

# AILA

## Law Journal

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Cyrus D. Mehta  
Editor-in-Chief

Volume 7, Number 2, October 2025

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# Can I Vote?

## Ramifications of False Claims to Citizenship and Emerging Initiatives for Noncitizen Voting

Olivia Serene Lee, Karl Krooth, Annette Wong, Shannon V. Reed, and Ron Hayduk\*

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**Abstract:** This article explores the rise of noncitizen voting in local U.S. elections and the challenges it creates for immigrants. While only citizens may vote in federal elections, some cities and states now allow noncitizens to vote locally, such as in school board or city council races. These efforts aim to recognize immigrants as community members with a stake in local decisions, but they also face lawsuits and political pushback. For immigrants, even lawful voting can carry risks, including confusion with unlawful voting or false claims to citizenship. The article offers guidance for navigating these complex and evolving rules.

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### Introduction

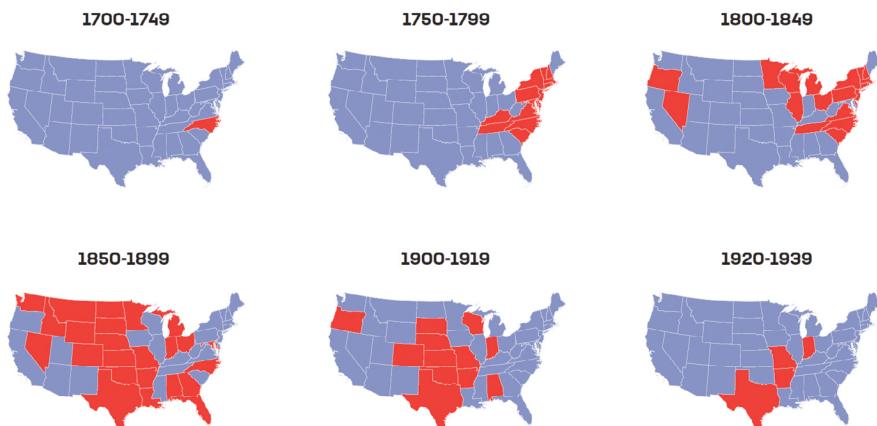
U.S. law immigration can be rife with contradictions. While it seems that comprehensive, beneficial reform moves at a glacial pace at the federal level (at least in the eyes of practitioners and beneficiaries), some changes can develop quickly, often at the local and state government level. Such is the case for noncitizen voting initiatives. Claiming citizenship when one is in fact not a citizen, or voting in a federal election, are well-established obstacles to citizenship. However, some states and local governments have moved to enable noncitizens to exercise their freedom of choice through voting in various types of nonfederal elections, which can impact the determination as to whether or not a noncitizen has made a false claim to U.S. citizenship. Is illegal voting truly a barrier to naturalization? How do we advise clients who are considering voting in such elections, or who have already participated in one of these elections? What is the current landscape of noncitizen voting in the United States?

### Noncitizen Voting Initiatives

#### History of Noncitizen Voting in the United States

Noncitizen voting may sound like an oxymoron today, but between the 1700s and 1926, noncitizen voting in state and local elections was legally

**Figure 1.** “Alien Suffrage” at the State Level Over the Decades



Source: Kimia Pakdaman, “Noncitizen Voting Rights in the United States,” *Berkeley Public Policy Journal*, Spring 2019.

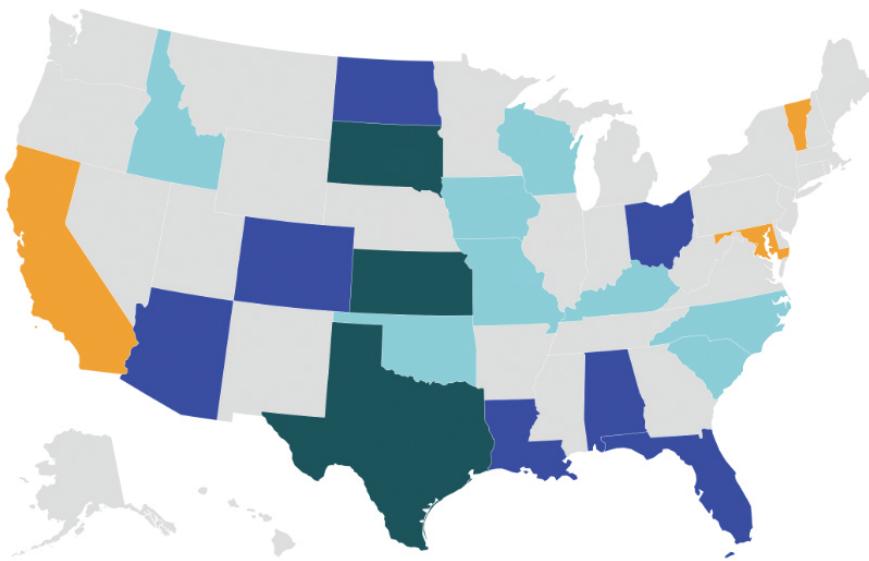
commonplace, until waves of xenophobia led to the ending of these rights in all states with Arkansas being the last state to eliminate noncitizen voting in 1926.<sup>1</sup> Prior to 1926, not only did noncitizen voting align with the rallying cry of “no taxation without representation” but it also fit within the paradigm of the time that land ownership and other key markers were more important prerequisites for voting than citizenship. See Figure 1.

In the past 30 years or so, noncitizen voting has gained a resurgence in popularity across the country. As of April 2025, 22 jurisdictions allow immigrants to vote in local elections: 16 municipalities in Maryland;<sup>2</sup> three in Vermont (Montpelier, Winooski, and Burlington); two in California (San Francisco and Oakland); and Washington D.C.<sup>3</sup> An additional dozen jurisdictions have considered restoring immigrant voting rights, including five localities in Massachusetts, five in California, one each in Maine and Illinois, and Connecticut.<sup>4</sup> See Figure 2.

