC for purposes of voter registration. For those without a passport, obtaining one is both costly—\$165 for a new application and \$130 for renewal¹⁰—and time-consuming, with processing delays that can span weeks or months. Even for individuals with financial means, this requirement would impose a substantial barrier to voter registration.

III. U.S. Birth Certificates

For the millions of Americans without an Enhanced Driver's License or U.S. passport, the measures advocated for in the petition would require a "valid Federal or State government-issued photo identification... accompanied by proof of United States citizenship." The petition does not specify what forms of documentation would satisfy this citizenship requirement. In the event that a U.S. birth certificate would be deemed sufficient when presented alongside valid government-issued photo identification, I examine the empirical evidence regarding the extent to which eligible voters have access to a U.S. birth certificate.

The vast majority of U.S.-born individuals are issued a birth certificate at birth. The hospital or birthing center completes a "Certificate of Live Birth" form with the parents and submits it to the state, county, or municipal vital records department, which processes the data and issues a formal, state-certified birth certificate to the parents, usually within a few months. There are, however, notable exceptions of individuals born in the U.S. who do not receive a birth certificate. This includes some older adults born before standardized vital records were enforced in certain states; it wasn't until 1946 that birth

⁷ The publicly-available data and methodological details can be found at https://electionstudies.org/data-center/2024-time-series-study/. The question asks, "Do you have a valid, non-expired U.S. passport, or do you not have one?"

⁸ The publicly-available data and methodological details can be found at https://electionlab.mit.edu/research/projects/survey-performance-american-elections.

⁹ The questionnaire did not ask if the passport was expired or with the same name with which they are registered to vote. Jacob A. Rothschild, Sarah B. Novey, and Michael J. Hanmer, "Who Lacks Documentary Proof of Citizenship?" Center for Democracy and Civic Engagement, University of Maryland, March 2025. For toplines and methods see https://cdce.umd.edu/landingtopic/who-are-most-affected-voter-id-and-documentary-proof-citizenship-laws.

¹⁰ U.S. Department of State, "Passport Fees," https://travel.state.gov/content/travel/en/passports/how-apply/fees.html.

certificates were regularized.¹¹ Even after that date, some individuals born in remote rural areas without access to hospitals may never have had their births officially recorded. Some Native Americans born on tribal lands outside of state-run facilities may lack state-issued birth certificates, relying instead on tribal documentation. While the percentage of the population without a birth certificate is small, these gaps in documentation can pose a serious barrier to voter registration for some lifelong U.S. citizens. The implementation of REAL ID prompted multiple news stories about individuals who were never issued a birth certificate.¹² According to the 2023 UMD survey, 1% of adults born in the United States or Puerto Rico report not having a U.S. birth certificate.

Even those issued a birth certificate at birth might not have ready access to it. Birth certificates can be lost, stolen, misplaced, or destroyed between the time it is issued to an individual's parents at birth to when an individual wants to register to vote. The 2024 SPAE survey found that 17% of registered voters reported they could not easily locate their official birth certificate. The 2023 UMD survey similarly found that 16% of voting age citizens with a U.S. birth certificate said it was not in a place where they could quickly find it if they had to show it tomorrow. This same survey finds an even larger percentage (29%) of those with a U.S. Naturalization Certificate or U.S. Certificate of Citizenship without ready access to the documents.

Looking across the documents proving U.S. citizenship , the 2023 UMD survey finds that roughly 2% of voting-age American citizens lack ANY form of DPOC, whether birth certificate, passport, naturalization certificate, or a certificate of citizenship and more than 9% cannot readily access DPOC, either because they do not have it at all or because they could not easily access it if needed. A recent survey in the state of New Hampshire found that 11% of New Hampshire registered voters do not possess DPOC or they possess it but cannot access it within a day; 3% do not possess DPOC or cannot access it within multiple days; and, like the national survey, 1% do not possess ANY DPOC. ¹³ A 2012 survey of Pennsylvania eligible voters likewise found that roughly 11% of individuals lack either an official copy of their birth certificate, a U.S. passport, or an official naturalization certificate. ¹⁴ And a 2012 survey of Milwaukee County eligible voters found that 12% did not have their official birth certificate or certificate of citizenship. ¹⁵

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¹¹ US Birth Certificates Team, "The History of Birth Certificates," US Birth Certificates, May 16, 2023 https://www.usbirthcertificates.com/articles/history-birth-certificates.

