



SHIRLEY N. WEBER, Ph.D. | SECRETARY OF STATE | STATE OF CALIFORNIA
LEGAL AFFAIRS OFFICE
1500 11th Street | Sacramento, CA 95814 | www.sos.ca.gov

October 20, 2025

True the Vote
Megan Denning
3120 Southwest Fwy, Ste 101 PMB 19128
Houston, TX 77098-4520
Sent via email to: ttvresearch2025@gmail.com

RE: California Public Records Act Request of October 11, 2025

Dear Megan Denning,

Thank you for contacting the California Secretary of State with your request for records pursuant to the California Public Records Act. A copy of your request is attached.

The following non-privileged, non-exempt records have been located in response to your request:

- Secretary of State Press Release dated March 26, 2025, available at the following web address: <https://www.sos.ca.gov/administration/news-releases-and-advisories/2025-news-releases-and-advisories/california-secretary-state-shirley-n-weber-phd-issues-statement-regarding-president-trumps-march-25-202-executive-order>;
- Email dated April 3, 2025, from SOS staff noticing State of California, et al., v. Donald J. Trump et al., lawsuit with attached Complaint for Declaratory and Injunctive Relief and AG press release dated April 3, 2025;
- Declaration of Jana M. Lean filed in State of California, et al., v. Donald J. Trump, et al., on May 5, 2025;
- Memorandum and Order dated June 13, 2025, in State of California, et al., v. Donald J. Trump, et al.;
- Order of Preliminary Injunction dated June 13, 2025, in State of California, et al., v. Donald J. Trump, et al.;
- Monthly County Elections Officials Call Agenda dated April 17, 2025;
- SOS-CACEO Monthly Conference Call Talking Points dated April 23, 2025;
- Email dated March 28, 2025, noticing press release entitled “Padilla Leads Push Demanding Trump Rescind Illegal Anti-Voter Executive Order”;

- Email dated March 25, 2025, from National Association of State Election Directors with attached Executive Order and White House Fact Sheet;
- Email dated March 25, 2025, from NASS Elections Committee with attached NASS Summary;
- Email dated June 30, 2025, from NASS Elections Committee;
- Email dated June 13, 2025, noticing press release entitled “Attorney General Bonta Secures Decision Blocking Trump’s Unlawful Elections Order”;
- Emails dated May 5, 2025, between SOS and DOJ press staff regarding DOJ press release;
- Emails dated March 26, 2025, between SOS press staff and California Black Media;
- Emails dated March 26, 2025, between SOS press staff and Orange County Register;
- Emails dated March 25, 2025, between SOS press staff and KRON4;
- Emails dated March 25, 2025, between SOS press staff and KCRA; and
- Emails dated March 25, 2025, between SOS press staff and The Sacramento Bee.

Please note, some personally identifiable information or other types of private information in the records has been redacted. (Article I, Section 1, of the California Constitution; California Information Practices Act of 1977 [California Civil Code § 1798 et seq.]; Government Code § 7927.705 and 7930.180.) Additional redactions have been made to records that contain non-public 3rd party teleconference lines and access codes used for meetings constituting trade secrets of licensees, including materials that are subject to third-party intellectual property rights, and records containing non-public telephone numbers due to risks that the information might create or disclose information security vulnerabilities or otherwise increase the potential for an attack on an information technology system or asset or expose an election worker to public harassment. (See Government Code sections 7922.000, 7927.705, 7929.210 and 7930.205; Evidence Code section 1060.)

The California Public Records Act permits the California Secretary of State to collect statutory fees for the cost of producing copies of its records, which must be remitted at the time the records are requested. The statutory fees for reproduction of the type of records that you have requested are \$1.00 for the first page, and \$0.50 for each additional page. However, we are able to provide electronic copies of the above identified records at no charge.

We are withholding items that are attorney-client privileged and attorney work product communications between Secretary of State attorneys and Secretary of State attorneys and staff, along with other internal Secretary of State staff communications and documents reflecting the deliberative process and official information privileges, which also include records that reflect the candid evaluations, analysis and exchange of ideas that assist decision-makers in making their final policy, budget and other executive decisions and negotiations. (Government Code sections 7922.000, 7927.705; Evidence Code sections 950, 954, 955, 1040, and 1041; *Times Mirror v. Superior Court* (1991) 53 Cal.3d 1325, 1339-1346 [describing "The Deliberative Process Privilege"].) In addition, items that have been deemed preliminary drafts, notes, and intragency memoranda that are not retained by a public agency in the ordinary course of business

have been withheld (Government Code section 7927.500). Likewise, records pertaining to pending litigation to which the Secretary of State is a party, or claims made pursuant to Division 3.6 of the Government Code (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled are being exempt from disclosure. [Government Code section 7927.200].

The responsible parties for the decision to exclude privileged and exempt records and information are Chief Counsel, Steve Reyes, and Attorney Supervisor, Janelle Callahan.

We hope this information is helpful to you. If you have any questions about this or another matter related to records available at the Secretary of State's Office, please contact us again.

Sincerely,
Legal Affairs Office
Secretary of State

October 10, 2025

Shirley Weber
California Secretary of State
1500 11th St
Sacramento, CA 95814

Subject: Request for Records Related to Executive Order 14248

Dear Shirley Weber,

Pursuant to applicable state public records laws, including any freedom of information or open records statutes in your jurisdiction, True the Vote respectfully submits this request for access to and copies of records as described below.

This request seeks all records, communications, directives, or guidance created or received by your office since March 25, 2025, related to Executive Order 14248, titled *'Preserving and Protecting the Integrity of American Elections'*, including but not limited to:

1. Actions taken or planned to comply with, respond to, or evaluate the order;
2. Communications with federal agencies (including the Election Assistance Commission or Department of Justice) concerning implementation or challenges to the order;
3. Any internal analyses, meeting notes, or correspondence with county officials, election vendors, or other stakeholders related to voter roll verification, mail-ballot receipt deadlines, or documentary proof-of-citizenship requirements.

Additionally, please include any records, guidance, or communications your office has sent to counties or local election authorities in connection with Executive Order 14248.

True the Vote recognizes that portions of Executive Order 14248 are currently subject to judicial review and preliminary injunctions. This request is not intended to seek privileged legal materials but to understand what steps, if any, your office is taking to assess compliance, improve election integrity procedures, or prepare for potential implementation.

We request that you provide all responsive records in electronic format, preferably as searchable PDF files transmitted by email to research@truethevote.org. We also respectfully request acknowledgment of this request within five (5) business days and full production of responsive records within the statutory period provided by your state's public records law.

If you determine that portions of this request are exempt, please provide any segregable portions of responsive records and identify the specific legal basis for any withholdings.

Thank you for your time and assistance.

Sincerely,
Meg Denning
True the Vote Research Team

SOS-CACEO Monthly Conference Call Talking Points
Wednesday, April 23, 2025
10:30 a.m. - 11:00 a.m.

Elections Update

SAVE Act: I wanted to start by going over the election-related developments at the federal level, specifically the SAVE Act.

The SAVE Act introduced in the House of Representatives would require each new registrant or person updating their registration record *in any way* to go *in person* to present their documentary proof of citizenship to their county registrar. This would require significant staff increases and enhanced training to be able to recognize the complex and varying types of documents that constitute proof of citizenship. Counties would also face significant and costly impacts to upgrade a variety of information technology systems required to comply with those mandates.

County offices (usually county records) would be subject to millions of new requests for birth certificates, undoubtedly requiring huge numbers of staff to help process voters'/registrants' requests for access to birth certificates required to register (and vote). These requests would come from people in their county, in other counties, and from out of state, given geographic mobility.

Costs would also be substantial for our office—including updating VoteCal—to accommodate these new requirements and integration with county systems. Our office would also need to hire and train additional staff to provide ongoing support, guidance, training, and materials for counties.

We do not have dedicated funding for outreach, and with current staff and funding, the level of effort required to even attempt to provide the outreach and education that is needed would be significant.

Efforts to educate our voters and new registrants would be monumental in scope. It is further complicated by how individualized people's needs are regarding how to obtain the correct proof of citizenship documentation and how to submit that proof of documentation.

Obtaining correct proof of citizenship documentation becomes even more complex for certain populations, including many married people, adopted individuals, and others who have had legal name changes, and the many Californians whose vital records have been destroyed as a result of natural disasters.

Potential requirements to produce documentary proof of citizenship in person greatly and disproportionately impact persons with disabilities, students away at college, voters covered under the Uniformed and Overseas Citizens Absentee Voting Act and military members stationed out of state or overseas, the elderly, and those in assisted living facilities, rural voters, and others without their own transportation. Every Californian will be impacted by the Executive Order and SAVE Act proof of citizenship requirements or have a friend or family member burdened, and extensive voter education and outreach will be needed to educate and repeatedly remind voters of these drastically different requirements—all of which will have a significant cost and impact on elections.

Elections Security: Our Elections Security team continues to track news, information, and updates related to changes in election security programs that receive federal funding. The team met on Monday with a small group of volunteers to discuss what we can do here in California to keep our election security plans robust and dynamic. The team is holding a meeting with the whole Statewide Election Security Working Group tomorrow at 10 a.m. We hope to see you there to be able to share information and collaborate on this important topic.

United States Elections Assistance Commission 2024 Awards: I would like to congratulate the 2024 “Clearie” winners for their outstanding contributions and hard work towards the continuing progress of elections administration and would like to acknowledge the 53 participating jurisdictions and Honorable Mentions.

On April 16, 2025, the United States Elections Assistance Commission announced the winners for the 2024 Clearinghouse Awards, known as the “Clearie” Awards. Election offices nationwide were recognized for excellence in Election Administration in the following areas:

For Security: New Tools in Election Security and Technology. The Commission recognized the California Secretary of State's Elections Team in partnership with the Cybersecurity and Infrastructure Security Agency (CISA) for the development and production of their YouTube training video titled, *"De-escalation for Elections Officials."* Elections staff created, produced, and distributed the video statewide to assist election and polls workers on how to resolve tense situations, both in person and on the phone.

Also recognized was the Los Angeles County ROV-Recorder/County Clerk's office for the program development of *"Electronic Chain of Custody Solution for Elections."* The program, created to address security risks and inefficiencies, has enhanced transparency, reduced manual tasks, and increased security of election materials, becoming a cornerstone for election integrity in Los Angeles County.

For Election Administration: Innovations or New Practices in Election Administration – Small/Medium Jurisdictions

The Commission acknowledged the County of Monterey Elections Department for the creation of the *"Books and Ballots Program."* The program leveraged partnerships between election offices and county libraries, enhancing and increasing access to the democratic process to underserved and rural areas and communities.

For Help America Vote Act Grants: Outstanding Use of HAVA Grants in Election Modernization

The Commission honored Sutter County Elections for their innovative electronic Pocketalk device, *"Sutter Translate,"* which is a handheld translation tool supporting 84 languages through voice and image translation, providing valuable assistance to hearing- and sight-impaired individuals. Used year-round by elections officials, its features have improved communication, boosted confidence of poll workers, and enhanced service across departments, while remaining cost effective.

For Poll Workers: Best Practices in Recruiting, Retaining, and Training Poll Workers – Large Jurisdictions

The Commission recognized the Los Angeles County Registrar-Recorder/County Clerk for the development of a “*Multilingual Election Worker Recruitment Tool*.” The tool, using a Google dashboard application, allows both election recruitment staff and partners to see language needs specific to voter location to then easily match qualified volunteers. Given the dashboard uses the Google platform, it is user-friendly, cost effective, and easy to replicate for use by other counties.

You can find all the results on the homepage of the EAC.

AD 63 Special Election: On April 1, Assemblymember Essayli (AD 63 – Riverside) resigned in order to accept the appointment of United States Attorney for the Central District of California. The Governor has called a special election to fill the vacancy with the Primary Election to be held on June 24, 2025, and a General Election to be held on August 26, 2025, if needed.

Governor Recall: Just a reminder that the first status report for the Recall of Governor Newsom is due Monday, April 28. If you have any questions or need a reporting form, please contact Joan Hackeling in Elections.

Voter’s Choice Act Update

This year, 12 VCA counties will renew their Election Administration Plans (EAPs). The VCA team is scheduling monthly meetings with these counties to provide support by troubleshooting obstacles counties might encounter while renewing their EAPs and respond to questions. EAPs are due to my office by the administrative deadline of December 12, 2025.

I would like to thank those VCA counties that applied for membership to the Voter’s Choice Task Force. We received applications from VCA counties, advocates, staff from the Legislature, and others. The announcement of Task Force members will be made within the coming days, and the Kickoff meeting will be scheduled following the announcement.

The VCA team recently shared the county-level vote center usage data with all of you. Thank you for taking the time to review the data. At the

request of the Senate and Assembly Elections chairs, that data is now being shared with those offices. Several voting rights advocates have also requested this data, and the tables were shared with this group last week.

The VCA team is finishing up the 2024 General and Primary Election reports. Those reports are expected to be ready next month. For status on the reports or any specific questions about the data, please contact the VCA team.

As we continue to think about the future and how we provide the most access to voters, I invite you to engage with our office and collaborate on solutions that help shape our elections.

If counties would like to discuss any ideas about how to improve the VCA, please contact LaKenya Jordan, Deputy Secretary for Policy, Planning, and Implementation and the Voter's Choice Act at: [REDACTED]

Voter Outreach Update

Thank you for your continued support of our statewide outreach efforts. We have a few updates this month.

Student Voter Project: A couple of weeks ago, I visited UC Santa Barbara to present the 2024 California University and College Ballot Bowl trophy and to recognize their outstanding commitment to civic engagement and voter registration excellence. The celebration brought together an inspiring coalition of student leaders, faculty, and elected officials from local, state, and federal governments including representatives from the Santa Barbara Registrar of Voters office, and we look forward to continued engagement with college students in the coming months.

Community Engagement: The outreach team continues to participate in Parole and Community Team meetings in partnership with the California Department of Corrections and Rehabilitation (CDCR). This month we attended meetings in Los Angeles, Riverside, Sacramento, Stanislaus, and Ventura counties, where nearly 40% of the attendees registered to vote. CDCR staff has expressed a growing appreciation of our office's participation in these meetings and look forward to our continued support.

As we mark 100 days since the Los Angeles area fires, our office remains committed to supporting survivors at the Disaster Recovery Centers in Los Angeles and Altadena. While attendance at these centers once reached approximately 700 survivors per day, it has now declined to less than 100. Although participation has diminished, our presence remains strong. The team continues to provide voting and business-related information and resources at the Disaster Recovery Centers a couple of days each week.

Earlier this month, my staff and I met virtually with community residents from the Altadena/Pasadena area who were directly impacted by the Eaton fires. During the meeting, we provided information on the resources our office offers to support displaced voters, ensuring they can maintain their voter registration and continue participating in elections in their area. We also discussed how business owners can obtain replacement business documents that may have been lost in the fires.

New Citizenship Ceremonies: We also learned of a new change in the ceremonial procedures and schedule for the United States Citizenship and Immigration Services' New Citizenship Ceremonies in Northern California. The outreach team will work directly with USCIS on the changes and continue to participate with the help of area ROVs. Last week we registered 253 out of 500 new citizens to vote at the San Francisco location. This month we will be in Sacramento. We are looking into ways to expand our reach by participating in New Citizenship Ceremonies across the state and will be in contact with counties for assistance in the coming months.

High School Voter Education Weeks: As you are all aware, the last two weeks of April are High School Voter Education Weeks. I sent out a joint letter with the California Department of Education last month and a Senate resolution was introduced. I also visited Fremont High School in LA County to speak with students about civic engagement, the importance of pre-registering to vote, and staying connected with their elected officials. We were joined by staff from the LA ROV to pre-register students to vote during lunch.

As High School Voter Education Weeks comes to a close, we hope counties have an opportunity to visit high schools to promote civic engagement.

Other SOS Agency Information: The Outreach and Education team is joining the California Secretary of State Safe at Home program this week at the International Conference on Sexual Assault, Domestic Violence, and Forging New Paths in Orange County. This three-day conference, expected to draw over 2,000 survivors impacted by violence and abuse, focuses on providing resources and support.

The SOS Business Programs Division hosted two Apostille Pop Up shops this month in Riverside and San Francisco counties. Our Outreach team provides an Apostille to authenticate California public officials' signatures on documents to be used outside the United States of America.

If you have questions about anything I have shared today or would like to connect with our Executive Outreach team, please email SosOutreach@sos.ca.gov.

Legislative Update

2025 SOS-Sponsored Legislation

- AB 808 (Addis) Cal-Access Clean-up
Status: Passed Assembly Elections April 9th as a consent item.
- AB 1164 (Ransom) Voters Bill of Rights
Status: Passed Assembly Elections April 9th.
- AB 1249 (Wilson) Early Voting for Non-VCA counties
Status: Assembly Elections on April 9th.
- AB 1411 (Sharp-Collins) Voter Education and Outreach Plans
Status: Passed Assembly Elections on April 9th. Set for hearing in Assembly Appropriations April 23.
- SB 482 (Weber-Pierson) Cal Roster Mandate
Status: Set for hearing in Senate Local Government April 23rd and in Senate Elections April 29th.