Some jurisdictions provide voting rights to all residents, including both documented and undocumented immigrants (Maryland, San Francisco, Washington, D.C.) while other jurisdictions enfranchise only lawful permanent residents and those with work permits (Vermont, Massachusetts, Maine). Some jurisdictions empower immigrants to vote only in school board elections (San Francisco and Oakland) while others empower immigrants to vote for all local offices, from city council member to mayor (Vermont, Washington, D.C., Massachusetts). Some laws have been enacted via ballot proposals (San Francisco, Vermont), while others have been enacted by legislative processes (Maryland, Washington, D.C.).

Advocates have promoted these election reforms as a means to acknowledge immigrant residents as legitimate stakeholders, to affirm their voices in public

**Figure 2.** Noncitizen Voting in the United States



- Certain jurisdictions allow noncitizens to vote in local elections
- Explicitly prohibit noncitizen voting in state constitution
- Approved a ballot measure banning noncitizen voting in 2024
- Noncitizen voting measure on 2025 and 2026 ballots

Note: The map indicates which U.S. states allow or prohibit noncitizen voting in elections for state or local offices. Data is current as of April 1, 2025.

Source: Ballotpedia.

affairs, and to advance their equitable inclusion. As such, these reforms create a form of “local citizenship.”<sup>5</sup>

This resurgence has also taken hold in California, where two localities, San Francisco and Oakland, passed measures allowing noncitizens to vote. San Francisco’s noncitizen voting initiative for school board elections was passed in 2016 and implemented in 2018 for school board elections, and in 2021 noncitizens could also vote in school board recall elections. Noncitizens have voted in six school board elections between 2018 and November 2024.<sup>6</sup> In Oakland, voters passed Measure S in 2022,<sup>7</sup> which allows noncitizens to vote in local school board elections. However, the Oakland City Council has yet to pass a charter amendment to implement noncitizen voting. Most recently, in November 2024, voters in the city of Santa Ana rejected Measure DD, which would have extended voting rights to noncitizens in citywide elections.<sup>8</sup> The measure lost by 59.03 percent.<sup>9</sup>

In other parts of the state, local governments have expressed interest in exploring noncitizen enfranchisement. In 2021, city council members in the

city of Richmond, California, unanimously voted to explore enfranchising noncitizens in local elections.<sup>10</sup> However, as of this writing, nothing has been proposed as a ballot measure or charter amendment. In 2022, city council members of the city of San Jose, California, held a study session to explore the potential of enfranchising noncitizens in local elections. However, simultaneous lawsuits filed against San Francisco's noncitizen voting initiative and Oakland's ballot Measure S led the city of San Jose to put the discussion on hold until the lawsuits were resolved. Since those lawsuits were resolved in 2023, there has not been a formal movement to advance noncitizen enfranchisement in San Jose.

## Lawsuits

As with many efforts to expand noncitizen voting, resistance comes in many forms, particularly through lawsuits.

### *New York City*

In 2021, New York City's City Council passed legislation providing legal permanent residents and noncitizens who have work authorization with the right to vote in citywide elections after residing in New York for 30 days. Mayor Eric Adams allowed the legislation to become law in 2022. In 2023, representatives of the New York Republican State Committee and Republican National Committee, as well as a Democratic city council member, filed a lawsuit, *Fossella v Adams*, to stop the New York City legislation from being implemented, claiming that enfranchising 800,000 noncitizens would dilute the votes of U.S. citizens and violate the New York state constitution and state election laws. In June 2022, the New York Supreme Court for Staten Island sided with the challengers, agreeing that New York City's legislation violates the state constitution. In February 2024, the Appellate Division for the Second Judicial Department in New York upheld the lower court's ruling on appeal.<sup>11</sup> In March 2025, the New York State Court of Appeals affirmed the lower court's ruling, thus making New York City's legislation null and void.<sup>12</sup>

### *Washington, D.C.*

In 2022, the D.C. Council passed the D.C. Noncitizens Vote Act, which overcame bipartisan congressional opposition, and passed congressional review in 2023. That same year, a group of D.C. voters filed a lawsuit in D.C. Superior Court seeking to enjoin the law, citing dilution of the voting power of U.S. citizens and the fact that noncitizens do not have the right to vote or hold

office.<sup>13</sup> The case, *Stacia Hall v. the District of Columbia Board of Elections*, was removed to the U.S. District Court for the District of Columbia where, in 2024, the court dismissed the lawsuit, reasoning that the votes of citizens will not be harmed by allowing noncitizens to vote.<sup>14</sup>

### *San Francisco*

In 2016, San Francisco voters passed Proposition N, which grants non-citizens who meet certain criteria the right to vote in school board elections. The eligibility criteria to vote as a noncitizen in San Francisco require the voter to be (1) a San Francisco resident who intends to remain so until the next Board of Education election; (2) the parent, legal guardian, or caregiver of a child living in San Francisco; (3) at least 18 years of age on Election Day; and (4) not disqualified from voting under state law for imprisonment or mental incompetence. The proposition was codified as a charter amendment in 2018 and implemented that November. In 2022, James Lacy filed a lawsuit to challenging the law after noncitizens had already voted in multiple elections, arguing that the San Francisco charter amendment violated the state constitution.<sup>15</sup> The charter amendment was ruled unconstitutional by a San Francisco Superior Court judge, but was subsequently reinstated in 2023 after the California Court of Appeal overturned the lower court's ruling and held that San Francisco's charter amendment was permissible under the state constitution and the city's charter.<sup>16</sup>

