

To: U.S. Election Assistance Commission

From: Dēmos and State Voices

Re: Comment in opposition to petition for rulemaking by America First Legal Foundation asking the Election Assistance Commission to amend its Regulations and the National Mail Voter Registration Form to require documentary proof of United States citizenship to register to vote in federal elections (FR Doc. 2025-15930).

Date: October 20, 2025

Submitted electronically.

I. Introduction

Dēmos and State Voices submit this comment in opposition to America First Legal Foundation’s petition for rulemaking, which asks the Election Assistance Commission (“EAC” or the “Commission”) to amend its regulations and the National Mail Voter Registration Form (“the Form”) to require documentary proof of citizenship (“DPOC”) to register to vote in federal elections.

Dēmos is a national nonprofit, nonpartisan 501(c)(3) research and advocacy organization working to build a just, inclusive, multiracial democracy and economy. For 25 years, Dēmos has worked to create policy solutions that build power for all Americans, especially Black and brown communities that often bear the brunt of voter suppression and disenfranchisement.

State Voices is the largest national 501(c)(3) democracy infrastructure organization, uniquely positioned to provide the long-term, nonpartisan support that fuels civic engagement year-round. State Voices is a network of 24 State Tables, 8 Emerging States, and over 1,200 on-the-ground partners across 50 states. The State Voices network serves as the connective tissue that brings organizations together, aligns strategies, and amplifies impact. The organization emphasizes state-level work because by building a strong state infrastructure, we can ensure that our efforts are sustainable, impactful, and responsive to the needs of marginalized communities.

In this comment, we explain that the proposed rulemaking is not only unnecessary to preserve election integrity but extremely harmful to voters. By our estimates, a DPOC requirement in the Form would disenfranchise hundreds of thousands of eligible voters who lack access to DPOC, with particular burdens to historically disenfranchised groups, including low-income voters and Black and brown voters. This conflicts with the intent of the National Voter Registration Act (“NVRA”), which was enacted to reduce barriers to voting, with an eye toward increasing voter registration rates of racial minorities. Moreover, the EAC does not have the authority to implement the proposed rulemaking under the NVRA. The proposed rulemaking will also place severe burdens on state and local election administration officials, who will not have the funding or other

resources necessary to implement a DPOC requirement. We urge the Commission to reject the proposed rulemaking.

II. The proposed rulemaking is unnecessary to preserve election integrity.

The recent flurry of attempts to implement DPOC requirements for voter registration, including through the federal Safeguard American Voter Eligibility Act (“SAVE Act”) and similar state bills,¹ through a recent presidential executive order,² and now through this proposed rulemaking, resembles a “solution in search of a problem.”³ Lies about noncitizen voting have been repeatedly debunked,⁴ and any instances have been “vanishingly rare.”⁵ For example, the Brennan Center for Justice recently conducted a nationwide survey of local election officials and found “only 30 incidents of *suspected* noncitizens voting out of 23.5 million ballots cast across 42 jurisdictions – a rate of 0.0001 percent.” The Brennan Center further found that “[a]ctual investigations have uncovered almost no instances of noncitizen voting.”⁶

The virtual nonexistence of unlawful noncitizen voting is not a surprise, given the effectiveness of current laws and requirements that prohibit noncitizens from voting. The Illegal Immigration Reform and Immigration Responsibility Act of 1996 already prohibits noncitizens from participating in federal elections.⁷ In addition, voter registration applicants must swear under penalty of perjury that they are citizens.⁸ It is a federal offense for noncitizens to register to vote in federal elections, punishable by up to five years in prison and deportation—it is *simply not worth it* for noncitizens to violate these provisions.⁹

¹ Voting Rights Lab, “Proof of Citizenship,” <https://tracker.votingrightslab.org/issues/proof-of-citizenship>.

² Executive Order, “Preserving and Protecting the Integrity of American Elections,” The White House (March 25, 2025), <https://www.whitehouse.gov/presidential-actions/2025/03/preserving-and-protecting-the-integrity-of-american-elections/>.