- SB 621 (Grove) Military and Overseas Voters
Language is in print. Background information has been provided to Policy Committee.
Status: Set for hearing in Senate Military and Veterans Affairs April 28th and in Senate Elections April 29th.

Bills of Interest

- AB 5 (Berman) Vote Canvassing: This bill shortens the period to complete the vote canvass to 10 days after the election, with certain exceptions. My office is continuing to track this bill closely and I have met with the author to express my concerns, one of which is that 10 days may not be feasible for the larger counties. We will continue to work with him in an effort to improve this measure.
Status: Set for hearing in Assembly Appropriations April 23rd
- AB 331 (Pellerin) Elections: Duties of Election Officials-Voter Information Guides (Sponsored by Department of Justice): This bill clarifies that county elections officials' duty to certify elections, and to declare election results, is purely ministerial and not discretionary. The bill is being amended to delete SOS takeover of county functions in the event local officials are unable to certify the vote. It will instead merely state that SOS will take action to enforce election laws under that scenario.
Status: Set for hearing in Assembly Public Safety April 22nd.
- AB 919 (Lowenthal) Confidential Voter Information: Cognitively Impaired: This bill would authorize the holder of Power of Attorney for a person who is cognitively impaired to apply for confidential voter status on their behalf, by signing a statement under penalty of perjury that the person is cognitively impaired. I have met with the author, and my staff has suggested technical amendments for a clear standard of cognitive impairment. We have advised him that SOS is not the appropriate agency to assess whether a person's memory or judgment is impaired. Staff are working on additional amendments.
Status: Set for hearing in Assembly Appropriations April 23rd

- AB 116 (Berman) Voter Registration: This bill would establish an online voter registration system that would require people who submit an affidavit of voter registration without a driver's license to provide the last four digits of their SSN and an electronically uploaded, high-quality image of their signature. My office has expressed concerns about implementation requiring new technology, which we do not have currently, and what it will cost. We are in dialogue with the author's office.

Status: Referred to Assembly Appropriations

- SB 266 (Cervantes) Elections: Language Accessibility: This bill is the successor to last year's AB 884 which would have mandated translation requirements for multiple languages. Key differences are that this new bill deletes the requirement to translate the Voter Information Guide, instead focusing on translation of ballots, and maintains the 3% threshold in existing law for adding new languages to the list of those that must be translated.

Status: Set for hearing in Senate Elections April 29th. Bill was amended March 24 to include translation requirements.

Questions?

Next Call: The next call is scheduled for Wednesday, May 21, 2025, at 10:30 a.m.

EXECUTIVE ORDER

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PRESERVING AND PROTECTING THE INTEGRITY OF AMERICAN ELECTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose and Policy. Despite pioneering self-government, the United States now fails to enforce basic and necessary election protections employed by modern, developed nations, as well as those still developing. India and Brazil, for example, are tying voter identification to a biometric database, while the United States largely relies on self-attestation for citizenship. In tabulating votes, Germany and Canada require use of paper ballots, counted in public by local officials, which substantially reduces the number of disputes as compared to the American patchwork of voting methods that can lead to basic chain-of-custody problems. Further, while countries like Denmark and Sweden sensibly limit mail-in voting to those unable to vote in person and do not count late-arriving votes regardless of the date of postmark, many American elections now feature mass voting by mail, with many officials accepting ballots without postmarks or those received well after Election Day.

Free, fair, and honest elections unmarred by fraud, errors, or suspicion are fundamental to maintaining our constitutional Republic. The right of American citizens to have their votes properly counted and tabulated, without illegal dilution, is vital to determining the rightful winner of an election.

Under the Constitution, State governments must safeguard American elections in compliance with Federal laws that protect Americans' voting rights and guard against dilution by illegal

voting, discrimination, fraud, and other forms of malfeasance and error. Yet the United States has not adequately enforced Federal election requirements that, for example, prohibit States from counting ballots received after Election Day or prohibit non-citizens from registering to vote.

Federal law establishes a uniform Election Day across the Nation for Federal elections, 2 U.S.C. 7 and 3 U.S.C. 1. It is the policy of my Administration to enforce those statutes and require that votes be cast and received by the election date established in law. As the United States Court of Appeals for the Fifth Circuit recently held in *Republican National Committee v. Wetzel* (2024), those statutes set "the day by which ballots must be both cast by voters and received by state officials." Yet numerous States fail to comply with those laws by counting ballots received after Election Day. This is like allowing persons who arrive 3 days after Election Day, perhaps after a winner has been declared, to vote in person at a former voting precinct, which would be absurd.

Several Federal laws, including 18 U.S.C. 1015 and 611, prohibit foreign nationals from registering to vote or voting in Federal elections. Yet States fail adequately to vet voters' citizenship, and, in recent years, the Department of Justice has failed to prioritize and devote sufficient resources for enforcement of these provisions. Even worse, the prior administration actively prevented States from removing aliens from their voter lists.

Additionally, Federal laws, such as the National Voter Registration Act (Public Law 103-31) and the Help America Vote Act (Public Law 107-252), require States to maintain an accurate and current Statewide list of every legally registered voter in the State. And the Department of Homeland Security is required

to share database information with States upon request so they can fulfill this duty. See 8 U.S.C. 1373(c). Maintaining accurate voter registration lists is a fundamental requirement in protecting voters from having their ballots voided or diluted by fraudulent votes.

Federal law, 52 U.S.C. 30121, prohibits foreign nationals from participating in Federal, State, or local elections by making any contributions or expenditures. But foreign nationals and non-governmental organizations have taken advantage of loopholes in the law's interpretation, spending millions of dollars through conduit contributions and ballot-initiative-related expenditures. This type of foreign interference in our election process undermines the franchise and the right of American citizens to govern their Republic.

Above all, elections must be honest and worthy of the public trust. That requires voting methods that produce a voter-verifiable paper record allowing voters to efficiently check their votes to protect against fraud or mistake. Election-integrity standards must be modified accordingly.

It is the policy of my Administration to enforce Federal law and to protect the integrity of our election process.

Sec. 2. Enforcing the Citizenship Requirement for Federal Elections. To enforce the Federal prohibition on foreign nationals voting in Federal elections:

(a)(i) Within 30 days of the date of this order, the Election Assistance Commission shall take appropriate action to require, in its national mail voter registration form issued under 52 U.S.C. 20508:

(A) documentary proof of United States citizenship, consistent with 52 U.S.C. 20508(b)(3); and

(B) a State or local official to record on the form the type of document that the applicant presented as documentary proof of United States citizenship, including the date of the document's issuance, the date of the document's expiration (if any), the office that issued the document, and any unique identification number associated with the document as required by the criteria in 52 U.S.C. 21083(a)(5)(A), while taking appropriate measures to ensure information security.

(ii) For purposes of subsection (a) of this section, "documentary proof of United States citizenship" shall include a copy of:

(A) a United States passport;

(B) an identification document compliant with the requirements of the REAL ID Act of 2005 (Public Law 109-13, Div. B) that indicates the applicant is a citizen of the United States;

(C) an official military identification card that indicates the applicant is a citizen of the United States; or

(D) 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.

(b) To identify unqualified voters registered in the States:

(i) the Secretary of Homeland Security shall, consistent with applicable law, ensure that State and local officials have, without the requirement of the payment of a fee, access to appropriate systems for verifying the citizenship or immigration status of individuals registering to vote or who are already registered;

(ii) the Secretary of State shall take all lawful and appropriate action to make available information from relevant databases to State and local election officials engaged in verifying the citizenship of individuals registering to vote or who are already registered; and

(iii) the Department of Homeland Security, in coordination with the DOGE Administrator, shall review each State's publicly available voter registration list and available records concerning voter list maintenance activities as required by 52 U.S.C. 20507, alongside Federal immigration databases and State records requested, including through subpoena where necessary and authorized by law, for consistency with Federal requirements.

(c) Within 90 days of the date of this order, the Secretary of Homeland Security shall, consistent with applicable law, provide to the Attorney General complete information on all foreign nationals who have indicated on any immigration form that they have registered or voted in a Federal, State, or local election, and shall also take all appropriate action to submit to relevant State or local election officials such information.

(d) The head of each Federal voter registration executive department or agency (agency) under the National Voter

Registration Act, 52 U.S.C. 20506(a), shall assess citizenship prior to providing a Federal voter registration form to enrollees of public assistance programs.

(e) The Attorney General shall prioritize enforcement of 18 U.S.C. 611 and 1015(f) and similar laws that restrict non-citizens from registering to vote or voting, including through use of:

- (i) databases or information maintained by the Department of Homeland Security;
- (ii) State-issued identification records and driver license databases; and
- (iii) similar records relating to citizenship.

(f) The Attorney General shall, consistent with applicable laws, coordinate with State attorneys general to assist with State-level review and prosecution of aliens unlawfully registered to vote or casting votes.

Sec. 3. Providing Other Assistance to States Verifying Eligibility. To assist States in determining whether individuals are eligible to register and vote:

(a) The Commissioner of Social Security shall take all appropriate action to make available the Social Security Number Verification Service, the Death Master File, and any other Federal databases containing relevant information to all State and local election officials engaged in verifying the eligibility of individuals registering to vote or who are already registered. In determining and taking such action, the Commissioner of Social Security shall ensure compliance with applicable privacy and data security laws and regulations.

(b) The Attorney General shall ensure compliance with the requirements of 52 U.S.C. 20507(g).

(c) The Attorney General shall take appropriate action with respect to States that fail to comply with the list maintenance requirements of the National Voter Registration Act and the Help America Vote Act contained in 52 U.S.C. 20507 and 52 U.S.C. 21083.

(d) The Secretary of Defense shall update the Federal Post Card Application, pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. 20301, to require:

- (i) documentary proof of United States citizenship, as defined by section 2(a)(ii) of this order; and
- (ii) proof of eligibility to vote in elections in the State in which the voter is attempting to vote.

Sec. 4. Improving the Election Assistance Commission.

(a) The Election Assistance Commission shall, pursuant to 52 U.S.C. 21003(b)(3) and 21142(c) and consistent with applicable law, take all appropriate action to cease providing Federal funds to States that do not comply with the Federal laws set forth in 52 U.S.C. 21145, including the requirement in 52 U.S.C. 20505(a)(1) that States accept and use the national mail voter registration form issued pursuant to 52 U.S.C. 20508(a)(1), including any requirement for documentary proof of United States citizenship adopted pursuant to section 2(a)(ii) of this order.

(b)(i) The Election Assistance Commission shall initiate appropriate action to amend the Voluntary Voting System Guidelines 2.0 and issue other appropriate guidance establishing standards for voting systems to protect election integrity. The amended guidelines and other guidance shall provide that voting systems should not use a ballot in which a vote is contained within a barcode or quick-response code in the vote counting process except where necessary to accommodate individuals with

disabilities, and should provide a voter-verifiable paper record to prevent fraud or mistake.

(ii) Within 180 days of the date of this order, the Election Assistance Commission shall take appropriate action to review and, if appropriate, re-certify voting systems under the new standards established under subsection (b) (i) of this section, and to rescind all previous certifications of voting equipment based on prior standards.

(c) Following an audit of Help America Vote Act fund expenditures conducted pursuant to 52 U.S.C. 21142, the Election Assistance Commission shall report any discrepancies or issues with an audited State's certifications of compliance with Federal law to the Department of Justice for appropriate enforcement action.

(d) The Secretary of Homeland Security and the Administrator of the Federal Emergency Management Agency, consistent with applicable law, shall in considering the provision of funding for State or local election offices or administrators through the Homeland Security Grant Programs, 6 U.S.C. 603 et seq., heavily prioritize compliance with the Voluntary Voting System Guidelines 2.0 developed by the Election Assistance Commission and completion of testing through the Voting System Test Labs accreditation process.

Sec. 5. Prosecuting Election Crimes. To protect the franchise of American citizens and their right to participate in fair and honest elections:

(a) The Attorney General shall take all appropriate action to enter into information-sharing agreements, to the maximum extent possible, with the chief State election official or multi-member agency of each State. These agreements shall aim

to provide the Department of Justice with detailed information on all suspected violations of State and Federal election laws discovered by State officials, including information on individuals who:

- (i) registered or voted despite being ineligible or who registered multiple times;
- (ii) committed election fraud;
- (iii) provided false information on voter registration or other election forms;
- (iv) intimidated or threatened voters or election officials; or
- (v) otherwise engaged in unlawful conduct to interfere in the election process.

(b) To the extent that any States are unwilling to enter into such an information sharing agreement or refuse to cooperate in investigations and prosecutions of election crimes, the Attorney General shall:

- (i) prioritize enforcement of Federal election integrity laws in such States to ensure election integrity given the State's demonstrated unwillingness to enter into an information-sharing agreement or to cooperate in investigations and prosecutions; and
- (ii) review for potential withholding of grants and other funds that the Department awards and distributes, in the Department's discretion, to State and local governments for law enforcement and other purposes, as consistent with applicable law.

(c) The Attorney General shall take all appropriate action to align the Department of Justice's litigation positions with the purpose and policy of this order.

Sec. 6. Improving Security of Voting Systems. To improve the security of all voting equipment and systems used to cast ballots, tabulate votes, and report results:

(a) The Attorney General and the Secretary of Homeland Security shall take all appropriate actions to the extent permitted by 42 U.S.C. 5195c and all other applicable law, so long as the Department of Homeland Security maintains the designation of election infrastructure as critical infrastructure, as defined by 42 U.S.C. 5195c(e), to prevent all non-citizens from being involved in the administration of any Federal election, including by accessing election equipment, ballots, or any other relevant materials used in the conduct of any Federal election.

(b) The Secretary of Homeland Security shall, in coordination with the Election Assistance Commission and to the maximum extent possible, review and report on the security of all electronic systems used in the voter registration and voting process. The Secretary of Homeland Security, as the head of the designated Sector Risk Management Agency under 6 U.S.C. 652a, in coordination with the Election Assistance Commission, shall assess the security of all such systems to the extent they are connected to, or integrated into, the Internet and report on the risk of such systems being compromised through malicious software and unauthorized intrusions into the system.

Sec. 7. Compliance with Federal Law Setting the National Election Day. To achieve full compliance with the Federal laws that set the uniform day for appointing Presidential electors and electing members of Congress:

(a) The Attorney General shall take all necessary action to enforce 2 U.S.C. 7 and 3 U.S.C. 1 against States that violate these provisions by including absentee or mail-in ballots

received after Election Day in the final tabulation of votes for the appointment of Presidential electors and the election of members of the United States Senate and House of Representatives.

(b) Consistent with 52 U.S.C. 21001(b) and other applicable law, the Election Assistance Commission shall condition any available funding to a State on that State's compliance with the requirement in 52 U.S.C. 21081(a)(6) that each State adopt uniform and nondiscriminatory standards within that State that define what constitutes a vote and what will be counted as a vote, including that, as prescribed in 2 U.S.C. 7 and 3 U.S.C. 1, there be a uniform and nondiscriminatory ballot receipt deadline of Election Day for all methods of voting, excluding ballots cast in accordance with 52 U.S.C. 20301 *et seq.*, after which no additional votes may be cast.

Sec. 8. Preventing Foreign Interference and Unlawful Use of Federal Funds. The Attorney General, in consultation with the Secretary of the Treasury, shall prioritize enforcement of 52 U.S.C. 30121 and other appropriate laws to prevent foreign nationals from contributing or donating in United States elections. The Attorney General shall likewise prioritize enforcement of 31 U.S.C. 1352, which prohibits lobbying by organizations or entities that have received any Federal funds.

Sec. 9. Federal Actions to Address Executive Order 14019. The heads of all agencies, and the Election Assistance Commission, shall cease all agency actions implementing Executive Order 14019 of March 7, 2021 (Promoting Access to Voting), which was revoked by Executive Order 14148 of on January 20, 2025 (Initial Rescissions of Harmful Executive Orders and Actions), and, within 90 days of the date of this order, submit to the President, through the Assistant to the

President for Domestic Policy, a report describing compliance with this order.

Sec. 10. Severability. If any provision of this order, or the application of any provision to any agency, person, or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other agencies, persons, or circumstances shall not be affected thereby.

Sec. 11. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,

March 25, 2025.

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**ROB BONTA***Attorney General*

Attorney General Bonta Co-Leads Multistate Lawsuit Against Trump Administration Over Unlawful Executive Order Seeking to Impose Sweeping Voting Restrictions

Press Release / Attorney General Bonta Co-Leads Multistate Lawsuit Against T...