### *Oakland*

In 2022, the Oakland City Council proposed ballot Measure S, which, if approved, would allow for a charter amendment to enfranchise noncitizen residents who met certain criteria to vote in school board elections. Weeks before the election was to take place, James Lacy, who had filed a lawsuit to discontinue San Francisco's noncitizen voting law, filed a lawsuit to stop the Oakland measure from appearing on the November 2022 ballot, claiming that the measure violated the California state constitution. The Alameda County Superior Court rejected this motion as the measure had yet to be approved by voters.<sup>17</sup> In November 2022, Oakland voters passed Measure S. However, the Oakland City Council has yet to legislate changes to the city charter to implement the measure. While the measure has not been implemented, the language of Measure S "authorize[s] Oakland noncitizen residents who are parents, legal guardians, or legally recognized caregivers of a minor child . . . , who are otherwise eligible to vote under state law to vote for the Office of School Board Director."<sup>18</sup> The Oakland City Council may also expand this authorization beyond noncitizen residents who are not parents, legal guardians, or legally recognized caregivers of a minor child.<sup>19</sup>

### *Santa Ana*

In June 2024, Measure DD, a ballot measure appearing on the November 2024 ballot, which would have allowed noncitizens to vote in Santa Ana's citywide elections, was challenged by James Lacy through a lawsuit claiming the wording of the ballot measure was partisan and prejudicial. The language of the ballot measure described noncitizens as "including those who are taxpayers and parents." The Orange County Superior Court sided with Lacy and the measure language was amended for the November 2024 election.<sup>20</sup>

### *Vermont*

Three Vermont municipalities passed legislative initiatives to amend city charters to enable noncitizen voting in local elections: Montpelier and Winooski in June 2021, and Burlington in March 2023. Governor Phil Scott's subsequent vetoes of these initiatives were overturned by both chambers of the legislature, which enabled the laws to take effect. Since then, respective lawsuits have been initiated based on the premise that noncitizen voting violates the Vermont state constitution. In 2023, the Vermont Supreme Court ruled that noncitizen voting did not violate the state's constitution.<sup>21</sup>

## What's Next for Noncitizen Voting in the United States?

Advocates in other states could similarly pursue expanding immigrant voting to other jurisdictions, except those states that have explicitly banned the practice, including Alabama, Arizona, Colorado, Florida, Idaho, Iowa, Kentucky, Louisiana, Missouri, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, and Wisconsin.<sup>22</sup> In Maryland, for example, where noncitizen voting is practiced most widely partly because localities can amend their local charters and election procedures without state action, several municipalities enacted local laws enfranchising noncitizens in the past year.

Despite the initiatives outlined above, noncitizen voting is still rare. Some cities argue that it is cost prohibitive, administratively unfeasible, and invites litigation that some localities are unwilling to undertake. With anti-immigrant sentiments on the rise, along with increasingly aggressive immigration enforcement tactics, some argue that it is simply too dangerous to pursue in the first place. As much as local voting advocates are encouraging more cities to pass noncitizen voting as policy, there is also a realization that there are very real challenges and barriers that must be addressed directly. Such examples include:

- ensuring that noncitizen voter information is as secure as possible to prevent harassment or targeting by law enforcement or vigilantes;

- ensuring that noncitizen voters do not compromise their ability to adjust their immigration status if they legally vote in a local election;
- ensuring that noncitizen voters have language access to voter registration and voting information;
- ensuring that noncitizen voters have access to legal consultations with knowledgeable immigration advocates to assess whether registering and voting is the right decision for them given their unique immigration situations; and
- ensuring that noncitizen voters are provided with enough information so that they vote *only* in elections in which they are legally allowed to participate.

Needless to say, there is much work ahead for organizers, policy advocates, attorneys, and those directly impacted to fight for full civic participation until “no taxation without representation” becomes a reality for all.

While these initiatives are efforts to pass and implement lawful voting for noncitizens as inclusive policies to make local governments more representative of the people they govern, it is important to distinguish these efforts from unlawful voting, given the harsh immigration penalties for unlawful voting, whether intentionally or mistakenly. This tension between lawful and unlawful voting highlights the complexity of the legal landscape between election laws and immigration laws, and underscores the importance of understanding the boundaries of lawful voting to ensure that noncitizens are not inadvertently putting their immigration processes in jeopardy, while exercising their rights in jurisdictions that allow for those rights.

## Illegal Voting and False Claims to Citizenship

### *Whether Registration to Vote or Actual Voting Can Result in a False Claim to Citizenship*

Holding U.S. citizenship is a requirement for voting in a federal election. One aspect of a false claims to U.S. citizenship requires that “the person making a false claim of citizenship must do so for a purpose or benefit in accordance with a law.”<sup>23</sup>

What this principle means in practice is that one who falsely claims U.S. citizenship to obtain a passport, gain entry into the United States, or obtain any other benefit under state or federal law is inadmissible.<sup>24</sup> In other words, “absent a legal requirement to disclose [U.S.] citizenship—[an allegedly false claim of U.S. citizenship] does not trigger § 1182(a)(6)(C)(ii)(I)’s application.”<sup>25</sup>

This proposition takes on great significance provided there is no legal requirement to disclose or declare U.S. citizenship under voter initiatives

authorizing noncitizens to register. Scrutinizing each local voter registration process to ensure it is devoid of such a disclosure or declaration is key to improving the odds that a noncitizen's vote in a local election is lawful.

Importantly, a noncitizen's recantation will ameliorate a false claim leveraged against them if their "recantation . . . is voluntary and without delay."<sup>26</sup> A recantation is neither voluntary nor timely if it "is not made until it appeared that the disclosure of the falsity of the statements was imminent."<sup>27</sup>

Voter registration may be a context where recantations are relevant. For example, in the context of a noncitizen's receipt of the wrong registration application, a noncitizen might append their signature to a claim of U.S. citizenship. However, upon a noncitizen's receipt of a ballot that allows for voting in more elections than they are authorized to vote in, they may preemptively recant before being confronted with falsely claiming U.S. citizenship.

An exception to a finding of a false claim to U.S. citizenship under the Immigration and Nationality Act (INA) exists in the following limited scenario: noncitizens who have not yet reached 16 years of age at the time of becoming lawful permanent residents and both of whose parents are or were U.S. citizens.<sup>28</sup> On one hand, no jurisdiction provisionally authorizing registration for voting by those under 18 years of age has extended this to those under 16 years of age. On the other hand, the carve-out for this exception includes false claims after turning 16 years of age upon a proffer satisfying the following criteria: contemporaneous with both of their parents being U.S. citizens, the noncitizen was under 16 years of age at the time of adjustment of status or consular processing.