³ Congresswoman Sarah Elfreth, *Elfreth Votes No on the SAVE Act* (April 10, 2025), <https://elfreth.house.gov/media/press-releases/elfreth-votes-no-save-act>.

⁴ Allison Anderman, *Debunking Lies About Voting and Citizenship*, Brennan Center for Justice (October 10, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/debunking-lies-about-voting-and-citizenship>.

⁵ Michael Waldman, *Noncitizen Voting Is Already Illegal — and Vanishingly Rare*, Brennan Center for Justice (April 17, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/noncitizen-voting-already-illegal-and-vanishingly-rare>.

⁶ *Noncitizen voting lies, explained*, Protect Democracy (September 10, 2024), <https://protectdemocracy.org/work/noncitizen-voting-lies-explained/>.

⁷ 18 U.S.C. § 611.

⁸ 52 U.S.C. § 20504; 52 U.S.C. § 20508.

⁹ Sean Morales-Doyle, *Noncitizen Voting Isn’t Affecting State or Federal Elections — Here’s Why*, Brennan Center for Justice (April 12, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/noncitizens-are-not-voting-federal-or-state-elections-heres-why>.

Moreover, there are multiple checks to enforce this prohibition on noncitizen voting. Every state has list maintenance procedures in place to make sure its voter registration lists are up to date and accurate.¹⁰ The Form also requires applicants to provide an identification number, which is usually a driver's license number or Social Security number, depending on each state's instructions.¹¹ The petitioner argues that providing such identification on the Form is currently insufficient because the Form only requires the last four digits of the Social Security number, and four digits cannot be linked to a specific individual's identity. The petitioner's argument is incorrect, because the last four digits of a Social Security number *in combination with* full name or date of birth, which are also required by the Form, provide sufficient data to pinpoint a specific identity.

III. The proposed rulemaking will disenfranchise hundreds of thousands of *eligible* voters, who may find it burdensome or even impossible to comply.

We estimate that requiring DPOC in federal elections will disenfranchise hundreds of thousands of eligible voters who do not have ready access to documents proving their citizenship. A recent national survey co-sponsored by the University of Maryland's Center for Democracy and Civic Engagement and other groups shows that nine percent of voting-eligible citizens (over 21.3 million people nationwide) lack or cannot easily access documentary proof of citizenship, such as a birth certificate, a U.S. passport, a certificate of naturalization, or a certificate of citizenship.¹² And nearly two percent of Americans eligible to vote (over 3.8 million people nationwide) lack any form of documentary proof of citizenship.¹³

About 2.5 million people register to vote via the Form.¹⁴ This means that, according to our estimates based on the above survey results, about 225,000 eligible voters (nine percent of those who use the Form) would be disenfranchised because they do not have, or do not have ready access to, DPOC.¹⁵

¹⁰ Voting Rights Lab, "Voter List Maintenance & Removals,"

<https://tracker.votingrightslab.org/issues/voter-list-maintenance-and-removals>.

¹¹ The Federal Voter Registration Form is available at

https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf.

¹² "Who Lacks Documentary Proof of Citizenship?" University of Maryland, Center for Democracy and Civic Engagement, (March 2025),

<https://cdce.umd.edu/sites/cdce.umd.edu/files/Who%20Lacks%20Documentary%20Proof%20of%20Citizenship%20March%202025.pdf>.

¹³ Ibid.

¹⁴ Election Assistance Commission, *Agency Information Collection Activities: National Mail Voter Registration Form*, Federal Register (March 4, 2025),

<https://www.federalregister.gov/documents/2025/03/04/2025-03460/agency-information-collection-activities-national-mail-voter-registration-form>.