¹² CBS Miami, "South Florida Woman Says She's Trapped Without ID Due to Real ID Rules, Missing Birth Certificate," *CBS News*, October 2, 2023. https://www.cbsnews.com/miami/news/south-florida-woman-says-shes-trapped-without-id-due-to-real-id-rules-missing-birth-certificate/; KHOU 11 Staff, "Texas Man Says He Can't Renew Driver's License Due to Real ID Rules, Missing Birth Certificate," KHOU, October 2, 2023
https://www.khou.com/article/news/local/texas-man-drivers-license-renewal-real-id-no-birth-certificate/285-b1106451-4a45-43a0-a228-611ccc1238a7.

¹³ Michael C. Herron, "Expert Report of Dr. Michael C. Herron," in New Hampshire Youth Movement v. David M. Scanlan, June 4, 2025, 7.

¹⁴ Here the question did not distinguish ownership and access. Matt Barreto, Gabriel Sanchez, and Hannah Walker, "Rates of Possession of Valid Photo Identification, and Public Knowledge of the Voter ID Law in Pennsylvania," Expert Report, Applewhite v. Commonwealth, No. 330 MD 2012 (Pa. Commw. Ct.), July 16, 2012.

¹⁵ Matt Barreto, Gabriel Sanchez, and Hannah Walker, "Rates of Possession of Valid Photo Identification, and Public Knowledge of the Voter ID Law in Pennsylvania," Technical Report, Applewhite v. Commonwealth, No. 330 MD 2012 (Pa. Commw. Ct.), July 16, 2012, 17.

Taken together, these surveys provide a reliable and high-quality empirical foundation for understanding the scope of DPOC access challenges among American citizens. Across different geographies, time periods, and survey instruments, they consistently find that approximately 10% of voting eligible citizens lack ready access to documentary proof of citizenship. Importantly, these are highly credible surveys, conducted with methodological rigor by reputable research institutions. Applied to the Census Bureau population estimate of 238 million voting-age citizens¹⁶, this translates to nearly 24 million voting eligible Americans who lack documentary proof of citizenship for registering to vote.

For those who cannot locate DPOC, obtaining a replacement can be a costly, time-consuming, and bureaucratically complex process. The specified process and cost of obtaining a replacement birth certificate varies significantly across U.S. states. The process often requires navigating confusing government websites, completing detailed forms, and providing other forms of identification that may themselves be difficult to obtain. For those without internet access, reliable transportation, or flexible work schedules, even initiating the process can be a major hurdle. Many must take time off work or school to visit county or state offices, which may be located far from home—particularly for those in rural areas or tribal lands. The courts have deemed reliable survey estimates showing that such documentation will be burdensome, time-consuming, and costly for individual Americans. For naturalized citizens, obtaining a replacement naturalization certificate is even more burdensome: \$555 to replace or amend and months of processing time.

Using a birth certificate as proof of citizenship may not be sufficient on its own, as individuals often need to provide additional documentation—such as a marriage certificate, divorce decree, or court order—to verify a legal name change. According to a 2023 Pew Research Center survey, 84% of women in opposite-sex marriages reported taking their spouse's last name or hyphenating both names, and just 15% kept their surname. In contrast, 92% of men in opposite-sex marriages retained their original surname. One survey found that 16% of women do not have a birth certificate with their current name on it, compared to 8% of men. With over 2 million marriages and more than half a million divorces occurring annually in the United States the need for supplemental documentation to reconcile name discrepancies is both common and consequential—adding complexity and potential barriers, especially for married women.

In sum, these findings reveal that millions of voting-eligible Americans face real and costly barriers to accessing the documentation required under the proposed measure.

¹⁶ U.S. Census Bureau, "Citizen Voting Age Population by Race and Ethnicity," January 30, 2025, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2019-2023-CVAP.html.

Matt A. Barreto and Gabriel R. Sanchez, "Accepted Photo Identification and Different Subgroups in the Eligible Voter Population, State of Texas, 2014," Expert Report, Veasey v. Perry, Case 2:13-cv-00193, June 27, 2014.
 U.S. Citizenship and Immigration Services. Our fees. U.S. Department of Homeland Security. https://www.uscis.gov/archive/our-fees.