Thursday, April 3, 2025

Contact: (916) 210-6000, agpressooffice@doj.ca.gov

10th lawsuit against Trump Administration asserts that voting restrictions are not authorized by U.S. Constitution or Congress

SACRAMENTO — California Attorney General Rob Bonta today announced that he is leading, with Nevada Attorney General Aaron Ford, a coalition of 19 attorneys general in filing a lawsuit against President Donald J. Trump, U.S. Attorney General Pam Bondi, the federal Election Assistance Commission, and other Trump Administration officials over Executive Order No. 14248 (the Elections Executive Order), an unconstitutional, antidemocratic, and un-American attempt to impose sweeping voting restrictions across

the country. Among other things, the Elections Executive Order attempts to conscript State election officials in the President's campaign to impose documentary proof of citizenship requirements when Americans seek to register to vote. It also seeks to upend common-sense, well-established State procedures for counting ballots — procedures that make it easier for peoples' voices to be heard.

The President has no constitutional power to rewrite State election laws by decree, nor does the President have the authority to modify the rules Congress has created for elections. The coalition's lawsuit, filed in the U.S. District Court for the District of Massachusetts, explains that the power to regulate elections is reserved to the States and Congress, and that therefore, the Elections Executive Order is *ultra vires*, beyond the scope of presidential power, and violative of the separation of powers. The attorneys general ask the court to block the challenged provisions of the Elections Executive Order and declare them unconstitutional and void.

"Day after day, we continue to witness President Trump's utter disdain for the rule of law. Let me remind him: He is not a king," **said California Attorney General Rob Bonta.**

"When he took office, he swore to 'preserve, protect and defend the Constitution of the United States.' He also has a constitutional obligation to 'take care that the laws be faithfully executed,' and that doesn't involve rewriting them however he sees fit. My fellow attorneys general and I are taking him to court because this Executive Order is nothing but a blatantly illegal power grab and an attempt to disenfranchise voters. Neither the Constitution nor Congress authorize the President's attempted voting restrictions. We will not be bullied by him. We will fight like hell in court to stop him."

"I stand with Attorney General Bonta and the 18 other state attorneys general that have filed a lawsuit to challenge President Trump's unconstitutional executive order which, if left unfettered, will compromise critical state and local election processes and disenfranchise millions of American voters. This executive order is an illegal attempt to

trample on the states and Congress's constitutional authority over elections," **said California Secretary of State Shirley Weber**. "Throughout history, people have tried to make voting more difficult through oppressive means such as poll taxes, literacy tests, improper voter roll purges, strategic polling place closures, and voter intimidation tactics. The progress this nation has made over the past 60 years since the passage of the Voters Rights Act cannot be minimized and should not be erased."

In their lawsuit, the attorneys general assert that provisions of the Elections Executive Order will cause imminent and irreparable harm to the States if they are not enjoined. The challenged provisions include:

- **Forcing the Election Assistance Commission (the Commission) to require documentary proof of citizenship on the Federal mail registration form (the Federal Form).** The Commission is an independent, bipartisan, four-member body established by Congress. It is responsible for developing the Federal Form, in consultation with the chief election officers of the States, for the registration of voters for elections for Federal office. In their lawsuit, the attorneys general underscore that Congress has never required documentary proof of citizenship to register to vote using the Federal Form.
- **Forcing States to alter their ballot counting laws to exclude "absentee or mail-in ballots received after Election Day."** Consistent with federal law, members of the multistate coalition have exercised their constitutional and statutory authority to determine how to best receive and count votes that are timely cast by mail in federal elections. Many of the Plaintiff States provide for the counting of timely absentee and mail ballots received after Election Day. For example, California law provides that ballots returned by mail are timely if postmarked by Election Day and received within seven days.
- **Requiring military and overseas voters to submit documentary proof of citizenship and eligibility to vote in state elections.** The Federal Post Card

Application form is used by voters in the military or living abroad to register to vote in federal elections. Federal law unequivocally grants them the ability to register and cast a ballot “in the last place in which the person was domiciled before leaving the United States” — there is no requirement that this form demand documentary proof of citizenship or proof of current eligibility to vote in a particular state.

- **Commanding the head of each state-designated Federal voter registration agency to immediately begin “assess[ing] citizenship prior to providing a Federal voter registration form to enrollees of public assistance programs.”** This aspect of the Elections Executive Order commandeers State agencies and their personnel, forcing States to participate in the President’s unlawful and unnecessary agenda.
- **Threatening to withhold various streams of federal funding to the States for purported noncompliance with the challenged provisions.** In so doing, the Elections Executive Order seeks to control Plaintiff States’ exercise of their sovereign powers through raw Executive domination, contrary to the U.S. Constitution and its underlying principles of federalism and the separation of powers.

In filing today’s lawsuit, Attorneys General Bonta and Ford are joined by the attorneys general of Arizona, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, Rhode Island, Vermont, and Wisconsin.

A copy of the complaint can be found **here**.

#

From: The DOJ news alerts email distribution list on behalf of California Attorney General's Office
To: AGPRESS@DOJ.CA.GOV
Subject: Attorney General Bonta Secures Decision Blocking Trump's Unlawful Elections Order
Date: Friday, June 13, 2025 9:20:48 AM

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NEWS RELEASE
June 13, 2025
FOR IMMEDIATE RELEASE
(916) 210-6000
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Social Networks

Attorney General Bonta Secures Decision Blocking Trump's Unlawful Elections Order

[Print Version](#)

OAKLAND – California Attorney General Rob Bonta today issued a statement on a decision by the District Court for the District of Massachusetts granting a preliminary injunction blocking unlawful provisions in President Donald Trump's unprecedented elections executive order. Attorney General Bonta co-lead a coalition of 19 attorneys general in [filing a lawsuit](#) challenging the order in April 2025.

"Today, the court blocked the President's unconstitutional attempt to interfere with states' fundamental responsibilities to manage and administer our elections," said Attorney General Bonta. "Nothing is more fundamental to our democracy than the right to vote. We will continue to fight to ensure the President's anti-Democratic, anti-American attacks on voting are never implemented."

A copy of the court's order is available [here](#).

###

You may view the full account of his posting, including possible attachments, in the News & Alerts section of our website at: <https://ao.ca.gov/news/press-releases/attorney-general-bonta-secures-decision-blocking-trump%E2%82%92s-unlawful-elections>

You may view all News & Alerts on our website at <https://ao.ca.gov/news>
Please visit the remainder of the Attorney General's site at <https://ao.ca.gov/>
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From: [Lean, Jana](#)
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Subject: California and 18 States Challenge Trump Election Executive Order
Date: Thursday, April 3, 2025 4:06:00 PM
Attachments: [Elections EO - Complaint - As Filed.pdf](#)
[ATTORN~1.PDF](#)
[image001.png](#)
Importance: High

Good afternoon,

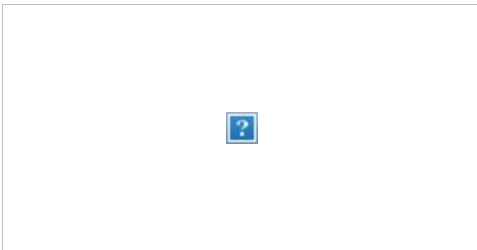
As you are aware, on March 25, 2025, President Trump issued Executive Order No. 14248, the "Preserving and Protecting the Integrity of American Elections" which orders compliance with numerous regulations relating to federal elections. However, under the Constitution, that authority is reserved to the States and to Congress.

Attached are materials related to the lawsuit challenging "'Preserving and Protecting the Integrity of American Elections," Executive Order 14248. These materials include:

- [California v. Trump](#): A federal court complaint filed by California and 18 other states challenging the Executive Order. It was filed in U.S. District Court in Massachusetts, this afternoon.
- California Attorney General Bonta's press release, including a statement from Secretary Weber.

We will be providing you with updates related to this litigation, as they occur. At this time, we do not recommend that you take any actions related to Executive Order No. 14248. If you have any additional questions, please feel free to contact Steve Reyes at [REDACTED].

The A.G.'s press conference is being aired at 4pm now on the AG's main website: <https://www.oag.ca.gov/>



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Office of the Attorney
General](#)

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Jana M. Lean

Chief of Elections

Elections Division

California Secretary of State

Phone: [REDACTED]

Email: [\[REDACTED\]](#)



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF CALIFORNIA; STATE OF NEVADA; COMMONWEALTH OF MASSACHUSETTS; STATE OF ARIZONA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; STATE OF HAWAII; STATE OF ILLINOIS; STATE OF MAINE; STATE OF MARYLAND; PEOPLE OF THE STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NEW YORK; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF WISCONSIN,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; PAMELA BONDI, in her official capacity as Attorney General of the United States; UNITED STATES ELECTION ASSISTANCE COMMISSION; DONALD L. PALMER, in his official capacity as Chairman of the U.S. Election Assistance Commission; THOMAS HICKS, in his official capacity as Vice Chair of the U.S. Election Assistance Commission; CHRISTY McCORMICK and BENJAMIN W. HOVLAND, in their official capacities as Commissioners of the U.S. Election Assistance Commission; PETE HEGSETH, in his official capacity as Secretary of Defense,

Defendants.

Case No. 1:25-cv-10810-DJC

DECLARATION OF JANA M. LEAN

I, Jana M. Lean, declare as follows:

1. I am a resident of the State of California. I am over the age of 18 and have personal knowledge of all the facts stated herein, except those matters stated upon information

and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am the Chief of the Elections Division, employed in the Office of the California Secretary of State. I work for Secretary of State Shirley N. Weber, Ph.D. and support her in her official capacity as the Chief Elections Officer for the State of California. In my role, I assist her in the execution and enforcement of all state and federal laws relating to elections.

3. I have served as the Chief of the Elections Division at the California Secretary of State's Office since 2010.

4. As California's Chief Elections Officer, the Secretary of State is responsible for executing and enforcing all state and federal law relating to elections within the state. *See* Cal. Gov't Code § 12172.5(a); Cal. Elec. Code § 10. The Elections Division is responsible for implementing the Secretary of State's responsibilities with regard to elections, including enforcing laws, ensuring that elections are conducted efficiently, and providing technical information, advice, and assistance to County Clerks and Registrars of Voters ("county elections officials") and the public. However, the Secretary's role does not include actually conducting elections, which is primarily administered at the county level in California.

5. In my role as Chief of the Elections Division at the California Secretary of State's Office, I am responsible for overseeing the work of the Elections Division. The Elections Division oversees the administration of federal and state elections within the State of California, including by providing guidance on election laws and procedures to county elections officials, assisting National Voter Registration Act ("NVRA") agencies in California and county elections officials in ensuring compliance with the NVRA, including the training of county elections officials and NVRA agencies preparing state voter information guides, printing and distributing

voter registration cards, maintaining a statewide database of all registered voters, coordinating and compiling all statewide voter registration statistics, qualifying candidates for statewide and special elections, certifying the list of candidates for state office, tracking and certifying ballot initiatives, surveying all of California's 58 counties regarding ballot transmittal statistics on military and overseas voters and reporting those statistics to the United States Department of Justice, administering a Voter Assistance Hotline for the entire state, receiving Election Day complaints from the public and coordinating the resolution of those complaints with all of California's 58 counties, coordinating the tabulation of votes from each county, certifying the election results, issuing nomination and election certificates to all victorious statewide candidates, educating California citizens about their voting rights, and promoting voter registration and participation.

6. I am familiar with the Executive Order published on March 25, 2025, entitled "Preserving and Protecting the Integrity of American Elections" (the "EO"). Sections 2(a), 2(d), and 3(d) of the EO have already caused considerable confusion and disruption in California election administration and will likely continue to do so.

7. It is my understanding that Section 2(a) of the EO directs the Election Assistance Commission ("EAC") to amend the federal mail voter registration form ("Federal Form"), as provided by the NVRA, to require applicants to provide "documentary proof of United States citizenship" ("DPOC"). *See* EO, § 2(a)(i)(A). It outlines a limited number of specific documents that constitute acceptable DPOC: (1) a United States passport; (2) an identification document that both complies with the requirements of the REAL ID Act of 2005 and indicates the applicant is a citizen of the United States; (3) an official military identification card that indicates the applicant is a citizen of the United States; or (4) 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. EO, § 2(a)(ii)(A)-(D). It is my understanding that California residents can be issued U.S. passports that comply with Section 2(a)(ii)(A), although I do not have knowledge of how many Californians possess valid U.S. passports. It is also my understanding that the California Department of Motor Vehicles does not issue identification documents that indicate U.S. citizenship. And I am not sure what documents would comply with Sections 2(a)(ii)(C) and (D). The EO also requires state and local officials to “record . . . the type” of DPOC presented at the time of voter registration, including recording specific information about the document. *Id.* § 2(a)(i)(B). The EO directs the EAC to “take appropriate action” within 30 days (i.e., by April 24, 2025) to impose these changes. *Id.* § 2(a)(i).

8. Since the EO was issued, the EAC has communicated to states that it is moving forward with implementing the EO. I personally participated in a call with the National Association of State Election Directors where the EAC’s Chair and General Counsel communicated that the EAC would be proceeding with implementation of the EO. On April 11, 2025, the EAC’s Executive Director sent the Secretary of State a letter stating that it was seeking consultation on the development of the Federal Form by including a requirement for DPOC. The letter directly references and quotes from the EO and states that the EO “instructs” that DPOC be required in the Federal Form. Attached as **Exhibit A** is a true and correct copy of the April 11, 2025, letter sent to the California Secretary of State. Five days later, on April 16, 2025, the EAC’s Executive Director sent an email to the Secretary of State’s office indicating that consultation feedback was due by May 2, 2025. Thus, it is my understanding that the EAC is moving to implement the DPOC requirement on the Federal Form based on the EO’s directive.

9. The provisions of the EO, including Section 2(a), have directly impacted the Elections Division. After the EO was issued, it required immediate attention from me and my team to consider how the various provisions of the EO could even be implemented, including coordinating with county elections officials across California. We have had to conduct an analysis of all the various ways the EO will impact elections from both the state and local perspective. In particular, I met with the head of our statewide voter registration database (“VoteCal”) to discuss how it could be modified to securely account for and record DPOC. These efforts to address the directed changes and impacts of the EO will continue to divert significant time and attention from other critical election preparation and will likely increase as the EAC moves forward with implementing DPOC on the Federal Form.

10. Within my own team, the EO has created an immediate need for answers to various questions related to its implementation, ranging from big-picture considerations to granular issues. For example, it is unclear: how DPOC would be accepted and reviewed by state and county elections officials; where images of DPOC would be scanned and uploaded (i.e., “recorded”) to the statewide voter registration database and how much capacity the existing system has to handle this new information; whether county elections officials could keep copies of DPOC and input the necessary information into their election management systems and provide that information to VoteCal; what exact modifications would need to occur to VoteCal to ensure that sensitive DPOC-related information will be secure (as required under the EO); what modifications county elections officials will have to make to their election management systems to be able to record DPOC and then transmit that record to the statewide voter registration database; and how much will these changes cost, how long will it take to implement, and whether adequate staffing is available to implement the change. In other words, the EO raises a

host of practical challenges that would be a huge undertaking at the state and county level in California.

11. Notably, the EO requires significant changes to California's voter registration database, i.e., VoteCal. To integrate Section 2(a)'s requirements for DPOC on the Federal Form and record that information into VoteCal, it will require modifying the database to include new fields for recording the new DPOC-related information. Specifically, Section 2(a) requires that state or local officials record the type of document presented as documentary proof, including the date of the document's issuance, the dates of the document's expiration, the office that issued the document, and any unique identification number associated with the document. The statewide voter registration database currently does not record DPOC, or any of the other related information required under the EO. That is a significant change because it requires designing exactly the types of changes that are desired, programing a software update to enact those changes, and thoroughly testing and implementing the update to ensure that it works correctly before it can be safely rolled out. Seemingly small problems can complicate this process. For example, the EO contemplates that certain documents constitute DPOC. EO, § 2(a)(ii)(A)-(C). However, the EO also includes a sweeping category in § 2(a)(ii)(D) to allow for the use of a federal or state government-issued photo identification card that is "otherwise accompanied by proof of United States citizenship." Because it is unclear what precise documents could constitute DPOC pursuant to the EO, it is difficult to determine at this time how our office will need to revise data fields in VoteCal to account for those documents. The update to VoteCal for DPOC would have to be designed with an appropriate code for each potential DPOC presented so the information could be recorded. This simple problem is merely representative of the countless questions and obstacles that arise when updating VoteCal. Past changes to VoteCal

have taken up to a year or longer to implement and have cost over \$1 million. Though it is not possible to predict exactly how long implementing DPOC would take or how much it would cost, I anticipate that it would be a fundamental change to the system of voter registration in California.