¹⁵ Jillian Andres Rothschild, Samuel B. Novey, and Michael J. Hanmer, *Who Lacks Documentary Proof of Citizenship?* University of Maryland, Center for Democracy and Civic Engagement (March 2025),

Lack of ready access to DPOC is not surprising given the financial and logistical burdens of obtaining such documents. As the chart below demonstrates, obtaining or replacing federally issued documentary proof of citizenship can cost hundreds or even thousands of dollars, with processing times between four weeks and six months.

Federally Issued Forms of DPOC and Costs/Processing Times (September 2025)

Form of DPOC	Type of U.S. Citizen	Fees	Processing Time
Replacement Consular Report of Birth Abroad ¹⁶	Born Abroad to U.S. Citizen Parents	\$50	4-8 weeks (14-16 weeks if original issued before 11/1/1990)
U.S. Passport ¹⁷	Any U.S. Citizen	\$165	4-6 weeks
Replacement Certificate of Naturalization ¹⁸	Naturalized U.S. Citizen	\$505 (online) - \$555 (paper)	6 months
Certificate of Citizenship ¹⁹	Born Abroad to U.S. Citizen or Derived Citizenship as Minor Through Naturalized Parents	\$1,335 (online) - \$1,385 (paper)	3-6 months

Approximately 146 million American citizens—about half of all eligible voters—do not currently have a valid passport.²⁰ Moreover, a birth certificate, issued at the state or local level, is not a viable alternative for many voters. For those born outside the United States who are naturalized citizens, birth certificates are not an option at all. For those who were born in the U.S., millions

<https://cdce.umd.edu/sites/cdce.umd.edu/files/Who%20Lacks%20Documentary%20Proof%20of%20Citizenship%20March%202025.pdf>.

¹⁶ “How to Replace or Amend a Consular Report of Birth Abroad (CRBA),” U.S. Department of State, <https://travel.state.gov/content/travel/en/replace-certify-docs/requesting-a-record/replace-amend-CRBA.html>.

¹⁷ “U.S. Passports and Real ID,” U.S. Department of State, <https://travel.state.gov/content/travel/en/passports.html>.

¹⁸ “N-565, Application for Replacement Naturalization/Citizenship Document,” U.S. Citizenship and Immigration Services, <https://www.uscis.gov/n-565>.

¹⁹ “N-600, Application for Certificate of Citizenship,” U.S. Citizenship and Immigration Services, <https://www.uscis.gov/n-600>.

²⁰ Greta Bedekovics and Sydney Bryant, *The SAVE Act Would Disenfranchise Millions of Citizens*, Center for American Progress (January 31, 2025), <https://www.americanprogress.org/article/the-save-act-would-disenfranchise-millions-of-citizens/>.

may not be able to use their birth certificate to prove citizenship due to a name change. Up to 69 million women and four million men have changed their last name after marriage and therefore don't have a birth certificate that would satisfy the proposed rulemaking.²¹ And any of the 3.3 million transgender citizens who have changed their legal name would also lack an acceptable birth certificate for purposes of the proposed rulemaking—which is particularly problematic considering the additional hurdles that transgender people face in getting a passport that accurately reflects their chosen name and gender.²² Moreover, only five states offer enhanced driver's licenses—driver's licenses that indicate citizenship²³—so that is also not a viable alternative for voters in the majority of the U.S. either.²⁴

The financial and logistical burdens of obtaining DPOC are particularly problematic for low-income voters and for those who live in rural areas and cannot easily visit a government agency office. Low-income voters and voters with less formal education have lower rates of passport ownership.²⁵ Rural voters are also less likely to have a birth certificate or passport available, with one study estimating that they are more than twice as likely to lack these documents as compared to non-rural residents.²⁶

Voters who are low-income or unhoused may encounter numerous barriers to accessing DPOC, including lack of access to transportation and lack of funds needed to cover the cost of DPOC. Available estimates show that only 21 percent of individuals with income under \$50,000 have a valid passport.²⁷ Even seemingly minor costs of accessing DPOC can mean a choice between voting or eating.²⁸ Additionally, voters experiencing homelessness typically lack a reliably safe

²¹ Ibid.