¹⁹ Ana Barroso, "About Eight-in-Ten Women in Opposite-Sex Marriages Say They Took Their Husband's Last Name," Pew Research Center, September 7, 2023, https://www.pewresearch.org/short-reads/2023/09/07/about-eight-in-ten-women-in-opposite-sex-marriages-say-they-took-their-husbands-last-name/.

²⁰ Voter ID and Passport Beliefs Poll,

https://d3nkl3psvxxpe9.cloudfront.net/documents/Passports and Beliefs poll results.pdf.

²¹ U.S. Census Bureau, "Marriage and Divorce in the United States," October 2024, https://www.census.gov/library/stories/2024/10/marriage-and-divorce.html.

IV. Government-issued Photo Identification

While a birth certificate (or naturalization documents, for naturalized citizens) will document U.S. citizenship, the petition requires it to be provided in addition to a valid government-issued photo identification.

The topic of lack of government-issued photo identification has been the subject of considerable research over the years, using both administrative records and survey data. ²² A 2015 Government Accountability Office (GAO) report reported that ownership rates among all registered voters ranged from 84 to 95 percent. ²³ More recently, the 2024 ANES found that 12% of the voting eligible population does not have a valid driver's license. ²⁴ Given that lack of a voter ID has been consistently shown to be one reason citizens are not registered to vote, those already-registered to vote are more likely to have a valid driver's license. ²⁵ Among already-registered voters in the 2024 SPAE survey, for example, 97% reported having a driver's license or state-ID card. ²⁶ However, the survey finds that only 85% of these registered voters say their driver's license is valid, matches the name under which they are registered to vote, and has the same address as their voter registration.

Given the number of Americans who lack a valid government-issued photo identification, we can deduce that the percentage of the population who will not have both DPOC *and* a government-issued photo identification is even larger than the estimated 10% of the voting eligible population without documentary proof of citizenship.

V. Variation in Document Access

Access to the documents outlined in this petition also varies significantly across the population. Research on voter identification has consistently shown that certain groups are less likely to possess government-issued photo IDs. These groups include Black and Hispanic individuals, young voters, those over the age of 70, and individuals who are poorer or less educated.²⁷

Similar patterns are seen in surveys asking about access to documentary proof of citizenship. For example, the 2024 ANES survey finds that 49% of white respondents have a valid U.S. passport, compared to 42% of Black respondents. Another survey reported that 28% of those with incomes under \$50,000 have a passport compared to 80% of those with incomes over \$100,000.²⁸ A survey in North

https://d3nkl3psvxxpe9.cloudfront.net/documents/Passports and Beliefs poll results.pdf.

²² Bernard L. Fraga and Michael G. Miller, "Who Do Voter ID Laws Keep from Voting?" The Journal of Politics 84, no. 2 (2022): 1091–1105; Matt A. Barreto, Stephen A. Nuño, Gabriel R. Sanchez, and Hannah Walker, "The Racial Implications of Voter Identification Laws in America," *American Politics Research* 47, no. 2 (2019): 238–249.

²³ U.S. Government Accountability Office, Issues Related to State Voter Identification Laws, GAO-14-634

⁽Washington, DC: Government Accountability Office, 2015), https://www.gao.gov/products/gao-14-634.

²⁴ "Do you have a non-expired Driver's License, or do you not have one?"

²⁵ For example, Justin Grimmer and Jesse Yoder, "The Durable Differential Deterrent Effects of Strict Photo Identification Laws," *Political Science Research and Methods* 10, no. 3 (2022): 453–469.

²⁶ The question asks "Do you have a driver's license or state ID card?"

²⁷ For example, see Michael J. Hanmer and Sarah B. Novey, "Who Lacked Photo ID in 2020?: An Exploration of the American National Election Studies," University of Maryland Center for Democracy and Civic Engagement, March 13, 2023, https://www.voteriders.org/wp-content/uploads/2023/04/; Matt Barreto, Stephen A Nuo, and Gabriel R Sanchez, "The Disproportionate Impact of Voter-ID Requirements on the Electorate - New Evidence from Indiana," *PS - Political Science and Politics*, 2009, 42 (1), 111–116; Charles Stewart III, "Voter ID: Who has them; who shows them." Oklahoma Law Review 66 (2013): 21; Government Accountability Office (2015).