### *Variation in How Jurisdictions Have Authorized Initiatives for Voting by Noncitizens*

Some jurisdictions with voter initiatives for noncitizens place limitations on which noncitizens may register to vote, and some restrict the elections in which registered noncitizens may vote.

As described above, these limitations and restrictions may well mitigate immigration consequences from any alleged false claims to U.S. citizenship. However, a distinct analysis applies to whether they also mitigate the possibility of adverse findings on "good moral character" (GMC). Review of voter initiatives has value from the standpoint of analyzing any impacts on GMC determinations. Applications for naturalization on Form N-400, and whether a naturalized citizen is subject to denaturalization, are two contexts where GMC is at issue.

Voter initiatives are also relevant to inadmissibility determinations in the context of adjustment of status on Form I-485 or consular processing, as well as to the possibilities of rescission thereof, and to the deportability ground of INA § 237(a)(1)(A) for inadmissibility at the time of admission. Finally, exercises of discretion on other applications for relief are another context where voter initiatives may play a role as a relevant factor.

In most jurisdictions that place limitations on the voter pool, only lawful permanent residents qualify to register. Among those registered noncitizens, however, their ballots may allow them to vote on a broader range of citywide ballot candidates for local office and/or local propositions. Jurisdictions without limitations on the voter pool tend to limit their ballot access. For example, their ballots may only contain candidates for municipal or county boards rather than a broader range of local candidates and/or local propositions in a citywide election.

Circumstances have arisen where registered noncitizens received ballots that presented them with more to vote on than what local law qualified them to vote on. On one hand, illegal voting does invoke the inadmissibility ground of INA § 212(a)(10)(D)(i)<sup>29</sup> and the deportability ground of INA § 237(a)(6)(i)<sup>30</sup> in addition to criminal exposure under 18 U.S.C. § 611 as provided by § 347(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).<sup>31</sup> On the other hand, it should not lead to allegations of false claims to U.S. citizenship unless the noncitizen made such a false claim in the context of improper registration.

The practitioner should not discount the latter as impossible, however, because inadvertent voter registrations may occur. For example, the latter may arise where a Department of Motor Vehicles (DMV) provides applicants for licensure or state identification with the opportunity to register to vote by checking a box on the forms.

*On Review of Form N-400, Voter Initiative Participation by Naturalization Applicants Has Relevance to GMC Rather Than False Claims of U.S. Citizenship*

Recent versions of Form N-400 have inquired about voting and registering to vote on the heels of the question, “Have you EVER claimed to be a U.S. Citizen (in writing or any other way)?” By making this ask of someone who is not a U.S. citizen, the question is whether they have made a false claim.

For example, Question 1 of Part 12 on page 11 of the edition of Form N-400 dated September 17, 2019, poses this false claim question. In the same part and on the same page of this edition of the form, Question 2 presents a broad query on whether the naturalization applicant has ever registered to vote “in any federal, state, or local election in the United States.” Question 3 of the same part and on the same page of this edition of the form probes whether the applicant has “EVER voted in any federal, state, or local election in the United States.”

As consensus grew about the legitimacy of voter initiatives, updates to Form N-400 took these initiatives into consideration. In the edition of Form N-400 dated April 1, 2024, Question 1 of Part 9 on page 6 is the same as Question 1 of Part 12 on page 11 of the edition of Form N-400 dated September 17, 2019. However, Question 2 of Part 9 on page 6 of the edition of Form N-400 dated April 1, 2024, is a compound question that narrows what

**Figure 3.** Form N-400

## Form N-400



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

- Changes to form questions concerns lawfulness of voting rather than motivation for false claim.
  - Good Moral Character

Pre-April 2024

2. Have you **EVER** registered to vote in any Federal, state, or local election in the United States?

3. Have you **EVER** voted in any Federal, state, or local election in the United States?

April 2024

2. Have you **EVER** registered to vote or voted in any Federal, state, or local election in the United States? If you lawfully voted only in a local election where noncitizens are eligible to vote, you may answer "No."

Questions 2 and 3 of Part 12, on page 11 of the Form N-400 edition dated September 17, 2019, ask. Specifically, it makes the following inquiry: "Have you ever registered to vote or voted in any Federal, state, or local election in the United States?" It then presents the following caveat: "If you lawfully voted only in a local election where noncitizens are eligible to vote, you may answer 'No.'" See Figure 3.

The latter caveat makes clear that the lawfulness of voting is what motivates the voting question in contrast to what motivates the false claim and registration question. The voting question in the recent version of the form probes GMC rather than false claims. This caveat would then be consistent with the position that limited voter-initiative-based voter registration and circumscribed voting should not lead to adverse GMC findings because neither issues false claim to U.S. citizenship nor unauthorized registration arise.

*An Analog to Voter Initiatives by Reference to Form I-9: Indicia from Form I-9 Changes*

Candidates for employment could historically check a box for "citizen or national," among other options, on older versions of an Employment Eligibility Verification by the name of Form I-9. Recent versions of Form I-9 have eliminated this "citizen or national" box in favor of forcing a choice of a "citizen" box or a "national" box among other options for the candidate to mark. See Figure 4.