12. Indeed, the impact would be significant because changes would need to be made at the individual county-level. County elections officials in each of the 58 counties oversee their own county's election management systems, and each of those systems would have to be modified to ensure that they could record the DPOC-related information. In turn, these county-level election management systems must be able to communicate the DPOC information to VoteCal. In my conversations with county elections officials since the EO was issued, county elections officials have expressed significant concern about the feasibility of implementing a DPOC requirement into their election management systems, the cost to implement, the extensive testing of the election management systems with VoteCal, and how to administer the requirement. They have also expressed concern about the speed at which the EO appears to contemplate imposing DPOC, whether they would have adequate resources to accept in-person DPOC, the necessary training on how to implement the requirement, and how the DPOC requirement could lead to disenfranchisement of their residents.

13. Taking on such a huge endeavor for the Secretary of State would divert our resources away from other important projects. For example, we have ongoing voter registration list maintenance duties under the NVRA. And the California Legislature has passed specific voter registration maintenance legislation (Assembly Bill 2841 (2021-2022 Reg. Sess.)) that required state courts to provide certain information to the Secretary of State, and for the VoteCal registration list to be updated based on that information. That project is scheduled to be

implemented into VoteCal in June 2025 and is something that we have spent over a year preparing for. If the EO's DPOC requirement had to be implemented imminently, that project, which is being implemented pursuant to state law, would likely need to be put on hold to divert our efforts to implementing the EO's DPOC requirement.

14. While overseeing the database changes discussed above, we must concurrently develop training materials and guidance documents for use by county elections officials. This is yet another aspect of the EO's implementation that will divert significant resources to accomplish the EO's directives.

15. The Federal Form is currently used and accepted in California. It is widely available and well known to county elections officials. That is why the EO's directive to include a new DPOC requirement on the Federal Form, as well as the requirement that state or local elections officials record the type of DPOC presented, will require substantial education and coordination with county elections officials on topics such as: (1) the new requirements and the documents that suffice (e.g., can copies be provided in the mail, or must a registrant present original documents in person), (2) how to implement the EO's requirement to record DPOC and its related information, and (3) ceasing use of the old Federal Form.

16. Specifically, educating county elections officials would involve preparing and disseminating a written advisory to county elections official (known as "CC/ROVs") providing written guidance and information from the Secretary of State's office on how best for county elections officials to implement the new DPOC requirement. In addition, our office frequently conducts training on various topics, especially when there are changes to the state's elections system that affect all 58 counties. When we need to train county elections official in all 58 counties, the state is split into five regions and the trainings require coordination with all the

county elections officials in each region to conduct. In short, a rollout of a statewide change to our elections system on an accelerated timeline like the EO would generate a significant need for trainings around the state, written advisories, and constant follow-up and iterations in these materials based on feedback. And there would be an ongoing responsibility of ensuring that county elections officials are complying with the EO so long as it remains in effect. An analogous situation arose in 2020. The COVID-19 pandemic led to rapid changes to our state election laws to successfully run an election during an ongoing pandemic on short notice. This endeavor took massive coordination from the Secretary of State's Office involving statewide calls daily to respond to problems and issues arising in real time. I expect a similar demand on our time would arise to implement a DPOC requirement.

17. Aside from the newly targeted advisories and training, the Secretary of State's Office has already produced training materials on voter registration and database management, including detailed training materials on implementing the NVRA (see, e.g., <https://www.sos.ca.gov/elections/voter-registration/nvra/training/>). Instituting DPOC would require modifying existing training materials and other public-facing materials.

18. Apart from the impacts of immediately creating and implementing an education process for county elections officials to learn about the EO's directed changes and requirements, I believe the compressed timeline on which the EO purports to operate creates a substantial risk of confusion or mistake by county elections officials in their administration of voter registration and upcoming elections. These mistakes would have serious consequences. Eligible voters could be disenfranchised, or the federal government could take punitive action against California, such as withholding funding or pursuing enforcement actions for these any mistakes.

19. Another impact from the EO is that it creates a need for a wide-ranging public education campaign to ensure that eligible voters are aware of the new DPOC registration requirements for the Federal Form. To begin the process of educating the public, we will need to change our website and external-facing resources with updated and correct information regarding the documentation required to register to vote with the Federal Form, and we will need to do so on the accelerated timeline required by the EO. We will also have to direct county elections officials to make these same changes.

20. This public education campaign, which we will need to run at least through the conclusion of the 2026 elections, and perhaps thereafter, will require a significant amount of money and resources that are not currently contained in our state election budget.

21. The EO's DPOC requirement also risks voter disenfranchisement. Approximately 15 percent of eligible voters in California are not registered. If any of those voters register using the Federal Form, or an existing voter re-registers with the Federal Form, the requirement for DPOC can act as a barrier to registration for those individuals who lack ready access to DPOC. For example, many people might not have their DPOC readily available, the DPOC might not match their current identification due to a name change (e.g., when a spouse changes their last name to match their partner's), or the required documents may have been lost or destroyed, for example, in one of the fires or other natural disasters that has impacted many Californias over the last few years. Moreover, it is unclear to me whether the new DPOC requirement will only be prospective, or whether it will be necessary for voters who registered under the Federal Form to have to verify their citizenship retroactively. The EO's directives impose practical barriers to registering to vote that can lead to unnecessary disenfranchisement.

22. It is my understanding that Section 2(d) of the EO immediately requires “[t]he head of each Federal voter registration executive department or agency” under Section 20506(a) of the NVRA to “assess citizenship” before providing a Federal Form to enrollees of public assistance programs. *See* EO § 2(d). This section of the EO is ambiguous but potentially encompasses a wide range of state and local offices that provide public assistance to low-income and disabled residents. In other words, the EO potentially requires state voter registration agencies to immediately begin assessing clients’ citizenship before they may even offer a Federal Form to a potential registrant. It is unclear what kind of “assessment” the EO contemplates, but I am unaware of any current legal requirement for an assessment of citizenship before a form is provided. Most concerning is that this requirement appears to take effect immediately.

23. This requirement would be particularly burdensome for California voter registration agencies that provide public assistance. Those agencies currently do not provide the Federal Form, but instead provide our state voter registration form, and often do so through the state’s online voter registration portal. California’s state voter registration forms have affidavit numbers assigned to them; these affidavit numbers are used as a way for the state voter registration agencies to be kept accountable and tracked for the number of voter registrations that are occurring with enrollees through those agencies, and for compliance with California law. *See* Cal. Elec. Code §§ 2400-2408. Under Section 2(d) of the EO, it appears those voter registration agencies would have to begin providing the Federal Form, which would both disrupt any usage of the online state voter registration form and undermine California law to track and record voter registration through state voter registration agencies.

24. Because Section 2(d) of the EO seems to require designated state voter registration agencies to “assess citizenship” before providing recipients of public assistance a

copy of the Federal Form, substantial coordination between the Secretary of State's Office, county elections officials, and state voter registration agencies is likely necessary. This requirement affects all 58 county elections offices, dozens of state and local agencies and *hundreds* of their offices across California. *See* 52 U.S.C. § 20506; Cal. Elec. Code §§ 2400–2408. The scope and breadth of implementing Section 2(d) is potentially staggering. These state and local agencies have minimal expertise in voter registration. Given that Section 2(d) seems to take effect immediately, this would require dedicating significant resources to assist the hundreds of voter registration agency offices in California.

25. It is my understanding that Section 3(d) of the EO requires the Secretary of Defense to “update” the Federal Post Card Application (“Federal Post Card”) pursuant to the Uniformed and Overseas Citizen Absentee Voting Act (“UOCAVA”) to require (1) DPOC as described in Section 2(a) of the EO, and (2) proof of eligibility to vote in elections in the state in which the voter is attempting to vote. The EO does not provide a timeframe within which the updating of the Federal Post Card must occur, but it appears these changes could take place at any time at the direction of the Secretary of Defense. *See* EO, § 3(d).

26. Pursuant to the EO, registering to vote using the Federal Post Card will create substantial administrative burdens on the Secretary of State's Office and county elections officials. By requiring DPOC on the Federal Post Card, the Secretary of State's Office and county elections officials from all 58 counties must change how they process their Federal Post Cards to account for DPOC. This raises many of the same challenges as the DPOC requirement for the Federal Form and the impacts to VoteCal.

27. In addition, as with the changes outlined in Sections 2(a) and 2(d), the EO's changes to UOCAVA will require the Secretary of State's Office to expend resources to educate

county elections officials on the new requirements and to ensure their continued compliance with their obligations moving forward.

28. The EO disrupts the Secretary of State's ongoing work to prepare for upcoming elections. The start of the candidate filing period for the 2026 midterm elections is less than eight months away. The Secretary of State has obligations to California residents to prepare for those elections and work on behalf of their interests; these obligations are and will continue to be greatly impacted by the review of and planning for the implementation of the EO.

29. It is my understanding that Section 7(a) of the EO requires the Attorney General to "take all necessary action" to enforce the federal Election Day statutes "against States that violate these provisions," including by counting absentee or mail-in ballots received after Election Day in the final tabulation of the vote for federal offices. This provision of the EO appears to take immediate effect. *See* EO, § 7(a).

30. It is also my understanding that Section 7(b) of the EO directs the EAC to "condition any available funding to a State on that State's compliance with" federal law that requires States to adopt "uniform and nondiscriminatory standards" for what constitutes a valid and countable vote, including that "there be a uniform and nondiscriminatory ballot receipt deadline of Election Day for all methods of voting," which would exclude ballots received after Election Day from tabulation. This direction to the EAC appears to take immediate effect. *See* EO, § 7(b).

31. Sections 7(a) and 7(b) of the EO will have substantial and adverse impacts on voting in California, as well as the State's ability to adequately administer elections.

32. To properly administer elections in accordance with the EO's Election Day rule, and to minimize the number of voters whose ballots will be disregarded for being received after

Election Day, the Secretary of State's Office will be required to devote significant additional resources to address the EO's Election Day provisions. As with other parts of the EO, the Secretary of State's Office will be required to provide county elections officials with training and support to ensure that votes are received and tabulated consistent with the EO's requirements. At the same time, the Secretary of State's Office will need to provide public information and educational resources to voters regarding the new ballot deadline rule. In California, voters have become accustomed to an extended deadline for the receipt of their vote-by-mail ballots by their county elections office; the public information campaign necessary to inform voters of this new ballot deadline rule would be a significant undertaking as it fundamentally affects our elections now that all active registered voters receive their ballots in the mail.

33. A significant portion of eligible voters in California will be affected by the EO's directive for Attorney General enforcement of the new ballot deadline rule. In California, every active registered voter is mailed a ballot, and approximately 80 percent of voters return their voted ballot by mail. Cal. Elec. Code § 3000.5. Under state law, such ballots can be counted if post marked on or before Election Day and received by the county elections official no later than seven days after Election Day. Cal. Elec. Code § 3020(b). Vote-by-mail voters would be required to complete and mail their ballots well in advance of Election Day to ensure that their ballots arrive by Election Day. Returning ballots well in advance is still no guarantee they will arrive by Election Day.

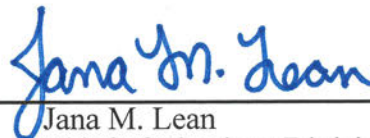
34. California law also allows voters who cast vote-by-mail ballots on or before Election Day to cure signature issues on their vote-by-mail ballot return envelope up to two days before certification of election results (which occurs up to 30 days after Election Day), potentially allowing their ballots to ultimately be counted. Cal. Elec. Code § 3019(d), (e). It is

not clear whether the EO prohibits tabulating ballots cured after Election Day, or if counting those cured ballots would instead be a basis for enforcement action against California or the loss of funding under Sections 7(a) and 7(b).

35. In addition, because California law does not currently comply with the Election Day rule outlined in Section 7 of the EO, California risks a loss of federal elections funding that is integral to the state's ability to efficiently conduct elections. Since 2003, California has previously received a total of \$505 million in federal funding under the Help Americans Vote Act ("HAVA"). This funding is used to help facilitate the administration of elections at the state and local level. The funding threatened in Section 7(b) is critical to California's ability to safely and efficiently conduct elections. For example, recent HAVA funds, known as Election Security funding, were distributed to counties and can be used for four high-level categories: cybersecurity, physical security, security and awareness training, and incident response.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 23, 2025, at Sacramento, California.

A handwritten signature in blue ink that reads "Jana M. Lean". The signature is written in a cursive, flowing style.

Jana M. Lean
Chief of Elections Division
California Secretary of State's Office

EXHIBIT A



U.S. ELECTION ASSISTANCE COMMISSION
633 3rd St. NW, Suite 200
Washington, DC 20001

VIA EMAIL

April 11, 2025

Dear Chief Election Officials,

Consistent with 52 U.S.C. § 20508(a)(2), the U.S. Election Assistance Commission ("EAC") is seeking consultation on development of the national mail voter registration form.

Executive Order 14248 of March 25, 2025, "Preserving and Protecting the Integrity of American Elections" ("EO 14248") provides instruction to the EAC. Section 2 of EO 14248 instructs the following be required in the national mail voter registration form:

- (A) documentary proof of United States citizenship, consistent with 52 U.S.C. 20508(b)(3); and
- (B) a State or local official to record on the form the type of document that the applicant presented as documentary proof of United States citizenship, including the date of the document's issuance, the date of the document's expiration (if any), the office that issued the document, and any unique identification number associated with the document as required by the criteria in 52 U.S.C. 21083(a)(5)(A), while taking appropriate measures to ensure information security.

Section 2 of EO 14248 also instructs that "documentary proof of United States citizenship" shall include a copy of:

- (A) a United States passport;
- (B) an identification document compliant with the requirements of the REAL ID Act of 2005 (Public Law 109-13, Div. B) that indicates the applicant is a citizen of the United States;
- (C) an official military identification card that indicates the applicant is a citizen of the United States; or
- (D) 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.

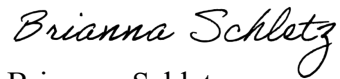
A current copy of the national mail voter registration form is available here:

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

The EAC is seeking consultation on how states would propose to implement Section 2 of EO 14248, if required. The EAC is also seeking feedback on the impact of implementation on voter registration in your state. As required by 52 U.S.C. § 20508, the EAC will consider responses in any amendments to the national mail voter registration form or EAC implementing regulations.

The EAC looks forward to your input. Comments may be sent to NVRAUpdates@eac.gov or by mail at 633 3rd Street NW, Suite 200 Washington, DC 20001.

Thank you,

A handwritten signature in black ink that reads "Brianna Schletz". The script is cursive and fluid, with the first name and last name clearly legible.

Briannna Schletz
EAC Executive Director



Fact Sheet: President Donald J. Trump Protects the Integrity of American Elections

RESTORING TRUST IN AMERICAN ELECTIONS: Today, President Donald J. Trump signed an Executive Order to protect the integrity of American elections.

- This Order strengthens voter citizenship verification and bans foreign nationals from interfering in U.S. elections.
 - The Election Assistance Commission will require documentary, government-issued proof of U.S. citizenship on its voter registration forms.
 - Agencies like the Department of Homeland Security (DHS), Social Security Administration and Department of State must provide states with access to Federal databases to verify eligibility and citizenship of individuals registering to vote.
 - The Attorney General will prioritize prosecuting non-citizen voting and related crimes, including through use of DHS records and coordination with state attorneys general.
- Federal election-related funds will be conditioned on states complying with the integrity measures set forth by Federal law, including the requirement that states use the national mail voter registration form that will now require proof of citizenship.
- The Order improves the integrity of elections by directing the updating of the Voluntary Voting System Guidelines 2.0 and security standards for voting equipment and prioritizing federal grant funds accordingly.
 - This includes requiring a voter-verifiable paper ballot record and not using ballots in which the counted vote is contained within a barcode or QR code.
- It directs the Attorney General to enter into information-sharing agreements with state election officials to identify cases of election fraud or other election law violations.
 - Non-compliant states may face prioritized Federal enforcement of election integrity laws and loss of funding given their unwillingness to police fraud.
- The Attorney General and Secretary of Homeland Security shall prevent non-citizens from any involvement in administering elections.
- The Attorney General will fully enforce the voter-list maintenance requirements of the National Voter Registration Act and the Help America Vote Act.
- Given clear Federal law setting a single Election Day deadline, the Attorney General shall take appropriate action against states that count ballots received after Election Day in Federal elections. Federal election funding will be conditioned on compliance.



- The Attorney General will prioritize enforcement of laws prohibiting foreign nationals from contributing to or donating in U.S. elections.
- All agencies must report on compliance with undoing Biden Executive Order 14019, which turned Federal agencies into Democratic voter turnout centers.

SAFEGUARDING THE VOTE: President Trump recognizes that free, fair, and honest elections—unmarred by fraud, errors, or suspicion—are essential to our Constitutional Republic.