²² Caleb Smith and Greta Bedekovics, *The SAVE Act Could Keep Millions of Transgender Americans from Voting*, Center for American Progress (February 28, 2025), <https://www.americanprogress.org/article/the-save-act-could-keep-millions-of-transgender-americans-from-voting/>.

²³ Department of Homeland Security, “Enhanced Drivers Licenses: What Are They?” <https://www.dhs.gov/enhanced-drivers-licenses-what-are-they>.

²⁴ Kevin Morris and Cora Henry, *Millions of Americans Don't Have Documents Proving Their Citizenship Readily Available*, Brennan Center for Justice (June 11, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/millions-americans-dont-have-documents-proving-their-citizenship-readily>; Greta Bedekovics and Sydney Bryant, *The SAVE Act Would Disenfranchise Millions of Citizens*, Center for American Progress (January 31, 2025), <https://www.americanprogress.org/article/the-save-act-would-disenfranchise-millions-of-citizens/>.

²⁵ Robert Greenstein, Leighton Ku, and Stacy Dean, *Survey Indicates House Bill Could Deny Voting Rights to Millions of U.S. Citizens*, Center on Budget and Policy Priorities (September 22, 2006), <https://www.cbpp.org/research/survey-indicates-house-bill-could-deny-voting-rights-to-millions-of-us-citizens>.

²⁶ Ibid.

²⁷ Kathy Frankovic, *Only One-Third of Americans Have a Valid US Passport*, YouGov (April 21, 2021), <https://today.yougov.com/travel/articles/35414-only-one-third-americans-have-valid-us-passport>.

²⁸ Chris Sanders, Kristin Burnett, Steven Lam, Mehdi Hassan, and Kelly Skinner, “*You Need ID to Get ID*”: A Scoping Review of Personal Identification as a Barrier to and Facilitator of the Social

place to store documentation, meaning that even if they gain possession of DPOC, maintaining possession of it can be incredibly difficult.²⁹

IV. The proposed rulemaking conflicts with the purposes of the National Voter Registration Act, including to close the racial gap in voter registration.

The National Voter Registration Act (“NVRA”) of 1993 was enacted to make voter registration easier and increase the number of people who register to vote.³⁰ In particular, the Act recognized that “discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.”³¹

The NVRA has been effective in lowering the racial disparities in voter registration rates, but there is still much more work to do in this regard. Registration rates of Black, Latino, Asian, and Native American eligible voters continue to lag behind those of white eligible voters. Survey data demonstrates that in 2024, 78 percent of eligible white voters were registered to vote, compared to 70 percent of Black eligible voters, 65 percent of Asian eligible voters, 61 percent of Latino eligible voters, and 60 percent of Native American eligible voters.³²

Eleven percent of people of color, compared to eight percent of white people, lack or cannot easily access documentary proof of citizenship.³³ As such, the proposed rulemaking will add barriers to voter registration that will be insurmountable for many and disproportionately harm people of color, in contravention of the NVRA.

Determinants of Health in North America, International Journal of Environmental Research and Public Health (June 13, 2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7345293/>.

²⁹ U.S. Government Accountability Office, *Homelessness: Barriers to Obtaining ID and Assistance Provided to Help Gain Access* (February 7, 2024), <https://www.gao.gov/products/gao-24-105435>.

³⁰ 52 U.S.C. § 20501.

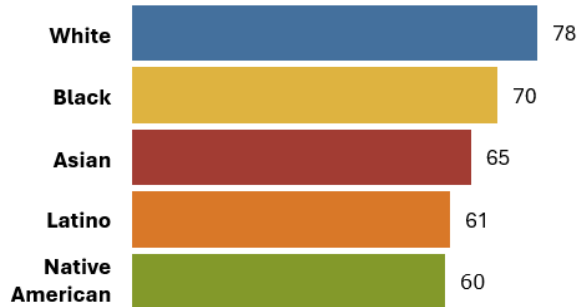
³¹ 52 U.S.C. § 20501.