Checking a box on Form I-9 for "citizen or national," by contrast to the alternative, improves the odds of overcoming an alleged false claim of U.S. citizenship. Similarly, initiatives for registration and voting to which a non-citizen subscribes merit the same scrutiny. Anything less than an assertion of U.S. citizenship, such as claiming birth in the United States or citizenship without specifying the country, are not false claims.<sup>32</sup>

**Figure 4.** Form I-9

**Form I-9**

• "Citizen or national" vs. "citizen" or "national"

June 2007

I attest, under penalty of perjury, that I am (check one of the following):

A citizen or national of the United States \_\_\_\_\_

A lawful permanent resident (Alien #) A \_\_\_\_\_

An alien authorized to work until \_\_\_\_\_  
(Alien # or Admission #) \_\_\_\_\_

August 2023

Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):

1. A citizen of the United States \_\_\_\_\_

2. A noncitizen national of the United States (See Instructions.) \_\_\_\_\_

3. A lawful permanent resident (Enter USCIS or A-Number.) \_\_\_\_\_

4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any) \_\_\_\_\_

## Potential for Denaturalization of Naturalized Citizens in the Context of Voter Initiatives

GMC bars, as defined by INA § 101(f), bear relation to the grounds for initiating criminal denaturalization or civil denaturalization. These bars might be alleged as applicable in the context of voter-initiative-based registration or voter initiative-based voting.

Albeit erroneous, in either criminal denaturalization or civil denaturalization proceedings, registering or casting of a vote may lead to allegations of illegal procurement. A naturalized citizen's ineligibility for naturalization contemporaneous with a naturalization grant constitutes illegal procurement. Voter-initiative-based registering or voting might lead to an allegation of illegal procurement on the following theory: but for a mistake on a green card grant at odds with registering or voting "illegally," a record devoid of foundation for naturalization foreclosed it.

Even if erroneous, registering or casting of a vote may also lead to allegations of unlawful acts jeopardizing GMC. Authorization in voter initiatives for someone to register or cast a ballot would stand as potent defenses against allegations of unlawful acts. The vindictiveness associated with construing a voter-initiative registration or a voter-initiative vote as illegal should rise to a substantive claim of a punitive sanction. This approach may help to fend off civil denaturalization.

Such vindictiveness can be used to argue that civil denaturalization is punitive. If so, then an argument may be framed under *Kokesh v. SEC*, 581 U.S. 455 (2017), to apply a five-year statute of limitations to civil denaturalization. In furtherance of placing a statute of limitations for civil denaturalization, legislative intent may be proven with reference to 28 U.S.C. § 2462's statute of limitations of ten years for criminal denaturalization.

Other sources of support for the idea of denaturalization being used as punishment include media sources quoting the United States Attorney General and/or President; the imposition of an exit tax on unliquidated assets by the Internal Revenue Services in the immediate aftermath of denaturalization, even if the denaturalized person remains in the United States as a lawful permanent resident; compelled termination from ownership interests of some business entities in the immediate aftermath of denaturalization; and potential placement on the Controlled Application Review and Resolution Program.

## Guidance for Practitioners

According to 18 U.S.C. § 611, noncitizens are authorized to vote in local elections if allowed by state or local law. Nevertheless, noncitizen clients may need to consider the threat of a federal political landscape that is anti-immigrant, such as the 2018 House Resolution 1071, “Recognizing that allowing illegal immigrants the right to vote devalues the franchise and diminishes the voting power of United States citizens,” that was passed by the U.S. House of Representatives largely along party lines.<sup>33</sup> Moreover, as there is a growing momentum of additional municipalities expanding the right to vote in local elections for noncitizens, immigration practitioners need to prepare for such clients raising voting-related inquiries. Below are scenarios for immigration practitioners to consider.

### *“Should I Register and Vote in the Local Election?”*

Important factors for clients seeking guidance on whether to register and vote for local elections to consider are (1) voter registration information, (2) immigration enforcement initiatives, and (3) future or current naturalization applications.

#### Voter Registration Information

Voter registration information is not confidential in every state. Each state has varied requirements on who is eligible to request voter registration lists, types of information provided in the list, and how the information contained in the list may be used.<sup>34</sup>

Table 1 provides a list of the states (California, Maryland, and Vermont) and the federal Capitol (Washington, D.C.) that allow for noncitizen voting in local elections, including information on who can request the voter file, what information the file contains, information that is kept confidential, permissible uses of the file, and programs that keep voter information confidential.

For example, in California, voter registration information can be released to a member of the state legislature or U.S. Congress, to any candidate, to any committee for or against a proposed ballot measure, and to any person

**Table 1.** Access to and Use of Voter Registration Lists

State	Who Can Request the Voter File	What Information Does the File Contain	What Is Kept Confidential	What Can the File Be Used For	Programs to Keep Voter Information Confidential	Statute
California	Candidates, parties, ballot measure committees, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State. All voter information is confidential except for those listed above that may request lists.	Name, address, telephone number, political party preference.	Driver's license number, Social Security number (SSN), any other unique identifier, signature.	Non-commercial purposes. Specifically prohibited uses include: harassment of any voter or voter's household; advertising, solicitation, sale, or marketing of products or services to any voter or voter's household; or reproduction in print, broadcast visual or audio, or display on the Internet or any computer terminal, except for the authorized purposes described above.	Address Confidentiality Participants (ACPs); public safety officers; a reproductive health care service provider, employee, volunteer, or patient; a person with a life-threatening circumstance; a person who is employed by or contracts with the Secretary of State or a local election office who performs election-related work and interacts with the public or is observed by the public doing election-related work.	Cal. Elec. Code § 2184 § 2194 § 2166 § 2166.5 § 2166.7 § 2166.8

State	Who Can Request the Voter File	What Information Does the File Contain	What Is Kept Confidential	What Can the File Be Used For	Programs to Keep Voter Information Confidential	Statute
District of Columbia	Any person may receive a voter list upon request.	Party affiliation, date of registration, ward, precinct, voter history or any other permissible category. Signatures are available for the public to view but not to copy or trace.	Any part of SSN, date of birth, email addresses, phone numbers, identify of voter registration agency where voter registered.	Not specified.	ACPs, an individual of significant public stature and public disclosure of the elector's address would cause an unwarranted invasion of privacy, as determined by the Registrar of Voters. Any person's address may be kept confidential upon presentation of a copy of a court order to the registrar directing the confidentiality of the qualified elector's address.	D.C. Mun. Regs. tit. 3 § 510 DC B 37, Act 337