- The United States lags behind other nations in enforcing basic and necessary election protections.
 - India and Brazil tie voter identification to a biometric database, while the United States largely relies on self-attestation for citizenship.
 - Germany and Canada require paper ballots when tabulating votes, while the United States has a patchwork of methods that often lack basic chain-of-custody protections.
 - Denmark and Sweden sensibly limit mail-in voting to those unable to vote in person—and late arrivals do not count—while American elections now feature mass voting by mail, even after Election Day.
- Without proper enforcement of Federal laws, illegal voting, discrimination, fraud, and other forms of malfeasance and error dilute the votes of lawful American citizens.
- Federal law establishes a uniform Election Day across the nation for Federal elections, but numerous states fail to comply with those laws by counting ballots received after Election Day.
- The Biden Administration blocked states from removing aliens from voter rolls, while foreign nationals and non-governmental organizations (NGOs) exploited loopholes to pour millions into influencing U.S. elections.

MAKING ELECTIONS SECURE AGAIN: Voters deserve elections they can trust, and that confidence is being restored thanks to President Trump.

- President Trump is following through on his promise to secure our elections.
 - President Trump: “We’re going to fix our elections so that our elections are going to be honorable and honest and people leave and they know their vote is counted. We are going to have free and fair elections. And ideally, we go to paper ballots, same-day voting, proof of citizenship, very big, and voter ID, very simple.”



- President Trump: “We will secure our elections, and they will be secure once and for all.”
- Unlike the Biden Administration, which prioritized political agendas over fair elections, President Trump is putting the American people back in charge.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF CALIFORNIA; STATE OF NEVADA; COMMONWEALTH OF MASSACHUSETTS; STATE OF ARIZONA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; STATE OF HAWAII; STATE OF ILLINOIS; STATE OF MAINE; STATE OF MARYLAND; PEOPLE OF THE STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NEW YORK; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF WISCONSIN,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; PAMELA BONDI, in her official capacity as Attorney General of the United States; UNITED STATES ELECTION ASSISTANCE COMMISSION; DONALD L. PALMER, in his official capacity as Chairman of the U.S. Election Assistance Commission; THOMAS HICKS, in his official capacity as Vice Chair of the U.S. Election Assistance Commission; CHRISTY McCORMICK and BENJAMIN W. HOVLAND, in their official capacities as Commissioners of the U.S. Election Assistance Commission; PETE HEGSETH, in his official capacity as Secretary of Defense,

Defendants.

Case No. 1:25-cv-10810

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. The President's constitutional role in elections is limited to competing in them and enforcing election laws enacted by Congress. Nonetheless, on March 25, 2025, Defendant President Donald J. Trump issued Executive Order No. 14248, entitled "*Preserving and*

Protecting the Integrity of American Elections” (“Elections EO”), to transform how federal elections are conducted throughout the Nation.

2. The United States Constitution is clear about the power to regulate elections: as the sovereigns closest to the people, the States have primary responsibility. As Madison explained at the Virginia Convention, “[i]t was found necessary to leave the regulation of [federal elections], in the first place, to the state governments, as being best acquainted with the situation of the people.” 3 Records of the Federal Convention of 1787, p. 312 (M. Farrand ed. 1911).

3. Under the Elections Clause, Congress may preempt State elections law for federal contests but nowhere does the Constitution provide the President, or the Executive Branch, with *any* independent power to modify the States’ procedures for conducting federal elections.

4. The Elections EO usurps the States’ constitutional power and seeks to amend election law by fiat.

5. In large measure, the unconstitutional Elections EO targets the Election Assistance Commission (the “Commission”), an independent, bipartisan agency that Congress established under its constitutional elections authority. To protect our elections, Congress required the Commission to operate independently. It also required the Commission to make its decisions under standards of bipartisanship, reasoned decision-making, and collaboration with the States, which actually administer the Nation’s elections. The Elections EO seeks to eradicate all those safeguards—aiming to force the Commission to rubberstamp the President’s policy preferences on, among other things, voter registration and voting systems.

6. If not enjoined, the Elections EO would impose onerous “documentary proof of citizenship” requirements for federal voter registration forms that would harm both Plaintiff States and their citizens. This portion of the Order directly impacts most Plaintiff States because the National Voter Registration Act (“NVRA”) requires all States subject to its provisions—44

out of 50—to make the federal mail registration form (the “Federal Form”), or its equivalent, available to register voters for federal elections. 52 U.S.C. §§ 20506, 20508.¹

7. The Elections EO would also effectively preclude Plaintiff States from administering vote-by-mail systems that permit voters to make their choices by Election Day, upending processes that accommodate more voters, decrease obstacles, and increase voter participation. While unclear, it may also prohibit voters in Plaintiff States from curing minor technical problems with timely ballots after Election Day. The Elections EO relies on a fundamentally incorrect interpretation of federal Election Day statutes to support this command, which itself is an unconstitutional invasion of State and Congressional election regulation.

8. The Elections EO thus unconstitutionally treats Plaintiff States as mere instruments of the President’s policy agenda. To implement the President’s policies, the Elections EO necessarily commandeers Plaintiff States’ elections apparatus because States administer almost the entirety of the national elections system. For instance, there is no federal voter registration database—each State maintains its own registration system. The mandates of the Elections EO therefore require State officials to participate in the verification of voters’ citizenship documentation, a purported requirement that is itself contrary to the NVRA.

9. Likewise, Section 2(d) of the Elections EO commands the head of each State-designated federal voter registration agency under the NVRA to immediately begin “assess[ing] citizenship prior to providing a Federal voter registration form to enrollees of public assistance programs.” This ambiguous provision potentially sweeps in a wide range of State and local

¹ The NVRA applies to Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and West Virginia. Six states are exempt. See 52 U.S.C. § 20503(b); see also U.S. Dep’t of Justice, *The National Voter Registration Act Of 1993 (NVRA) Questions and Answers* (Nov. 1, 2024), <https://tinyurl.com/43whaduz>. Some of the exempt states, however, like Minnesota, accept the Federal Form as a valid voter registration form and will be required to make the same changes to that form for voters who choose to register in that manner. Minn. Stat. § 201.071, subd. 1.

offices serving low-income and disabled residents, obligating them to bear new administrative burdens.

10. Likewise, there is no national ballot; again, each State provides its own ballots, tabulates votes, and certifies its own results. Each of these steps are governed by State law. The Elections EO unilaterally and baselessly attempts to rewrite those laws to prohibit States from counting ballots that arrive after Election Day, even though they were postmarked on or before that date.

11. The Elections EO violates the Constitution. It interferes with States' inherent sovereignty and their constitutional power to regulate the time, place, and manner of federal elections. It also usurps Congress's powers to legislate (under the Elections Clause) and to appropriate (under the Spending Clause) because Congress has not chosen to implement the changes the President seeks to impose by decree. The critical funds at issue have in large measure already been appropriated by Congress. And if these coercive threats were not enough, the Elections EO threatens to target Plaintiff States with Department of Justice investigations and potential prosecution.

12. It bears emphasizing: the President has no power to do any of this. Neither the Constitution nor Congress has authorized the President to impose documentary proof of citizenship requirements or to modify State mail-ballot procedures. Indeed, the text, structure, and history of the NVRA itself confirm that the Federal Form can only require citizenship verification by attestation. The President cannot add a documentary proof of citizenship requirement to the Federal Form, because even the Commission could not impose that requirement. Even if a documentary proof of citizenship requirement were substantively consistent with the NVRA, which it is not, only the Commission can change the Federal Form, and then only "in consultation" with the States, with the majority approval of its bipartisan Commissioners, and through reasoned decision-making subject to Administrative Procedures Act ("APA") review. *See* 52 U.S.C. §§ 20508, 20921, 20923, 20928; 5 U.S.C. § 706; *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016). As a consequence,

the Elections EO is facially unconstitutional, ultra vires, and an affront to the States' sovereignty and their constitutional authority to regulate the administration of elections.

13. The injuries Plaintiff States face are real, imminent, and irreparable. If the provisions of the Elections EO challenged in this lawsuit are not enjoined, they will immediately impose significant harm on Plaintiff States. Elections administration is complex, and the Elections EO effectively orders Plaintiff States, at breakneck pace, to implement trainings, testing, coordination, implementation, and voter education across multiple State agencies and databases. Forcing Plaintiff States to complete these tasks effectively orders them to invest enormous time and resources, diverting election staff from vital election priorities—like ensuring the operation of State voter registration systems and the sound operation of State and local elections, as well as primary preference elections, which occur regularly. In the compressed and finite timeline of State elections and legislative sessions, this work cannot simply be picked up later. For this reason, implementation of the Elections EO's unlawful directives necessarily comes at the cost of serving Plaintiff States' residents and implementing State priorities. Even with this effort, the Elections EO sows confusion and sets the stage for chaos in Plaintiff States' election systems, together with the threat of disenfranchisement.

14. If instead Plaintiff States choose not to comply with the President's blatantly unconstitutional attempt to legislate-by-fiat, they will suffer severe cuts in federal funding that will throw the national electoral system into disarray. The Framers carefully crafted a federal compact that protects the States from this Hobson's choice.

15. For all these reasons, the Elections EO is unconstitutional, antidemocratic, and un-American. It intrudes on the constitutionally reserved powers of the States and Congress. It purports to subvert laws that Congress has passed, in ways that Congress did not allow and in conflict with the text of those laws. Through this action, Plaintiff States seek a judgment declaring certain, specific provisions of the Elections EO to be unlawful and void and corresponding preliminary and permanent orders enjoining action on or enforcement of those specific provisions by any Defendant except the President.

JURISDICTION & VENUE

16. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2201(a).

17. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1). Defendants are United States agencies or officers sued in their official capacities.

18. The Commonwealth of Massachusetts is a resident of this District, and a substantial part of the events or omissions giving rise to this Complaint occurred and continue to occur within the District of Massachusetts.

THE PARTIES

I. PLAINTIFFS

19. The State of California is a sovereign state of the United States. California is represented by Attorney General Rob Bonta, who is the State's Chief Law Officer.

20. The State of Nevada is a sovereign state of the United States. Nevada is represented by Attorney General Aaron Ford, who is the State's Chief Law Officer.

21. The Commonwealth of Massachusetts is a sovereign state of the United States. Massachusetts is represented by Attorney General Andrea Joy Campbell, who is the Commonwealth's Chief Law Officer.

22. The State of Arizona is a sovereign state of the United States. Arizona is represented by Attorney General Kris Mayes, who is the State's Chief Law Officer.

23. The State of Colorado is a sovereign state of the United States. Colorado is represented by Attorney General Philip J. Weiser, who is the State's Chief Law Officer.

24. The State of Connecticut is a sovereign state of the United States. Connecticut is represented by Attorney General William Tong, who is the State's Chief Law Officer.

25. The State of Delaware is a sovereign state of the United States of America. This action is brought on behalf of the State of Delaware by Attorney General Kathleen Jennings, the "chief law officer of the State." *Darling Apartment Co. v. Springer*, 22 A.2d 397, 403 (Del.

1941). Attorney General Jennings also brings this action on behalf of the State of Delaware pursuant to her statutory authority. 29 Del. C. § 2504.

26. The State of Hawaii is a sovereign state of the United States. Hawaii is represented by Attorney General Anne E. Lopez, who is the State's Chief Legal Officer.

27. The State of Illinois is a sovereign state of the United States. Illinois is represented by Attorney General Kwame Raoul, who is the State's Chief Law Officer.

28. The State of Maine is a sovereign state of the United States. Maine is represented by Attorney General Aaron M. Frey, who is the State's Chief Law Officer.

29. The State of Maryland is a sovereign state of the United States. Maryland is represented by Attorney General Anthony G. Brown who is the State's Chief Legal Officer.

30. The People of the State of Michigan are represented by Attorney General Dana Nessel. The Attorney General is Michigan's chief law enforcement officer and is authorized to bring this action on behalf of the People of the State of Michigan pursuant to Mich. Comp. Laws § 14.28.

31. The State of Minnesota is a sovereign state of the United States. Minnesota is represented by Attorney General Keith Ellison, who is the State's Chief Law Officer.

32. The State of New Jersey is a sovereign state of the United States. The Attorney General of New Jersey is the State's chief legal adviser and is authorized to act in federal court on behalf of the State on matters of public concern.

33. The State of New Mexico is a sovereign state of the United States. New Mexico is represented by Attorney General Raúl Torrez, who is the State's Chief Legal Officer.

34. The State of New York, represented by and through its Attorney General, is a sovereign state of the United States. The Attorney General is New York State's chief law enforcement officer and is authorized under N.Y. Executive Law § 63 to pursue this action.

35. The State of Rhode Island is a sovereign state of the United States. Rhode Island is represented by Attorney General Peter F. Neronha, who is the State's Chief Law Officer.

36. The State of Vermont is a sovereign state of the United States. Vermont is represented by Attorney General Charity R. Clark, who is the State's Chief Law Officer.

37. The State of Wisconsin is a sovereign state of the United States. Wisconsin is represented by Attorney General Josh Kaul, who is the State's Chief Law Officer.

II. DEFENDANTS

38. Defendant Donald J. Trump is the President of the United States. He is responsible for the actions and decisions that are being challenged by Plaintiff States in this action and is sued in his official capacity, and only for declaratory relief.

39. Defendant Pamela Bondi is the Attorney General of the United States. She is sued in her official capacity.

40. Defendant United States Election Assistance Commission is an independent federal commission established under 52 U.S.C. § 20921. The Commission is responsible for developing the Federal Form, in consultation with the chief election officers of the States, for the registration of voters for elections for federal office. 52 U.S.C. § 20508(a)(2). The Commission is further responsible for disbursing statutory elections funds to Plaintiff States. *Id.* § 21001.

41. Defendant Donald L. Palmer is a Commissioner and the Chairman of the Election Assistance Commission. He is sued in his official capacity.

42. Defendant Thomas Hicks is a Commissioner and the Vice Chair of the Election Assistance Commission. He is sued in his official capacity.

43. Defendants Christy McCormick and Benjamin W. Hovland are Commissioners of the Election Assistance Commission. They are sued in their official capacities.

44. Defendant Pete Hegseth is the Secretary of Defense. He is sued in his official capacity.

FACTUAL ALLEGATIONS

45. On March 25, 2025, the President issued Executive Order No. 14248, entitled "Preserving and Protecting the Integrity of American Elections" ("Elections EO"). Although the

President invoked “the authority vested in [him] as President by the Constitution and the laws of the United States of America,” the Elections EO is not authorized by either.

46. Through the Elections EO, the President seeks to unconstitutionally seize the right to prescribe regulations for federal elections, authority reserved to the States and Congress. The Elections EO also seeks to repurpose a set of existing federal programs and funding streams and use them as a cudgel to enforce rules that Congress never enacted.

47. The Elections EO accomplishes these aims in part by purporting to order the independent, bipartisan, and multimember Commission to take actions that are contrary to law, trampling upon the protections that Congress created to ensure that the Commission’s work would be evenhanded and independent. The Elections EO is a unilateral attempt by the Executive to assume powers that the Constitution assigns exclusively to Plaintiff States and Congress.

48. Plaintiff States and local elections officials, as frontline election administrators, will be directly harmed by the Elections EO’s unconstitutional purported amendment of federal voting law.

49. By this Complaint, Plaintiff States challenge the following specific provisions of the Elections EO (the “Challenged Provisions”) that will cause imminent and irreparable harm to the States if they are not enjoined:

- a. **Section 2(a).** The Elections EO orders the Commission “to require, in its national mail voter registration form issued under 52 U.S.C. 20508 . . . documentary proof of United States citizenship,” contrary to existing federal law and the status of the Commission as an independent agency. *See* Elections EO, § 2(a). The Elections EO directs State and local elections officials to implement the burdensome documentation requirements associated with this provision, though the President has no authority over State and local officials. *See id.* § 2(a)(i)(B).
- b. **Section 2(d).** The Elections EO orders “the head of each Federal voter registration executive department or agency” to “assess citizenship prior to

providing a Federal voter registration form to enrollees of public assistance programs,” raising the specter of commandeering Plaintiff State agencies and resources in violation of fundamental State sovereignty if it extends to State and local agencies designated under the NVRA. *See id.* § 2(d).

- c. **Section 3(d).** The Elections EO orders the Secretary of Defense to “update the Federal Post Card Application, pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. 20301, to require documentary proof of United States citizenship” and “proof of eligibility to vote in elections in the State in which the voter is attempting to vote[.]” drastically amending the statute contrary to its purpose and text and rendering the application costly and challenging to implement. *See id.* § 3(d).
- d. **Section 4(a).** The Elections EO orders the Commission to “take all appropriate action to cease providing Federal funds to States that do not comply with the Federal laws set forth in 52 U.S.C. 21145, including the requirement in 52 U.S.C. 20505(a)(1) that States accept and use the national mail voter registration form issued pursuant to 52 U.S.C. 20508(a)(1), including any requirement for documentary proof of United States citizenship adopted pursuant to” the unlawful Elections EO’s requirements. *See id.* § 4(a).
- e. **Section 7(a).** The Elections EO directs the Attorney General to “take all necessary action to enforce” a draconian and incorrect interpretation of federal Election Day statutes that would preclude States from counting ballots that arrive after Election Day, even if they were mailed on or before that day. *See id.* § 7(a). This erroneous interpretation might also conflict with State laws that allow voters to cure ballots with minor technical problems that were timely submitted.
- f. **Section 7(b).** The Elections EO orders the Commission to enforce this interpretation of the Election Day statutes by conditioning “any available funding to a State on that State’s compliance” with the Elections EO’s new institution of a

“ballot receipt deadline of Election Day,” even though the Commission has no statutory authority to condition funding on these grounds. *See id.* § 7(b).