³² United States Census Bureau, *Voting and Registration in the Election of November 2022* [Press release], <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-586.html>. The voting-eligible population is made up of U.S. citizens age 18 or older. Results for the Native American population required a custom tabulation and should be considered a rough estimate. The U.S. Census Bureau does not publish voting data on Native Americans because of the group’s small sample size.

³³ Kevin Morris and Cora Henry, *Millions of Americans Don’t Have Documents Proving Their Citizenship Readily Available*, Brennan Center for Justice (June 11, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/millions-americans-dont-have-documents-proving-their-citizenship-readily>.

2024 U.S. voter registration rate, by race and ethnicity

% of U.S. eligible voters who are registered to vote



Source: 2024 Current Population Survey (CPS) Voting and Registration Supplement tables. White, Black, Asian and Native American adults are not Hispanic; Hispanics are of any race.

Demos

V. The Commission does not have the authority to require DPOC from applicants who use the Form.

The EAC is not authorized to add a DPOC requirement to the Form. The NVRA prohibits the EAC from implementing a voter registration requirement in the Form that is not “necessary” and that goes beyond the facilitation of existing voter registration systems.

The Supreme Court explained in *Arizona v. Inter Tribal Council of Arizona* that the NVRA “empowers the EAC to create the Federal Form, § 1973gg–7(a), requires the EAC to prescribe its contents within specified limits, § 1973gg–7(b), and requires States to ‘accept and use’ it, § 1973gg–4(a)(1).”³⁴ At issue here is whether the addition of a DPOC requirement is within those “specified limits.” The NVRA states that the Form “may require *only* such information [...] necessary to enable the appropriate State election official to assess the eligibility of the applicant.”³⁵ Without establishing that a DPOC requirement is “necessary,” the EAC would violate the NVRA and the Administrative Procedure Act by implementing the proposed rulemaking.³⁶

Federal precedent establishes that a DPOC requirement is not necessary under the NVRA. In *Fish v. Kobach*, the Tenth Circuit held that “the attestation of citizenship under penalty of perjury was the presumptive minimum amount of information necessary for state election officials to carry out

³⁴ *Ariz. v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1 (2013).

³⁵ 52 U.S.C. §§ 20508(b)(1) (emphasis added).

³⁶ See *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 11 (D.C. Cir. 2016) (explaining that it was “difficult to imagine a more clear violation” of the Administrative Procedures Act than the executive director of the Commission failing to evaluate whether adding a DPOC requirement was “necessary” under the criterion set by Congress).

their [...] duties.”³⁷ This presumption could be overcome only by “a factual showing that substantial numbers of noncitizens have successfully registered to vote under the NVRA’s attestation requirement.”³⁸ As explained earlier in this comment, there is no factual basis to believe that a substantial number of noncitizens are registering to vote using the Form. Even if the petitioner is attempting to rely on the extremely rare instances where a noncitizen may have registered to vote, it has not proven that those individuals registered by using the Form. To justify implementation of the proposed rulemaking, the Commission would need to prove that a substantial number of noncitizens registered via the Form and that no other enforcement mechanism would be sufficient to block such conduct. There is no evidence to meet this burden.

Additionally, the Commission’s authority over the content of the Form is solely to facilitate existing voter registration systems. It may not force states to collect and review unnecessary information, as the proposed rulemaking would require. The NVRA specifies that “[t]he Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 20508(a) of this title.”³⁹ As discussed below, adding a DPOC requirement to the Form burdens state and local governments with new responsibilities and costs.