Maryland	Registered voters in Maryland.	Applicants for the copies of the registration list may specify the information to include among name, address, party affiliation, sex, date of birth, voting history.	SSN, driver's license number, declination to vote, application office location.	Non-commercial use. Any person who knowingly allows a list of registered voters, under the person's control, to be used for any purpose not related to the electoral process is guilty of a misdemeanor.	ACPs, law enforcement personnel, persons being threatened, victim of or witness to felony, others on the grounds that the disclosure of the individual's address poses a safety threat or is likely to lead to an unwarranted and serious invasion of privacy.	Md. Elec. Code Ann. § 3-506 Md. Code Regs. 33.03.02.03 33.05.02.02 Md. Fam. Law Code Ann. § 4520 Md. State Gov't Code Ann. § 7-303
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State	Who Can Request the Voter File	What Information Does the File Contain	What Is Kept Confidential	What Can the File Be Used For	Programs to Keep Voter Information Confidential	Statute
Vermont	Town clerks must make copies of voter lists available to the chair of each political party in the municipality and any other person upon request, at cost.	Information contained within the statewide list that is not confidential.	Month and day of birth, driver's license number, telephone number, email address, and the last four digits of SSN.	Non-commercial purposes. A copy of the voter checklist may not be disclosed to any foreign government, agency, or person acting on behalf of a foreign government, or a federal entity for the purpose of registration of a voter, publicly disclosing a voter's information, or comparing a voter's information to personally identifying information contained in other federal or state databases.	ACPs.	Vt. Stat. Ann. tit. 17, § 2154 § 2141 Vt. Stat. Ann. tit. 15, § 1158

Source: Nat'l Conf. of State Legislatures, Access to and Use of Voter Registration Lists, <https://www.ncsl.org/elections-and-campaigns/access-to-and-use-of-voter-registration-lists>.

for election, scholarly, journalistic, or political purpose, or for governmental purposes.<sup>35</sup> This information includes the following for each voter, to the extent that it is included in any individual voter's record: registration county, unique registration identification number, name, residential address, mailing address, phone number, email address, language preference, date of birth, gender, party preference, registration status, registration date, precinct, registration method, place of birth, registration status reason (reason for the most recent update to the registration), voting assistance request status, permanent vote-by-mail status, county voter identification number, and voting participation history (election date and voting method). A few items that are never provided to any requestor include social security number, driver's license number, and signature.

One possible exception to the rule that voter registration information is not confidential is if the information could put an individual's life in danger.<sup>36</sup> In California, an individual may be able to apply for confidential voter registration status through order of the superior court, or by applying to the California Secretary of State's "Safe at Home" program.<sup>37</sup> Los Angeles and San Diego Superior Courts in California have a standard form to request to have voter registration information declared confidential.<sup>38</sup> Practitioners seeking this exception for their clients are encouraged to contact the local superior court for specific guidance to obtain a court order.

The California Address Confidentiality Program known as "Safe at Home" is designed to offer those in fear for their safety a way to keep their address confidential, out of public records, and out of the hands of anyone who has harmed or wants to harm them.<sup>39</sup> Individuals who are eligible for the Safe at Home program include victims of domestic violence, stalking, sexual assault, child abduction, elder or dependent adult abuse, or human trafficking. Other eligible individuals include reproductive health care facility employees, providers, patients, and volunteers, and public entity employees/contractors who have experienced harassment, violence, or threats of violence because of their affiliation with a reproductive health care services facility or their work for a public entity. Household members of these individuals, who are in fear for their safety, are also eligible for the Safe at Home program. Approved applicants of the Safe at Home program are assigned a special mailing address where they will receive their voting materials and important election reminders, and their voter information does not appear in any list, including a roster at a Vote Center and to a member of the California Legislature or U.S. Congress, to any candidate, to any committee for or against a proposed ballot measure, and to any person for election, scholarly, journalistic, or political purpose, or for governmental purposes.

### **Immigration Enforcement**

Fear is perhaps the most significant reason for noncitizens deciding not to register and vote with specific concerns of potential immigration enforcement actions.<sup>40</sup> As described above, voter registration information is not confidential

in every state, and there is a potential that Immigration and Customs Enforcement (ICE) can gain access to this information. Indeed, even the San Francisco Department of Elections has the following advisement:

**IMPORTANT NOTICE FOR NON-UNITED STATES CITIZENS:** Any information you provide to the Department of Elections, including your name and address, may be obtained by Immigration and Customs Enforcement (ICE) and other agencies, organizations, and individuals. In addition, if you apply for naturalization, you will be asked whether you have ever registered or voted in a federal, state, or local election in the United States.<sup>41</sup>

In comparison, the noncitizen voter registration form for municipal elections in Montpelier, Vermont, does not contain such precautionary language about federal enforcement agencies potentially accessing voter registration information.<sup>42</sup> Practitioners must advise noncitizen clients of the potential for federal immigration enforcement actions related to voter registration, regardless of whether a specific jurisdiction's forms or materials provide this warning. Moreover, practitioners should consider whether the client is in legal status or undocumented, as well as the risk of immigration enforcement actions when advising whether the client should register to vote.

### **Impact on Future or Current Naturalization Application**

As noted above, changes to Form N-400 have made distinctions between prior voting activity clearer, to the benefit of noncitizen voters. Along with the April 2024 form update, the N-400 instructions were updated to add the following language that previously did not exist: "Voting in a local election will not render an applicant ineligible for naturalization if the applicant was eligible to vote under the relevant law."<sup>43</sup>

Further reducing the concern on the impact on future or current naturalization applications, noncitizens in San Francisco who register to vote in a local election can request a verification letter from the San Francisco Department of Elections, which can be used as part of an N-400 application as an affidavit of lawful registration and voting. According to guidance from the San Francisco Department of Education, the letter will list the criteria set forth in San Francisco's Charter § 13.111(a)(1) for noncitizen voting in local Board of Education elections and verify that the noncitizen voted in a specific Board of Education election.<sup>44</sup>

Local advocacy with U.S. Citizenship and Immigration Services (USCIS) Field Offices can also alleviate the concern of how such voting can impact naturalization applications. In San Francisco, the Immigrant Legal Resource Center worked closely with the San Francisco USCIS Field Office to ensure N-400 adjudicators were trained on this specific issue.<sup>45</sup>

### *“I Don’t Remember if I Voted in a Local or Federal Election”*

Often immigration practitioners learn “after the fact” that their client has engaged in a significant event, like voting. It could be many years since the event happened, and the client may not recall the particular details. In the instance of voting, it may be difficult for the client to recall whether the ballot was for a specific type of election such as a local election.