²⁸ Voter ID and Passport Beliefs Poll,

Dakota found that 33% of Native Americans in North Dakota did not have a birth certificate. ²⁹ A 2025 survey found that 25% of Black eligible voters did not have a birth certificate or passport with their current name, compared to 16% of white eligible voters. ³⁰ Looking across different DPOC, the 2023 UMD Survey estimates that 3% of nonwhite voting age citizens lack *any* form of DPOC, compared to 1% of white voting age citizens. Moreover, 11% of nonwhite voting age citizens report they did not have the document in a place they could quickly find it to show it tomorrow, compared to 8% of white voting age citizens. The Milwaukee survey of eligible voters found that 11% of white eligible voters lacked any documentary proof of citizenship (U.S. birth certificate, certificate of naturalization, or certificate of citizenship), compared to 14% of Black and 19% of Hispanic eligible voters.

To summarize, survey data consistently reveal that access to the documents required for voter registration is unevenly distributed, with nonwhite and economically disadvantaged citizens facing greater barriers for providing documentary proof of citizenship.

VI. Additional consequences

Beyond the immediate concern that lack of access to DPOC will increase the costs of voting, it is also worth considering indirect consequences that could also negatively impact electoral participation. For example, the proposed measures in the petition could severely hinder voter registration drives. These drives typically occur in public spaces—such as college campuses, community centers, and public events—where individuals typically register on the spot. However, most people do not carry documents like birth certificates, passports, or naturalization papers with them in everyday life. As a result, a DPOC requirement would make it nearly impossible for registration drives to collect complete applications, effectively dismantling one of the most effective tools for expanding the electorate. This would disproportionately affect first-time voters, young people, and those without easy access to government records.

Another concern is that the new requirements would put substantial new administrative burdens on state and local election officials. With the exception of the small percentage of Americans with an Enhanced Driver's License, most eligible voters will need to present multiple documents to verify citizenship, identity, and residence. State and local election officials would be responsible for reviewing and verifying a wide range of documents—including birth certificates, passports, naturalization papers, and, in many cases, supporting documents like marriage licenses to reconcile name changes, along with photo identification to confirm identity. This process is far more complex than verifying a single ID and would require staff to be trained in identifying valid documents from multiple jurisdictions, handling mismatches in names or dates, and managing incomplete or unclear submissions. These additional steps would slow down registration processing, increase the risk of errors, and divert limited resources away from other critical election functions, potentially undermining confidence in election integrity. In jurisdictions with high volumes of registrations or limited staffing, the impact could be especially severe, leading to delays and reduced access for eligible voters. Even if states attempted to adapt their online systems to accept digital uploads, the technical and legal hurdles would be substantial. Most current online registration systems are designed to verify identity through driver's license databases, not to

²⁹ The question asked "Think about the last time you had to use or show your birth certificate? Some of the people we've talked to have lost or misplaced their official birth certificate. How about you? Do you have your original, or an official certified copy - NOT A PHOTOCOPY - of your birth certificate with you - or like some people, do you NOT have your original or certified copy of your birth certificate?"

³⁰ YouGov, "Daily Politics Survey Results," February 24, 2025, https://today.yougov.com/topics/politics/survey-results/daily/2025/02/24/fcbdc/2.

process and validate citizenship documents. Rebuilding these systems to comply with DPOC requirements would be costly, time-consuming, and likely infeasible for many states.

VII. Conclusion

In conclusion, the petition's proposed requirement for documentary proof of citizenship would impose substantial and unnecessary burdens on millions of eligible voters. I have reviewed the currently available empirical survey evidence relevant to assessing the consequences of the proposed rule, including a careful evaluation of the methodological rigor and credibility of that evidence. These surveys consistently reveal that a substantial portion of the voting-age citizen population either lacks documentary proof of citizenship entirely or cannot readily access it — and that is especially the case among historically marginalized groups. In the absence of credible evidence of widespread noncitizen voting, imposing such a requirement is not only unjustified but risks disenfranchising millions of eligible Americans. I respectfully urge the Commission to reject this petition.

Sincerely,

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