The petitioner misrepresents existing legal decisions in their attempts to argue that the proposed rulemaking is within the Commission’s authority. The petitioner argues that “the [Supreme] Court held that the EAC could add a DPOC requirement to the federal voter registration form in response to a rulemaking petition from an interested party.” The Court held no such thing. The Court held that *a state* could petition the Commission to include *an instruction to supplement* the Form.⁴⁰ The Court did not say that the Commission could implement a DPOC requirement that would apply to all applicants in every state. Nor did it hold that a third-party petitioner could initiate such a process; rather, it specified that the hypothetical petitioner would be a state because the NVRA explicitly instructs the Commission to develop the Form “in consultation with the chief election officers of the States.”⁴¹

The petitioner also claims that “at least so far as these district courts’ preliminary analysis goes, the requested rulemaking is the only currently feasible way to accomplish [DPOC for the Form].” This is also wrong. *Congress* has the authority to change the NVRA, direct what is required by the

³⁷ *Fish v. Kobach*, 840 F.3d 710, 716 (10th Cir. 2016).

³⁸ *Ibid.*

³⁹ 52 U.S. Code § 20929.

⁴⁰ “Arizona would have the opportunity to establish in a reviewing court that a mere oath will not suffice to effectuate its citizenship requirement and that the EAC is therefore under a nondiscretionary duty to include Arizona’s concrete evidence requirement on the Federal Form. See 5 U.S.C. § 706(1). Arizona might also assert (as it has argued here) that it would be arbitrary for the EAC to refuse to include Arizona’s instruction when it has accepted a similar instruction requested by Louisiana.” *Ariz. v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 19-20 (2013).

⁴¹ 52 U.S.C. § 20508(a)(2).

Form, and modify the powers of the Commission.⁴² And Congress has done no such thing. In short, the proposed rulemaking asks the Commission to engage in unlawful administrative overreach.

VI. The proposed rulemaking will inevitably put severe burdens on state and local officials who process registration forms.

The proposed rulemaking will put serious burdens on state and local administration officials, who will be forced to process the Form without any additional funding. State and local election officials do not have the staffing, training, systems, or financial resources necessary to meaningfully carry out a DPOC requirement. A DPOC requirement at the federal level will require election administration officials to contact voters about registration deficiencies, update or overhaul online databases, implement data privacy protections for digital copies of documents, and retrain all election officials to recognize and handle proof of citizenship.⁴³ There is no singular, reliable database with citizenship information that could assist election officials in verifying citizenship. Federal systems like Systematic Alien Verification for Entitlements (the “SAVE” system) are not definitive,⁴⁴ and state motor vehicle databases do not stay up to date regarding citizenship information.⁴⁵

A federal DPOC requirement will also create a confusing two-pronged process for verifying voter registration. The majority of states do not have their own DPOC requirements, so election administration officials in those states would have to develop a separate process for verifying those who use the Form if it required DPOC, distinct from the process they use to verify those who use state voter registration forms.

⁴² See *Ariz. v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 8 (2013) (discussing the supremacy of the Elections Clause and Congress’s power to regulate federal elections as the basis for the authority and supremacy of the NVRA over conflicting state law).

⁴³ In a 2025 virtual policy conversation hosted by VoteBeat, Arizona Secretary of State Adrian Fontes noted some of these costs, stating, “you’re going to have to process a whole new set of paperwork, and you’re going to have to train folks to process that whole new set of paperwork. And reprogram your computer systems to be able to accept that new column of data...there’s an enormous amount of backroom technical work that has to go into these sorts of things, before you even get to reaching out to voters. And there’s a lot of costs that can be involved in those sorts of things.” Adrian Fontes, “Checking Citizenship: A conversation with two secretaries of state,” VoteBeat, streamed live on May 19, 2025, YouTube video, 52:01, https://youtu.be/g5kDJwT3oNk?si=siHgvTw_tDPn395F.

⁴⁴ Jasleen Singh and Spencer Reynolds, *Homeland Security’s ‘SAVE’ Program Exacerbates Risks to Voters*, Brennan Center for Justice (July 21, 2025), <https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters>.