If the client lived in a region that allows voting in local elections, the local government office overseeing elections may be able to verify whether the client actually voted, such as San Francisco’s Department of Elections, as mentioned above. Voter registration information may be requested under California’s Code of Regulations, Article 1, 19003, section (b).<sup>46</sup>

### *“I Received the Wrong Ballot”*

Some immigration practitioners have reported that their noncitizen clients have received the wrong election ballot, despite registering for a local election. In such instances, the noncitizen should immediately take steps to contact the local election office to obtain the correct ballot.

## **Conclusion**

The recent rise of noncitizen voting initiatives for local and city elections highlights the tension between local democratic ideals and federal election policy. Local jurisdictions like San Francisco, Oakland, and various municipalities in Maryland and Vermont have enacted laws that extend voting privileges to noncitizens in local elections. These initiatives underscore the principle of “no taxation without representation,” recognizing noncitizen residents as integral stakeholders in their communities. They aim to advance civic participation and make local governance more representative of the populations they serve.

Nevertheless, the movement to enfranchise noncitizens in local political issues stands in contrast to federal election laws and anti-immigrant sentiments. This conflict can create risks to noncitizens, even those who vote in full compliance with local rules. While federal law authorizes noncitizen voting when permitted by state or local law,<sup>47</sup> the persistent threats through litigation and federal debates on this issue underscore the fragility of these rights.

For legal practitioners, advising clients on their rights while providing counsel on potential immigration consequences is key to effective representation. The decision to register to vote as a noncitizen in local and state elections where voting on local issues is allowed involves risks such as voter registration information becoming public, exposing them to potential harassment or targeting. This evolving landscape demands careful navigation.

## Notes

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1. Elizabeth Crowther, *History of Suffrage in the United States*, 6 Miss. VALLEY HIST. REV. 1, 114 (1919) (reviewing KIRK PORTER, HISTORY OF SUFFRAGE IN THE UNITED STATES (1918)). *See also* Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage*, 141 U. PA. L. REV. 4, 1391 (1993); Marta Tienda, *Demography and the Social Contract*, 39 DEMOGRAPHY 4, 587-616 (2002); J.P. Sanson, 38 CHOICE REVIEWS ONLINE 10 (2001) (reviewing ALEXANDER KEYSSAR, THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES (2000)); M.S. Rodriguez, 45 CHOICE REVIEWS ONLINE 4 (2007) (reviewing HIROSHI MOTOMURA, AMERICANS IN WAITING: THE LOST STORY OF IMMIGRATION AND CITIZENSHIP IN THE UNITED STATES (2006)). *See generally* RONALD HAYDUK, DEMOCRACY FOR ALL: RESTORING IMMIGRANT VOTING RIGHTS IN THE UNITED STATES (2006).

2. The Maryland towns are Barnesville, Brentwood, Cheverly, Chevy Chase Section 3, Colmar Manor, Edmonston, Frederick, Garrett Park, Glen Echo, Greenbelt, Hyattsville, Martin's Additions, Mount Rainier, Riverdale Park, Somerset, and Takoma Park.

3. BALLOTPEDIA, *Laws Permitting Noncitizens to Vote in the United States*, [https://ballotpedia.org/Laws\\_permitting\\_noncitizens\\_to\\_vote\\_in\\_the\\_United\\_States](https://ballotpedia.org/Laws_permitting_noncitizens_to_vote_in_the_United_States).

4. The localities in Massachusetts are Amherst, Cambridge, Brookline, and Newton. The localities in California are San Jose, Santa Ana, Pasadena, Richmond, and Los Angeles. Portland, Maine; Chicago, Illinois, and the state of Connecticut has considered allowing noncitizens to vote. New York City's law was overturned by state courts in 2025. *See generally* Ron Hayduk, Megan Dias & Olivia Marti, *Immigrant Voting and the Movement for Inclusion in San Francisco*, CHINESE FOR AFFIRMATIVE ACTION (2023), <https://caaf.org/wp-content/uploads/2023/09/23-CAA-ImmigrationVotingReport-F2.pdf>.

5. Ron Hayduk & Kathleen Coll, *Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US*, 40 NEW POL. SCI. 2, 336-52 (2018).

6. SAN FRANCISCO DEP'T OF ELECTIONS, *Election Results*, <https://www.sf.gov/election-results>.

7. ALAMEDA CNTY. REGISTRAR OF VOTERS, *General Election—11/08/2022*, <https://www.alamedacountyca.gov/rovresults/248/>.

8. CTY. OF SANTA ANA, *2024 City Measures: Ballot Measures—November 5, 2024 General Municipal Election*, <https://www.santa-ana.org/2024-city-measures/>.

9. BALLOTPEDIA, *Santa Ana, California, Measure DD, Noncitizen Voting in Municipal Elections Amendment (November 2024)*, [https://ballotpedia.org/Santa\\_Ana,\\_California,\\_Measure\\_DD,\\_Noncitizen\\_Voting\\_in\\_Municipal\\_Elections\\_Amendment\\_\(November\\_2024\)](https://ballotpedia.org/Santa_Ana,_California,_Measure_DD,_Noncitizen_Voting_in_Municipal_Elections_Amendment_(November_2024)).

10. Danielle Parenteau-Decker, *Richmond May Let Undocumented Residents Vote in Local Races*, CONTRA COSTA PULSE (Aug. 5, 2021), <https://ccpulse.org/2021/07/30/richmond-will-explore-allowing-undocumented-residents-to-vote-in-local-elections/>.