I. STATE AND CONGRESSIONAL REGULATION OF ELECTIONS

50. The President’s unlawful order amending statutes governing the conduct of federal elections dramatically oversteps the limits of Presidential power.

51. The Constitution’s Elections Clause reserves elections administration to the States, subject only to Congress’s preemption power: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.” U.S. Const. art. I, § 4, cl. 1. Similarly, the Electors Clause specifies that “[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.” U.S. Const. art. II, § 1, cl. 2.

52. The Constitution, then, “invests the States with responsibility for the mechanics of [federal] elections,” but allows Congress—not the President, unilaterally—to preempt those choices in the context of federal elections. *Foster v. Love*, 522 U.S. 67, 69 (1997). Unless Congress provides otherwise, States have the authority “to provide a complete code for [federal] elections, not only as to times and places, but in relation to notices, registration, . . . protection of voters, [and] prevention of fraud and corrupt practices.” *Smiley v. Holm*, 285 U.S. 355, 366 (1932); *see also Arizona v. Inter Tribal Council of Ariz., Inc. (“ITCA”)*, 570 U.S. 1, 8–9 (2013) (quoting *Smiley*, 285 U.S. at 366). In short, States are authorized “to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved.” *Smiley*, 285 U.S. at 366.

53. U.S. elections are administered consistent with the constitutional command. State legislatures, as representatives of their constituents, enact statutes that comprehensively structure State and federal elections. Plaintiff States’ election officials implement and clarify those laws with regulations and guidance. These laws and regulations govern a wide range of election

issues, including early voting, vote-by-mail, and voter identification. Plaintiff States also design their own ballots and do their own redistricting—including redrawing congressional district boundaries. Election codes can differ significantly by State, with each State tailoring its rules to the needs and preferences of its residents.

54. Beyond setting most election rules, Plaintiff States and their subdivisions also administer elections. Plaintiff States and their subdivisions purchase, maintain, test, and certify all voting machines, and maintain their election information management systems and poll books. Plaintiff States answer questions from voters and local election officials and develop a wide range of training and educational resources for their staff, counties, poll workers, and voters. These resources range from technical instructions for the voting machines to guidance on the implementation of a new law. Plaintiff States design and issue ballots; provide support for local officials who operate polling locations; and collect and secure ballots. Once voting has closed, States canvass and certify the vote. Finally, in a Presidential election, after all votes have been counted and the vote audited, Plaintiff States certify the results to Congress. 3 U.S.C. § 5.

55. Especially relevant here, Plaintiff States also register voters, coordinate maintenance of voter registration lists, and ensure that voter registration data is secure and accurate. But they do not have free reign in deciding who to register and how. To facilitate registering voters and to ensure maximum access to the ballot in federal elections by eligible citizens, Congress exercised its Elections Clause preemptive authority—first with the Uniformed Overseas Citizen Absentee Voting Act (“UOCAVA”), then with the NVRA and the Help America Vote Act (“HAVA”)—to regulate aspects of voting registration. Congress has also exercised its Spending Power under the U.S. Constitution, Article I, Section 8, to allocate federal funds to support States in implementing federal law and conducting elections. *See, e.g.*, 52 U.S.C. § 21001.

56. In contrast, the President has no constitutional authority to “make or alter” laws governing federal elections. In fact, the Constitution grants the President no legislative power at all. *Cf.* U.S. Const. art. I, § 4. Although the President may “recommend to [Congress’s]

consideration such measures as he shall judge necessary and expedient,” *id.*, art. II, § 3, and may veto legislation passed by Congress, *id.*, art. I, § 7, he may neither alter a duly enacted law nor impose his own law by fiat.

57. Instead of granting the President a free hand to rewrite federal law, the Constitution imposes on him the mandatory duty to “take care that the laws be faithfully executed.” *Id.*, art. II, § 3.

58. For these reasons, and as explained below, the Challenged Provisions are unconstitutional, ultra vires, and violative of the separation of powers and State sovereignty.

II. FEDERAL LAWS ENACTED BY CONGRESS GOVERNING FEDERAL ELECTIONS

A. The National Voter Registration Act & the “Federal Form”

59. Congress passed the NVRA in 1993 to reduce barriers to voter registration, protect the integrity of federal elections, and improve the accuracy of voter registration rolls. *See* 52 U.S.C. § 20501(b).

60. In crafting the NVRA, Congress sought to “make it possible for Federal, State, and local governments to implement” the law “in a manner that enhances the participation of eligible citizens as voters in elections for Federal office.” *Id.*

61. The NVRA establishes several methods to register to vote in federal elections, in addition to any registration method provided by State law. Those options include an “application made simultaneously with an application for a motor vehicle driver’s license,” 52 U.S.C. § 20503(a)(1), a “mail application,” *id.* § 20503(a)(2), and “by application in person” at a variety of qualifying sites, including federal, state, and local agencies designated by the States, *id.* § 20503(a)(3).

62. The NVRA requires States to accept and use a federal “mail voter registration application form”—commonly referred to as the “Federal Form”—or its equivalent for mail registration and during in-person registration at certain government or nongovernment offices designated in the statute. *See id.* §§ 20505(a)(1), 20506(a)(6)(A). States may also create and use

their own mail registration forms for federal elections if they satisfy the NVRA’s statutory criteria. *See id.* § 20505(a)(2).

63. Responsibility for creating the Federal Form rests with the Commission, which was created by HAVA in 2002. Congress made clear that the Commission must develop the Federal Form “in consultation with the chief election officers of the States.” *Id.* § 20508(a)(2).

64. The Commission’s discretion in developing the Federal Form is carefully circumscribed by statute. For example, the Federal Form “may require *only* such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant) as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” *Id.* § 20508(b)(1) (emphasis added).

65. Likewise, the Federal Form “may *not* include any requirement for notarization or other formal authentication.” *Id.* § 20508(b)(3) (emphasis added).

66. As the D.C. Circuit has explained, the statutory text of the NVRA is “straightforward.” *Newby*, 838 F.3d at 10. If a given datapoint is “‘necessary’ to enforce voter qualifications, then the NVRA and probably the Constitution require its inclusion” in the Federal Form. *Id.* But “if not, the NVRA does not permit its inclusion and the Constitution is silent.” *Id.*

67. The NVRA addresses citizenship by providing that the Federal Form must require the applicant to attest that they meet “each eligibility requirement (including citizenship)” and sign under penalty of perjury. *Id.* § 20508(b)(2). The decision to address citizenship through attestation rather than documentary proof reflects the considered judgment of Congress, which considered, but declined to adopt, a requirement of documentary proof of citizenship, reasoning that it was “not necessary or consistent with the purposes of” the NVRA. H.R. Rep. No. 103–66, at 23–24 (1993).

68. Indeed, the Commission has previously denied requests to include requirements for documentary proof of citizenship on the Federal Form. In January 2014, acting on requests

from both Kansas and Arizona, the Commission declined to amend the Federal Form to include requirements for registrants in those States to provide documentary proof of citizenship. Among other reasons for its decision, the Commission highlighted Congress’s explicit rejection of proposals related to documentary proof of citizenship as inconsistent with the purposes of the NVRA and likely to interfere with its registration provisions, to the point of “effectively eliminat[ing]” mail-in registration. The Commission also determined that the Federal Form “currently provides the necessary means for assessing applicants’ eligibility,” and that the States had “myriad of means available to enforce their citizenship requirements without requiring additional information from Federal Form applicants.” Finally, the Commission determined that granting the requests would undermine the purposes of the NVRA by imposing additional burdens on registrants and thwarting organized voter registration programs, which the NVRA sought to encourage in 52 U.S.C. § 20505(b) by directing States to make mail-in registration forms available for distribution, “with particular emphasis on making them available for organized voter registration programs.”

69. Even in the limited set of circumstances where the Commission may lawfully amend the Federal Form by adding required information, the Commission must comply with key procedural requirements. Among other things, the Federal Form must be developed and amended “in consultation with the chief election officers of the States.” 52 U.S.C. § 20508. In other words, the Commission cannot act unilaterally. And, even after consulting the States, the Commission can only amend the form following the normal notice-and-comment process mandated by the APA, with judicial review. *See Newby*, 838 F.3d at 11–12.

70. Congress took pains to define the Federal Form’s substance and the process for development and amendment because the Federal Form is enormously important to the complex process of registering voters and administering federal elections. The 44 States subject to the NVRA must “accept and use” the Federal Form for registering voters in federal elections. 52 U.S.C. § 20505(a)(1).

71. These requirements mean that, in practice, most Plaintiff States' voter registration mechanisms are intertwined with the Federal Form's requirements.

72. In some Plaintiff States, the overlap is particularly extensive. For example: Nevada registers voters online, by mail, at county clerks' offices, and at polling locations. It also registers votes at the Nevada Department of Motor Vehicles; certain offices of the Nevada Department of Health and Human Services; the Nevada Department of Employment, Training and Rehabilitation; and U.S. Armed Forces Recruitment Offices. Right now, each agency offers Nevada's version of the Federal Form, whether on paper or through verbal questions—which workers must be trained to administer.

B. The Help America Vote Act

73. Congress passed HAVA in 2002 following the 2000 presidential election. HAVA sought to upgrade voting systems by setting standards for voting machines and voter registration databases and by providing federal funding to the States for elections purposes. *See* 52 U.S.C. §§ 20901, 21081, 21083. HAVA also established rules allowing voters to cast provisional ballots. *Id.* § 21082.

74. As explained above, HAVA established the independent, bipartisan Commission. *Id.* § 20921. The four members of the Commission are appointed to four-year terms and are evenly split between the two political parties. *Id.* § 20923(a), (b). The four-year terms of Commission members are staggered at two-year intervals, and a Commission member may serve no more than two four-year terms. *Id.* § 20923(b)(1), (2). The Commission may only act within its statutory authority and with the "approval of at least three of its members." *Id.* § 20928.

C. The Uniformed and Overseas Citizens Absentee Voting Act

75. In 1986, Congress passed UOCAVA, which governs voting by overseas citizens. 52 U.S.C. §§ 20301–20311.

76. Under UOCAVA, each State is required to permit absent uniformed services voters and overseas voters to use absentee registration procedures and vote by absentee ballot in all federal elections. 52 U.S.C. § 20302(a)(1).

77. The President is required to designate the head of an executive department to have the primary responsibility for federal functions under UOCAVA. 52 U.S.C. § 20301(a). Chief among those responsibilities is to prescribe a single post card registration form and absentee ballot (the “Federal Post Card Application”) to be sent to overseas voters and voters in the uniformed services for federal elections and which will be used by the States. *Id.* § 20301(b)(2).

78. Under UOCAVA, States must “use the official post card form” prescribed by the Secretary of Defense and “accept and process . . . any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter,” which would include the Federal Post Card Application. 52 U.S.C. § 20302(a)(2), (4). Several Plaintiff States have codified this requirement. *See, e.g.*, Cal. Elec. Code §§ 3102(c), 3105(b)(2); Mass. Gen. Laws c. 54, § 91C.

D. Federal Laws Governing the Date of Federal Elections

79. States have the authority to regulate the “Times, Places, and Manner” for congressional elections, unless preempted or supplemented by Congress. U.S. Const. art. I, § 4, cl. 1. And States establish the “Manner” of choosing Presidential electors, *id.* art. II, § 1, cl. 2, while Congress “determine[s] the Time of chusing the Electors, and the Day on which they shall give their Votes,” *id.* art. II, § 1, cl. 4. Among the “Manner[s]” left for the States to decide is the “counting of votes.” *Smiley*, 285 U.S. at 366.

80. Congress has set days for federal elections, consistent with these constitutional mandates. In 2 U.S.C. § 7, Congress has “established . . . the day for the election” of members of the House of Representatives, and in 3 U.S.C. §§ 1 and 21(1), the “election day” for Presidential electors. Election Day statutes addressed the problem of some States setting their election day earlier than others, strongly influencing elections before they were concluded. *Foster*, 522 U.S. at 73–74. These laws required “only that if an election does take place, it may not be consummated prior to election day.” *Id.* at 71–72 & n.4 (emphasis added). They do not prohibit States from receiving and counting ballots that were indisputably mailed by Election Day or

curing minor, technical errors after Election Day to ensure that ballots timely cast before Election Day are counted.

81. 52 U.S.C. § 21081(a)(6) requires “[e]ach State” to “adopt . . . standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.” It does not prescribe *what* standards must be used, nor does it provide that the President or the EAC has authority to dictate those standards. Each Plaintiff State has adopted such standards.

82. Consistent with this federal regulation, Plaintiff States have exercised their own constitutional and statutory authority to determine for each of their respective jurisdictions how to best receive and count votes that are timely cast by mail in federal elections. Many of the Plaintiff States provide for the counting of otherwise timely absentee and mail ballots received after Election Day including, ballots postmarked by Election Day but received after the close of polls. *See, e.g.*, Cal. Elec. Code § 3020(b); Mass. Gen. Laws c. 54, § 93; Nev. Rev. Stat. § 293.269921(1)(b), (2); N.J. Stat. Ann. § 19:63-22(a); N.Y. Election Law sec. 8-412(1), 8-710(1). Others offer procedures allowing voters to fix or “cure” minor errors in timely cast ballots after Election Day to allow their ballot to be counted.

E. Congressional Efforts to Pass the SAVE Act

83. Although some version of a bill amending the NVRA to impose proof of citizenship requirements for federal registrants has been introduced in the last two Congresses, it has never passed the Senate or been presented to the President for signature.

84. In May 2024, Texas Congressman Chip Roy introduced the “Safeguard American Voter Eligibility Act,” more commonly known as the “SAVE Act.” The SAVE Act would have amended the NVRA to provide that “[u]nder any method of voter registration in a State, the State shall not accept and process an application to register to vote in an election for Federal office unless the applicant presents documentary proof of United States citizenship with the application.” H.R. 8281 (118th Cong.), § 2.

85. Although this version of the bill passed the House on a near party line vote, it was never referred to committee in the Senate or considered for final passage.

86. The most recent version of Congressman Roy’s bill, H.R. 22, was introduced on the first day of the new Congress, January 3, 2025. The House referred the reintroduced version of the SAVE Act to the Committee on Administration, where it languished until March 27, 2025—three days after the President issued the Elections EO. Then, without hearing, the bill was transferred to the House Rules Committee. On April 1, 2025, the Rules Committee passed a resolution providing for the consideration of H.R. 22 by the House.

87. Neither version of the SAVE Act has ever proven popular enough to pass through the ordinary democratic process. President Trump and his administration cannot bypass the ordinary legislative process to legislate by fiat, assuming for the Executive Branch powers that are reserved for the States and the Legislative Branch.

III. THE ELECTIONS EO

88. The Elections EO commands several significant changes to federal elections law and practice. Some of these changes would be effectuated through the Commission and other federal agencies. Others are imposed directly on the States, enforced by punitive funding conditions and investigatory threats. This lawsuit addresses the following Challenged Provisions:

89. **Forcing the Elections Assistance Commission and the States to Require Documentary Proof of Citizenship with the Federal Form.** The Elections EO directs the Commission to take action to revise the Federal Form—within 30 days—to require “documentary proof of United States citizenship, consistent with 52 U.S.C. § 20508(b)(3).” Elections EO, § 2(a)(i). The Elections EO defines the scope of documents sufficient to prove citizenship narrowly: a U.S. passport, a driver’s license indicating citizenship, military identification indicating citizenship, or other “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.” *Id.* § 2(a)(ii).

90. The Elections EO requires State and local officials to implement that mandate by “record[ing] on the [registration] form the type of document that [an] applicant present[s] as documentary proof of United States citizenship, including the date of the document’s issuance, the date of the document’s expiration (if any), the office that issued the document, and any unique identification number associated with the document . . . while taking appropriate measures to ensure information security.” *Id.* § 2(a)(i)(B).

91. The Elections EO requires the Commission to “take all appropriate action to cease providing Federal funds to States” that do not accept the Federal Form, as unlawfully amended to require documentary proof of citizenship. *See id.* § 4(a).

92. **Commandeering State Agencies to Determine Citizenship Before Registering Voters.** Section 2(d) of the Elections EO commands the head of each State-designated federal voter registration agency under the NVRA to immediately begin “assess[ing] citizenship prior to” providing public assistance to residents. These agencies represent a wide range of direct service providers.