⁴⁵ Michael Morse, Rachael Orey, and Joann Bautista, *Modernizing Voter List Maintenance*, Bipartisan Policy Center (September 9, 2025), <https://bipartisanpolicy.org/report/modernizing-voter-list-maintenance-an-evidence-based-framework-for-access-and-integrity/>.

Arizona, for example, currently has a bifurcated voter registration system and spends *millions of dollars* to maintain it. Arizona currently does require DPOC at the state level, but the U.S. Supreme Court found in 2013 that Arizona could not demand DPOC from an applicant using the federal Form.⁴⁶ To comply with this decision, Arizona treats applicants who submit voter registration forms without DPOC as “federal only” voters, and has a separate process for those who submit voter registration forms with DPOC. From Fiscal Years (FY) 2023-2025, the state budgeted \$1.3 million annually for maintenance and operation of its online voter registration database, but the secretary of state’s FY 2026 budget narrative called this “an incomplete assessment of the cost,” in part because “changes to [Arizona Voter Information Database (AVID)] mandated by litigation and legislation have expanded its functionality,” specifically citing Arizona’s DPOC law.⁴⁷ Moreover, counties in Arizona “have made it abundantly clear that more training, support, and testing are necessary to ensure they are able to process voter registration accurately.”⁴⁸ As a result, the Arizona secretary of state revised the estimated maintenance and operation costs for Arizona’s voter registration database to \$2.34 million for FY 2026 “and beyond.”⁴⁹

If election administration officials are not set up to properly implement a DPOC requirement, the results could be disastrous. When Kansas tried to implement a DPOC law in 2011, it “ended up blocking the voter registrations of more than 31,000 U.S. citizens who were otherwise eligible to vote. That was 12% of everyone seeking to register in Kansas for the first time.”⁵⁰ As a result, federal courts found Kansas’s DPOC law unconstitutional under the 14th Amendment and in violation of the NVRA. Kansas was required to pay \$1.9 million in attorney fees to the prevailing parties of two civil rights lawsuits.⁵¹ And this amount does not include the thousands of hours spent by the state’s lawyers to defend the DPOC law in those cases and in related litigation.⁵²

⁴⁶ *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1 (2013).

⁴⁷ Arizona Secretary of State, *FY 2026 Budget Request - 13. Create a Reliable and Sustainable Funding Source for the Arizona Voter Information Database*, (n.d.), https://apps.azsos.gov/files/sos/budget/Budget_Narrative-13_AVID.pdf.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ John Hanna, *Kansas once required voters to prove citizenship. That didn’t work out so well*, Associated Press (December 29, 2024), <https://apnews.com/article/kansas-noncitizen-voting-proof-of-citizenship-50d56a0b8d1f0fde15480aab3db67f4f>.

⁵¹ *Fish v. Kobach*, Order on Joint Motion and Stipulation Regarding Plaintiffs’ Motions for Attorneys’ Fees and Costs, Case No. 16-2105-JAR-JPO (D. Kan. Sept. 15, 2021); *Bednasek v. Kobach*, Order on Joint Motion and Stipulation Regarding Plaintiffs’ Motions for Attorneys’ Fees and Costs, Case No. 15-9300-JAR-JPO (D. Kan. Sept. 15, 2021).

⁵² See *Kobach v. United States Election Assistance Commission*, 772 F.3d 1183 (10th Cir. 2014); *Belenky v. Kobach*, No. 2013-CV-1331 (Shawnee Cnty. Dist. Ct. Kan.); *Brown v. Kobach*, No. 2012-CV-1316 (Shawnee Cnty. Dist. Ct. Kan.); *League of Women Voters of the United States v. Newby*, 838 F.3d 1 (D.C. Cir. 2016).

VII. Conclusion

The proposed rulemaking would confer no benefits on the voter registration process. It would only erect additional barriers that would disenfranchise more voters, widen racial and economic disparities in voter registration rates, and burden state and local election officials. Not only is the proposed rulemaking harmful, but it is outside the scope of the EAC's lawful authority. We urge the EAC to reject the petitioner's proposed rulemaking.