11. Fossella v. Adams, [2022 N.Y. Slip Op. 34700](#) (N.Y. Sup. Ct. 2022).
12. Fossella v. Adams, No. 15, slip op. (N.Y. Mar. 20, 2025).
13. Hall v. Dist. of Columbia Bd. of Elections, No. 2023-CAB-001544 (D.C. Super. Ct. 2023).
14. Hall v. Dist. of Columbia Bd. of Elections, Civil Action 23-1261 (ABJ), 2024 WL 1234567 (D.D.C. Mar. 20, 2024).
15. Lacy v. City & Cnty. of San Francisco, [94 Cal. App. 5th 238](#) (2023).
16. *Id.*
17. Lacy v. Reed (Super. Ct. Alameda Cnty, 2022, No. 22CV016302).
18. Resolution No. 89281A, Oakland City Council (2022), [https://ca094612.s3.amazonaws.com/documents/RESO-89281-Noncitizen-Vote-filed-materials\\_2022-07-30-033334\\_eazb.pdf](https://ca094612.s3.amazonaws.com/documents/RESO-89281-Noncitizen-Vote-filed-materials_2022-07-30-033334_eazb.pdf).
19. *Id.*
20. Destiny Torres, *Santa Ana Ordered by Court to Amend Noncitizen Voting Ballot Measure Language*, ORANGE CNTY. REG. (June 5, 2024), <https://www.ocregister.com/2024/06/05/city-of-santa-ana-ordered-by-court-to-amend-noncitizen-voting-ballot-measure-language/>.
21. *See Ferry v. City of Montpelier*, 2023 Vt. 4, [296 A.3d 749](#) (Vt. 2023); *Westin v. Winooski* (Weston I) 22-AP-261; *Morin v. City of Burlington*, 24-CV-02403, Decision on Mot. to Dismiss (Vt. Super. Ct., Chittenden Unit Feb. 7, 2025).
22. Riley Moser & David Schuman, *Wisconsin Voters Pass Constitutional Amendment Explicitly Barring Noncitizens from Voting*, CBS News (Nov. 6, 2024), <https://www.cbsnews.com/minnesota/news/wisconsin-ballot-question-noncitizens-voting-results/>.
23. Munoz v. Garland, [71 F.4th 1174](#), 1180 (9th Cir. 2023).
24. 8 U.S.C. § 1182(a)(6)(C)(ii)(I); INA § 212(a)(6)(C)(ii)(I).
25. *Id.*
26. *Matter of Namio*, 14 I&N Dec. 412, 414 (BIA 1973).
27. *Id.*
28. 8 U.S.C. § 1182(a)(6)(C)(ii)(I); INA § 212(a)(6)(C)(ii)(I).
29. “Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.”
30. “Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.”
31. “Any person who violates this section shall be fined under this title, imprisoned not more than one year, or both.”
32. *United States v. Smiley*, [181 F.2d 505](#), 506 (9th Cir. 1950).
33. H.R. Res. 1071, 115th Cong. (2018).
34. For a detailed chart of all states, see NAT’L CONF. OF STATE LEGISLATURES, *Access to and Use of Voter Registration Lists*, <https://www.ncsl.org/elections-and-campaigns/access-to-and-use-of-voter-registration-lists>.
35. CAL. CODE REGS. tit. 2, § 19003 (2025).
36. NAT’L CONF. OF STATE LEGISLATURES, *supra* note 33.
37. CAL. ELEC. CODE §§ 2166-2166.5 (West 2025).
38. Cal. L.A. Super. Ct., Civ. Form 273, Petition to Have Voter Registration Information Declared Confidential (rev. June 2019), <https://lascpubstorage.blob.core.windows.net/forms/Forms%20Comprehensive%20List/LASC%20CIV%20273.pdf>; Cal. Super. Ct. San Diego Cnty., CIV-052, Application for Order Declaring Information on Affidavit of Voter Registration Confidential and Order (rev. Sep. 2021), <https://>

[www.sdcourt.ca.gov/sites/default/files/sdcourt/generalinformation/forms/civilforms/civ052.pdf](http://www.sdcourt.ca.gov/sites/default/files/sdcourt/generalinformation/forms/civilforms/civ052.pdf).

39. CAL. SEC'Y OF STATE, *Frequently Asked Questions*, <https://www.sos.ca.gov/registries/safe-home/frequently-asked-questions1/>.

40. Ron Hayduk, Megan Dias & Olivia Marti, *supra* note 3 at 17-19.

41. SAN FRANCISCO DEP'T OF ELECTIONS, *Noncitizen Voting Rights in Local Board of Education Elections*, <https://www.sf.gov/noncitizen-voting-rights-local-board-education-elections>. *See also* SAN FRANCISCO DEP'T OF ELECTIONS, *Noncitizen Voter Information Portal*, [https://sfelections.org/tools/edu\\_portal/index.html](https://sfelections.org/tools/edu_portal/index.html).

42. CTY. OF MONTPELIER, Noncitizen Voter Registration Form, 24 V.S.A. App. §§ 101-1504 (Municipal Elections Only), <https://www.montpelier-vt.org/DocumentCenter/View/10466/Noncitizen-Voter-Application>.

43. U.S. CITIZENSHIP & IMMIGR. SERVS., *Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Naturalization*, 88 Fed. Reg. 77,349 (Nov. 9, 2023), <https://www.regulations.gov/document/USCIS-2008-0025-0258>; U.S. CITIZENSHIP & IMMIGR. SERVS., Form N-400, *Instructions for Application for Naturalization: Table of Changes—Instructions* (OMB No. 1615-0052, Nov. 7, 2023).

44. SAN FRANCISCO DEP'T OF ELECTIONS, *Noncitizen Voting Rights in Local Board of Education Elections*.

45. Ron Hayduk, Megan Dias & Olivia Marti, *supra* note 4, at 18.

46. CAL. CODE REGS. tit. 2, § 19003 (2025).

47. 18 U.S.C. § 611 (2025).