93. **Requiring Military and Overseas Voters to Submit Documentary Proof of Citizenship and Eligibility to Vote in State Elections.** The Elections EO requires similar changes to the Federal Post Card Application form used for voters in the military or living abroad. It orders the Secretary of Defense to “update the Federal Post Card Application, pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. 20301, to require” documentary proof of citizenship, as defined above, and “proof of eligibility to vote in elections in the State in which the voter is attempting to vote.” *Id.* § 3(d).

94. **Coercing States to Alter Their Ballot Counting Laws.** The Elections EO purports to enforce a single, “uniform day for appointing Presidential electors and electing members of Congress,” which requires States to exclude “absentee or mail-in ballots received after Election Day [from] the final tabulation of votes for the appointment of Presidential electors and the election of members of the United States Senate and House of Representatives.” *Id.* § 7(a). The EO directs the Commission to “condition any available funding to a State on that

State’s compliance with” the requirement that “each State adopt uniform and nondiscriminatory standards within that State that define what constitutes a vote and what will be counted as a vote,” including the requirement that States exclude absentee or mail ballots received after election day in the final tabulation of the vote for federal elections. *Id.* § 7(b).

IV. FEDERAL FUNDING STREAMS IMPLICATED BY THE ELECTIONS EO

95. The Elections EO threatens to withhold various streams of federal funding to the States for purported noncompliance with the Challenged Provisions. HAVA funds, upon which many Plaintiff States rely, are directly implicated.

96. Section 4(a) of the Elections EO requires that the Commission “take all appropriate action to cease providing Federal funds to States that do not comply with the Federal laws set forth in 52 U.S.C. 21145, including the requirement in 52 U.S.C. 20505(a)(1) that States accept and use the national mail voter registration form issued pursuant to 52 U.S.C. 20508(a)(1), including any requirement for documentary proof of United States citizenship adopted pursuant to section 2(a)(ii) of this order.”

97. Section 7(b) of the Elections EO similarly directs that the Commission “condition any available funding to a State on that State’s compliance with the requirement in 52 U.S.C. 21081(a)(6) that each State adopt uniform and nondiscriminatory standards within that State that define what constitutes a vote and what will be counted as a vote,” including that there be a uniform ballot receipt deadline of Election Day for all methods of voting.

98. Pursuant to HAVA, the Commission provides “requirements payments” to States for the primary purpose of improving the administration of elections for Federal offices. *See* 52 U.S.C. § 21001(b). These include grants to improve election infrastructure, update voting equipment, enhance cybersecurity, ensure accessibility, and support voter education initiatives. The amount of funding a State receives is determined through a formula that considers multiple factors. By statute, each State must receive a minimum payment, not less than one-half of one percent of the total amount appropriated for the year. *Id.* § 21002(c)(1). A State’s remaining amount is then determined by its “allocation percentage,” a fixed calculation that is the quotient

of the State's voting age population and the total voting age population of all the States. *Id.* § 21002(b).

99. Requirements payments disbursed by the Commission are statutorily conditioned on States' certification of a funding plan that directs money to activities to improve the administration of elections. *Id.* § 21003(b)(1); *see id.* § 21004(a). States must also certify compliance with a list of enumerated laws, including the Voting Rights Act of 1965, the Voting Accessibility for the Elderly and Handicapped Act, the Americans with Disabilities Act of 1990, and the NVRA. *Id.* § 21003(b); *see id.* § 21145(a) (listing laws). With respect to the NVRA, each State is required to accept and use the Federal Form issued by the Commission pursuant to 52 U.S.C. § 20508. *See id.* § 20505(a)(1). However, outside of design and issuance of the Federal Form and promulgation of related regulations, the Commission does 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." *Id.* § 20929.

100. Since 2003, the Commission has administrated more than \$4.35 billion in HAVA formula funding to States and territories. In that time, California has received a total of over \$505 million from the Commission. Nevada has received over \$36 million. New York has received more than \$49 million in HAVA Election Security Grants since 2018, more than \$172 million in HAVA Requirements Payments since 2005, and more than \$16 million in HAVA Election Improvement funds since 2003. Michigan has similarly been awarded more than \$27 million in HAVA Security Grant funding. Delaware has received \$13 million in HAVA Requirements Payments. Minnesota has received \$17 million in HAVA funding. Colorado has received more than \$16 million in HAVA Election Security Grants, and prior to 2018 received more than \$38 million in HAVA Election Improvement grants. Arizona has received approximately \$12 million in HAVA funds since 2020, which the State apportions among election officials at the county and State level to administer elections. Massachusetts has received more than \$94 million in HAVA funding. New Jersey has received more than \$76 million in HAVA Section 251 payments. Vermont has received \$5 million in HAVA Election

Improvement Funds, over \$12 million in HAVA Section 251 Requirements Payments, and \$12 million in HAVA Security Grant funding. Connecticut has received more than \$13 million in HAVA Security Grant funding since 2018. Rhode Island has received a total of \$9.2 million in HAVA section 101 elections security grants since 2018, and previously received \$13 million in HAVA section 251 grants. Maine has received at least \$9,634,743 in HAVA funds since 2018.

V. HARM TO PLAINTIFF STATES

101. If the Challenged Provisions are implemented, they will irreparably harm Plaintiff States in several concrete ways.

102. To start, the Challenged Provisions will blatantly transgress on the Plaintiff States' constitutional power to prescribe the time, place, and manner of federal elections. The Elections EO amounts to an unprecedented seizure of power over elections administration by the federal Executive Branch, which has no constitutional authority over elections. The Challenged Provisions seek to amend and dictate election law by fiat and relegate Plaintiff States to mere instruments of the President's policy agenda. Its provisions do affirmative harm to Plaintiff States' efforts to secure the voting rights of their citizens. This invasion of State constitutional power, in and of itself, amounts to concrete constitutional injury.

103. Aside from usurping Plaintiff States' constitutional power over elections, the Challenged Provisions in the Elections EO directly harms them in at least three additional ways.

104. *First*, the Elections EO's documentary proof of citizenship requirement would impose a significant burden on the voter registration systems maintained at the State and local level in the Plaintiff States.

105. As required under HAVA, Plaintiff States maintain statewide voter registration databases. 52 U.S.C. § 21083(a). In many Plaintiff States, counties and other smaller political subdivisions likewise maintain their own voter registration databases that push information to a statewide voter registration database. The Elections EO commandeers this infrastructure wholesale, requiring State and local officials to check documentary proof of citizenship and record the type of proof shown when an applicant uses the Federal Form to register. Elections

EO, § 2(a)(i)(B). State and local elections officials would be required to devote time and personnel to setting up the infrastructure, policies, and technology to implement the new requirements, including by implementing “appropriate measures to ensure information security” with regard to the new information they are charged with collecting. *Id.*, § 2(a). Such sweeping changes to interconnected databases are a huge undertaking; they require time, money, and significant people power.² Because elections administration is generally decentralized, implementing these changes requires substantial lead-time.

106. ***Second***, the Elections EO presents Plaintiff States with a lose-lose proposition: implement the President’s unconstitutional orders to change their elections administration systems, even though the changes would disenfranchise lawful voters and are contrary to the States’ and Congress’s judgment, or lose access to essential federal funding.

107. The funding that Plaintiff States receive from Defendants is significant and ongoing. Since 2003, the Commission has administered more than \$4.35 billion in HAVA funding to the States and territories, including funding totaling \$1.4 billion from 2018 to 2024. These critical funds support the administration of elections for federal office, election security, and improvements to voting and elections systems. This money is critical to some of the Plaintiff States. For example, California has received a total of over \$505 million from the Commission. Nevada received at least \$12 million for 2018 to 2024. New York has received more than \$49 million in HAVA Election Security Grants since 2018, more than \$172 million in HAVA Requirements Payments since 2005, and more than \$16 million in HAVA Election Improvement funds since 2003. Michigan has similarly been awarded more than \$27 million in HAVA Security Grant funding. Delaware has received \$13 million in HAVA Requirements Payments. Minnesota has received \$17 million in HAVA funding. Colorado has received more than \$16 million in HAVA Election Security Grants and prior to 2018 received more than \$38

² One of the Plaintiff States, Arizona, already requires documentary proof of citizenship for voter registration, at least for State elections. However, Arizona defines documentary proof of citizenship quite differently from how the Elections EO defines it. *Compare* A.R.S. § 16-166(F) *with* Elections EO, § 2(a)(ii).

million in HAVA Election Improvement grants. Arizona has received approximately \$12 million in HAVA funds since 2020, which the State apportions among election officials at the county and State level to administer elections. Massachusetts has received more than \$94 million in HAVA funding. New Jersey has received more than \$76 million in HAVA Section 251 payments, including more than \$22 million from 2019 to the present. Vermont has received \$5 million in HAVA Election Improvement Funds, over \$12 million in HAVA Section 251 Requirements Payments, and \$12 million in HAVA Security Grant funding, which are essential to administering elections in the state. Connecticut has received more than \$13 million in HAVA Security Grant funding since 2018. Rhode Island has received a total of \$9.2 million in HAVA section 101 elections security grants since 2018, and previously received \$13 million in HAVA section 251 grants. Maine has received at least \$9,634,743 in HAVA funds since 2018. These existing funding amounts were not meant to cover the new requirements purportedly imposed by the Elections EO, and they are insufficient to cover the dramatic changes to voter registration systems and election administration procedures contemplated by the Executive Order. Such unfunded mandates harm the States.

108. The Elections EO presents Plaintiff States with an unconstitutional choice: either lose access to essential funds, harming States' practical ability to conduct their elections, or institute unlawful and unfunded conditions that would have the effect of disenfranchising their own citizens in order to continue receiving existing funding.

109. **Third**, the Elections EO further impacts Plaintiff States' administration of elections because it sets forth an interpretation of the federal Election Day statutes that is not consistent with the text of those statutes and conflicts with many Plaintiff States' method for counting ballots. Under federal law, Plaintiff States must adopt standards that define what constitutes a vote and what will be counted as a vote. 52 U.S.C. § 21081(a)(6). Plaintiff States have adopted varying standards pursuant to this requirement, including many Plaintiff States that allow absentee and mail-in ballots postmarked before or on Election Day to be counted, so long as they are received within a limited period of time after Election Day. *See, e.g.*, Cal. Elec. Code

§ 3020(b); Mass. Gen. Laws c. 54, § 93; N.J. Stat. Ann. § 19:63-22(a); Nev. Rev. Stat. § 293.269921(1)(b), (2); N.Y. Election Law sec. 8-412(1), 8-710(1). Many Plaintiff States also have laws that allow rejected ballots—e.g., ballots with a non-matching signature—to be cured by voters and counted. Even these laws could be deemed to violate the Elections EO.

110. The Elections EO declares these State laws that allow for counting a vote received after Election Day to be “violations” of the federal Election Day statutes and directs the Attorney General to enforce those Election Day statutes against States. Plaintiff States with laws allowing for the tabulation of timely cast ballots received or cured after Election Day intend to administer federal elections in accordance with these State laws, notwithstanding this conflict. Because the Elections EO directs the Attorney General to “take all necessary action to enforce” the President’s incorrect and conflicting interpretation of federal law, there is an actual controversy between Plaintiff States and the Attorney General and there is a credible threat of immediate enforcement by the Attorney General against Plaintiff States.

111. The Elections EO also seeks to give immediate, punitive effect to the President’s legal position by ordering the Commission to withhold funding from States that do not acquiesce. The Elections EO therefore directly interferes with Plaintiff States’ administration of federal elections because it attempts to force changes in the way votes are counted. Were Plaintiff States compelled to follow the President’s erroneous interpretation of the federal Election Day statutes, it would upend their established State laws and procedures for administering federal elections, resulting in widespread voter confusion and disenfranchisement.

112. No adequate remedy at law is available to redress these irreparable harms.

FIRST CAUSE OF ACTION

Elections EO § 2(a) - Ultra Vires / Separation of Powers - Presidential Action in Excess of Authority; Usurping the Legislative Function; Violation of the Bicameralism and Presentment Clauses

(Against the President, the Commission, and Commissioners)

113. Plaintiff States restate and reallege paragraphs 1 to 112 as if fully set forth herein.

114. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

115. The Elections EO instructs the Commission to amend the Federal Form to require documentary proof of citizenship. Elections EO, § 2(a). It also directs that State and local elections officials be tasked with implementing the burdensome documentation requirements associated with this provision. *Id.* § 2(a)(I)(B).

116. The Commission is a multimember, bipartisan body composed of experts in elections and their administration. *See* 52 U.S.C. § 20923. To ensure its trustworthy and neutral work, Congress established the Commission as an “independent entity.” *Id.* § 20921. Congress also required the Commission to have a bipartisan majority to approve any action. *Id.* § 20928.

117. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here, the President takes action that undermines the authority and independence of Congress, his action is properly struck down as violative of the constitutional separation of powers. The Elections EO’s attempt to dictate policy and actions of the Commission in a manner inconsistent with Congressional approval requirements is ultra vires and in excess of the President’s powers.

118. Because a substantive change to the Federal Form functions as a command to the sovereign States, the Commission can change the Federal Form only upon “consultation with the chief election officers of the States.” 52 U.S.C. § 20508(a)(2). And, like all Commission decisions, such changes require the approval of at least three out of four Commissioners. *Id.* § 20928. Commission changes to the Federal Form must also be made through reasoned decision-making subject to APA review. *See id.* §§ 20921, 20923, 20928; 5 U.S.C. § 706; *Newby*, 838 F.3d at 11–12.

119. Regardless, Congress has never authorized the Commission’s creation of a documentary proof of citizenship requirement on the Federal Form. In fact, in drafting the NVRA, Congress determined that a documentary proof of citizenship requirement was “not

necessary or consistent with the purposes of” the statute. H.R. Rep. No. 103–66, at 23–24 (1993).

120. The Commission may exercise only that authority which is conferred by statute. *See City of Arlington v. FCC*, 569 U.S. 290, 297–98 (2013). By directing the Commission and imposing duties on it that are not contained in federal law, the Elections EO attempts to amend, repeal, rescind, or circumvent duly enacted federal statutes based on the President’s own policy preferences. These actions exceed the President’s Article II powers, unconstitutionally infringe upon Congress’s powers, and attempt to amend federal legislation while bypassing Article I’s Bicameralism, Presentment, and Elections Clauses.

121. The Plaintiff States will be harmed by implementing these burdensome, harmful, and costly requirements.

122. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that Section 2(a) of the Elections EO violates the separation of powers and impermissibly arrogates to the Executive power that is reserved to Congress.

123. Plaintiff States are further entitled to a preliminary and permanent injunction preventing the Commission and the Defendant Commissioners from enforcing or implementing Section 2(a) of the Elections EO.

SECOND CAUSE OF ACTION

Elections EO § 2(a) - Ultra Vires / Contrary to Statute - Presidential Action in Excess of Authority; Usurping the Legislative Function; Violation of the Bicameralism and Presentment Clauses

(By all Plaintiff States except Arizona Against the President, the Commission, and Commissioners)³

124. Plaintiff States restate and reallege paragraphs 1 to 123 as if fully set forth herein.

125. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

³ Due to unique requirements of Arizona law, Arizona does not join this cause of action.

126. The Elections EO instructs the Commission to amend the Federal Form to require documentary proof of citizenship. Elections EO, § 2(a). It also directs State and local elections officials to implement the burdensome documentation requirements associated with this provision. *Id.* § 2(a)(i)(B).

127. The Elections EO violates the substantive provisions of the NVRA, which permits the Federal Form to “require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1).

128. The “statutory text is straightforward.” *Newby*, 838 F.3d at 10. If an aspect of the Federal Form is “‘necessary’ to enforce voter qualifications, then the NVRA and probably the Constitution require its inclusion; if not, the NVRA does not permit its inclusion and the Constitution is silent.” *Id.* at 11; *see also Tenn. Conf. of Nat’l Ass’n for Advancement of Colored People v. Lee*, 730 F. Supp. 3d 705, 740 (M.D. Tenn. 2024).

129. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here, the President takes action that undermines the authority and independence of Congress, his action is properly struck down as violative of the constitutional separation of powers. The Elections EO’s attempt to dictate policy and actions of the Commission in a manner inconsistent with Congressional requirements is ultra vires and in excess of the President’s powers.

130. Congress has already decided that documentary proof of citizenship is not “necessary” for identifying eligible voters. Citizenship is one aspect of a voter’s eligibility. Under the NVRA, citizenship is proven through attestation: the Federal Form “shall include a statement that” (a) “specifies” all voter eligibility requirements, “including citizenship”; (b) “contains an attestation that the applicant meets each such requirement each such requirement;”

and (c) “requires the signature of the applicant, under the penalty of perjury.” 52 U.S.C. § 20508(b)(2). In drafting the NVRA, Congress concluded that attestation under penalty of perjury and criminal penalties were “sufficient safeguards to prevent noncitizens from registering to vote.” S.Rep. No. 103–6, at 11 (1993). Indeed, the NVRA specifically prohibits including in the Federal Form “any requirement for notarization or other formal authentication.” 52 U.S.C. § 20508(b)(3).

131. Nor has the Commission deemed documentary proof of citizenship “necessary” for identifying eligible voters. To the contrary, the Commission has previously rejected that proposition.

132. The Elections EO attempts to amend, repeal, rescind, or circumvent duly enacted federal statutes based on the President’s own policy preferences. These actions exceed the President’s Article II powers, unconstitutionally infringe upon Congress’s powers, and attempt to amend federal legislation while bypassing Article I’s Bicameralism, Presentment, and Elections Clauses.

133. The Plaintiff States will be harmed by this requirement, which would be burdensome, harmful, and costly to implement and administer.

134. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that Section 2(a) of the Elections EO violates the separation of powers and impermissibly arrogates to the Executive power that is reserved to Congress.

135. Plaintiff States are further entitled to a preliminary and permanent injunction preventing the Commission and Defendant Commissioners from enforcing or implementing Section 2(a) of the Elections EO.

THIRD CAUSE OF ACTION

Elections EO § 3(d) - Ultra Vires / Separation of Powers - Presidential Action in Excess of Authority; Usurping the Legislative Function; Violation of the Bicameralism and Presentment Clauses

(Against the President and the Secretary of Defense)

136. Plaintiff States restate and reallege paragraphs 1 to 135 as if fully set forth herein.

137. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

138. The Elections EO commands the Secretary of Defense to update the federal post card application provided under UOCAVA to require documentary proof of citizenship and proof of eligibility to vote in state elections. Elections EO § 3(d).

139. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here, the President takes action that undermines the authority and independence of Congress, his action is properly struck down as violative of the constitutional separation of powers. The Elections EO’s attempt to dictate policy in a manner inconsistent with Congressional requirements is ultra vires and in excess of the President’s powers.

140. Congress has never authorized the Election EO’s additional requirements for the “official post card form” prescribed by the Secretary of Defense under UOCAVA for military and overseas voters to use to register to vote in federal elections. 52 U.S.C. § 20302(a)(4). Nowhere in the Act is there a requirement that this form demand documentary proof of citizenship or proof of eligibility to vote in elections in the State in which the applicant is attempting to vote. Rather, the Act unequivocally grants military and overseas voters the ability to register and cast a ballot “in the last place in which the person was domiciled before leaving the United States.” *Id.* § 20310(5)(B).

141. By directing the Secretary of Defense to include requirements for the Federal Post Card Application not contained in federal law, the Elections EO attempts to amend, repeal,

rescind, or circumvent duly enacted federal statutes based on the President's own policy preferences. These actions exceed the President's Article II powers, unconstitutionally infringe upon Congress's powers, and attempt to amend federal legislation while bypassing Article I's Bicameralism, Presentment, and Elections Clauses.

142. The Plaintiff States will be harmed by this requirement, which would be burdensome and costly to implement and administer.

143. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that Section 3(d) of the Elections EO violates the separation of powers and impermissibly arrogates to the Executive power that is reserved to Congress.

144. Plaintiff States are further entitled to a preliminary and permanent injunction preventing the Secretary of Defense from enforcing or implementing Section 3(d) of the Elections EO.

FOURTH CAUSE OF ACTION

Elections EO § 4(a) - Ultra Vires / Separation of Powers - Presidential Action in Excess of Authority; Usurping the Legislative Function; Violation of the Bicameralism and Presentment Clauses

(Against the President, the Commission, and Commissioners)

145. Plaintiff States restate and reallege paragraphs 1 to 144 as if fully set forth herein.

146. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

147. The Elections EO orders the Commission to condition federal funding to States on their acceptance of the Federal Form as unlawfully amended to require documentary proof of citizenship. Elections EO, § 4(a).

148. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here,

the President takes action that undermines the authority and independence of Congress, his action is properly struck down as violative of the constitutional separation of powers.

149. The Commission is a multimember, bipartisan body composed of experts in elections and their administration. *See* 52 U.S.C. § 20923. To ensure its trustworthy and neutral work, Congress established the Commission as an “independent entity.” *Id.* § 20921. Congress also required the Commission to have a bipartisan majority to approve any action. *Id.* § 20928. The Elections EO’s attempt to dictate policy and actions of the Commission in a manner inconsistent with Congressional approval requirements is ultra vires and in excess of the President’s powers.

150. Nor has Congress authorized the Commission to withhold funds on these grounds. To the contrary, it has specified the precise formula for calculating the grants that the Commission administers and the conditions for those funds. 52 U.S.C. §§ 21001–21003, 21142(c)(1). Plaintiff States are statutorily entitled to those funds upon satisfaction of the requirements of the program under which the funds are provided.

151. The Commission may exercise only that authority which is conferred by statute. *See City of Arlington*, 569 U.S. at 297–98. By directing the Commission and imposing duties on it that are not contained in federal law, the Elections EO attempts to amend, repeal, rescind, or circumvent duly enacted federal statutes based on the President’s own policy preferences. These actions exceed the President’s Article II powers, unconstitutionally infringe upon Congress’s powers, and attempt to amend federal legislation while bypassing Article I’s Bicameralism, Presentment, and Elections Clauses.

152. This unlawful order will harm the Plaintiff States by targeting them for loss of federal funding.

153. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that Section 4(a) of the Elections EO violates the separation of powers and impermissibly arrogates to the Executive power that is reserved to Congress.

154. Plaintiff States are further entitled to a preliminary and permanent injunction preventing the Commission and the Defendant Commissioners from enforcing or implementing Section 4(a) of the Elections EO.

FIFTH CAUSE OF ACTION

Elections EO § 7(a) - Ultra Vires / Separation of Powers - Presidential Action in Excess of Authority; Usurping the Legislative Function; Violation of the Bicameralism and Presentment Clauses; Violation of the Elections Clause and the Electors Clause

(Against the President and the Attorney General)

155. Plaintiff States restate and reallege paragraphs 1 to 154 as if fully set forth herein.

156. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

157. The Elections EO directs the Attorney General to “take all necessary action to enforce” federal statutes setting the date of federal elections against States that purportedly “violate these provisions” by counting absentee or vote-by-mail ballots received after Election Day “in the final tabulation of votes for” federal office, adopting a draconian and incorrect rule that would preclude States from counting ballots that arrive after Election Day, even if they were mailed on or before that day. Elections EO, § 7(a).

158. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here, the President takes action that undermines the authority and independence of Congress, or invades the constitutional and statutory rights of the States, his action is properly struck down as violative of the constitutional separation of powers.

159. The Elections EO attempts to direct the Attorney General to adopt and enforce an interpretation of the federal Election Day statutes, 2 U.S.C. § 7 and 3 U.S.C. § 1, that conflicts with State laws allowing for votes validly cast by Election Day but received after that date to be counted. The President has no legal authority to amend the Election Day statutes to prohibit the

counting of ballots validly cast under State law, nor to direct the Attorney General to enforce his erroneous interpretation of federal law against States.

160. By directing the Attorney General to enforce the President's incorrect interpretation of federal law, the Elections EO attempts to amend, repeal, rescind, or circumvent duly enacted federal statutes based on the President's own policy preferences. These actions exceed the President's Article II powers, unconstitutionally infringe upon Congress's powers, and attempt to amend federal legislation while bypassing Article I's Bicameralism, Presentment, and Elections and Electors Clauses.

161. This unlawful order harms Plaintiff States by the imminent threat of enforcement by the Attorney General. There is an actual controversy about whether Plaintiff States can count ballots that are received after Election Day. Plaintiff States intend to administer federal elections according to State laws, notwithstanding that many of those laws directly conflict with the Elections EO's incorrect interpretation of the federal Election Day statutes. The Elections EO directs the Attorney General to take all appropriate actions to enforce the Elections EO's incorrect interpretation, establishing an actual controversy and a credible threat of civil prosecution.

162. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that Section 7(a) of the Elections EO violates the separation of powers and impermissibly arrogates to the Executive power that is reserved to Congress and the Plaintiff States.

163. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that the federal Election Day statutes do not preclude the Plaintiff States from enacting and implementing State laws that allow for counting a timely cast ballot received after Election Day.

164. Plaintiff States are further entitled to a preliminary and permanent injunction preventing the Attorney General from enforcing or implementing Section 7(a) of the Elections EO.

SIXTH CAUSE OF ACTION

Elections EO § 7(b) - Ultra Vires / Separation of Powers - Presidential Action in Excess of Authority; Usurping the Legislative Function; Violation of the Bicameralism and Presentment Clauses

(Against the President, the Commission, and Commissioners)

165. Plaintiff States restate and reallege paragraphs 1 to 164 as if fully set forth herein.

166. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

167. The Elections EO requires the Commission to condition federal funding on Plaintiff States' acquiescence to an incorrect interpretation of federal Election Day statutes that would preclude Plaintiff States from counting ballots that arrive after Election Day, even if they were mailed on or before that day. Elections EO, § 7(b).

168. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here, the President takes action that undermines the authority and independence of Congress, his action is properly struck down as violative of the constitutional separation of powers.

169. The Commission is a multimember, bipartisan body composed of experts in elections and their administration. *See* 52 U.S.C. § 20923. To ensure its trustworthy and neutral work, Congress established the Commission as an “independent entity.” *Id.* § 20921. Congress also required the Commission to have a bipartisan majority to approve any action. *Id.* § 20928. The Elections EO's attempt to dictate policy and actions of the Commission in a manner inconsistent with Congressional approval requirements is ultra vires and in excess of the President's powers.

170. Nor has Congress authorized the Commission to withhold funds on these grounds. To the contrary, it has specified the precise formula for calculating the grants that the Commission administers and the conditions for those funds. 52 U.S.C. §§ 21001–21003; *see*

also 21142(c)(1). Plaintiff States are statutorily entitled to those funds upon satisfaction of the requirements of the program under which the funds are provided.

171. Moreover, outside of specified duties regarding the design and issuance of the Federal Form, the Commission does 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,” such as adopting the draconian position insisted upon in the Elections EO. *Id.*

§ 20929.

172. The Commission may exercise only that authority which is conferred by statute. *See City of Arlington*, 569 U.S. at 297–98. By directing the Commission and imposing duties on it that are not contained in federal law, the Elections EO attempts to amend, repeal, rescind, or circumvent duly enacted federal statutes based on the President’s own policy preferences. These actions exceed the President’s Article II powers, unconstitutionally infringe upon Congress’s powers, and attempt to amend federal legislation while bypassing Article I’s Bicameralism, Presentment, and Elections Clauses.

173. This unlawful order will harm Plaintiff States by targeting them for loss of federal funding.

174. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that Section 7(b) of the Elections EO violates the separation of powers and impermissibly arrogates to the Executive power that is reserved to Congress.

175. Plaintiff States are further entitled to a preliminary and permanent injunction preventing the Commission and the Defendant Commissioners from enforcing or implementing Section 7(b) of the Elections EO.

SEVENTH CAUSE OF ACTION

**All Challenged Provisions – Separation of Powers / Intrusion on States’ Election Powers
Granted by Article I, Section 4 and Article II, Section 1 of the United States Constitution**

(Against All Defendants)

176. Plaintiff States restate and reallege paragraphs 1 to 175 as if fully set forth herein.

177. The Constitution “invests the States with responsibility for the mechanics of [federal] elections, but only so far as Congress declines to preempt legislative choices.” *Foster*, 522 U.S. at 69 (citations omitted); *see also* U.S. Const. art. I, § 4, cl. 1; Art. II, § 1, cl. 2. It is “solicitous of the prerogatives of the States, even in an otherwise sovereign federal province” because “the Framers recognized that state power and identity were essential parts of the federal balance.” *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 841 (1995).

178. The President has no constitutional authority to interfere with State and Congressional regulations of the times, places, and manner of elections, including voter registration. *See* U.S. Const. art. I, § 4, art. II, § 1; *ITCA*, 570 U.S. at 8, 14–15. Where, as here, the President takes action that undermines the authority and independence of Congress, his action is properly struck down as violative of the constitutional separation of powers. For the same reasons, where the President takes action unauthorized by the Constitution or statute that undermines the constitutional powers of the States, his action is properly struck down as violative of the vertical separation of powers.

179. Plaintiff States have a non-statutory right of action to enjoin and declare unlawful official action that commandeers State executive power or otherwise intrudes on Plaintiff States’ inherent sovereignty and powers granted by the Constitution. In the Elections EO, the President invades Plaintiff States’ sovereignty and their powers to regulate federal elections by Presidential fiat and commandeers State election administrative personnel and processes to implement a Presidential decree.

180. Pursuant to their constitutional authority, Plaintiff States have each enacted statutes governing elections, and each maintains a complex administrative apparatus to carry out federal elections. The Elections EO purports to overwrite State laws, regulations, and processes relevant to registration, voting systems, and ballot counting. But it is *Congress*, not the Executive, in which the Constitution vests the power to “make or alter” State regulations governing federal elections. *See* U.S. Const., art. I, § 4. The Elections EO goes far beyond any statute lawfully enacted by Congress.

181. The Elections EO conditions critical funding streams on Plaintiff States' capitulation to its new and unlawful rules. It thus seeks to control Plaintiff States' exercise of their sovereign powers through raw Executive domination, contrary to the Constitution and its underlying principles of federalism and the separation of powers.

182. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that the Challenged Provisions of the Elections EO violates the separation of powers, intrudes on Plaintiff States' sovereignty and the election powers granted to them by Article I, Section 4 and Article II, Section 1 of the Constitution, and unconstitutionally commandeers States' executive powers to implement a Presidential decree.

183. Plaintiffs are further entitled to a preliminary and permanent injunction preventing all Defendants, except the President, from enforcing or implementing the Challenged Provisions of the Elections EO.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff States pray that this Court:

1. Issue a judicial declaration that the Challenged Provisions of the Elections EO are unconstitutional and void, because they are ultra vires and violate both the separation of powers and the States' sovereignty and elections power under the United States Constitution;
2. Preliminarily and permanently enjoin all Defendants, except President Trump, from implementing or enforcing the Challenged Provisions of the Elections EO;
3. Award Plaintiff States their reasonable fees, costs, and expenses, including attorneys' fees; and
4. Grant any other relief as this Court may deem just and proper.

Dated: April 3, 2025

ROB BONTA

Attorney General of California

By: /s/ Nicholas R. Green

Nicholas R. Green (BBO No. 698510)

Deputy Attorney General

Anne P. Bellows*

Deputy Attorney General

Thomas S. Patterson*

Senior Assistant Attorney General

John D. Echeverria*

Supervising Deputy Attorney General

Michael S. Cohen*

Malcolm A. Brudigam*

Kevin L. Quade*

Lisa Ehrlich*

Deputy Attorneys General

Counsel for the State of California

KRISTIN K. MAYES

Attorney General of the State of Arizona

By: /s/ Joshua M. Whitaker

Joshua M. Whitaker*

Karen J. Hartman-Tellez*

Kara Karlson*

Assistant Attorneys General

Counsel for the State of Arizona

PHILIP J. WEISER

Attorney General for the State of Colorado

By: /s/ Shannon Stevenson

Shannon Stevenson*

Solicitor General

Peter Baumann*

Senior Assistant Attorney General

Counsel for the State of Colorado

Respectfully Submitted,

AARON FORD

Attorney General of Nevada

By: /s/ Craig Newby

Craig Newby*

First Deputy Attorney General

Heidi P. Stern*

Solicitor General

Counsel for the State of Nevada

ANDREA JOY CAMPBELL

Attorney General of Massachusetts

By: /s/ M. Patrick Moore

M. Patrick Moore (BBO No. 670323)

First Assistant Attorney General

Anne Sterman (BBO No. 650426)

Chief, Government Bureau

Phoebe Fischer-Groban (BBO No. 687068)

Deputy Chief, Constitutional &

Administrative Law Division

Chris Pappavaselio (BBO No. 713519)

Assistant Attorney General

Counsel for the Commonwealth of
Massachusetts

WILLIAM TONG

Attorney General for the State of
Connecticut

/s/ Maura Murphy

Maura Murphy*

Deputy Associate Attorney General

Counsel for the State of Connecticut

(additional counsel on following page)

KATHLEEN JENNINGS

Attorney General of the State of Delaware

By: /s/ Ian R. Liston

Ian R. Liston*

Director of Impact Litigation

Vanessa L. Kassab*

Maryanne T. Donaghy*

Deputy Attorneys General

Counsel for the State of Delaware

ANNE E. LOPEZ

Attorney General for the State of Hawai'i

By: /s/ David D. Day

David D. Day*

Special Assistant to the Attorney
General

Kaliko'onālani D. Fernandes*

Solicitor General

Counsel for the State of Hawai'i

KWAME RAOUL

Attorney General for the State of Illinois

By: /s/ Alex Hemmer

Alex Hemmer*

Deputy Solicitor General

Counsel for the State of Illinois

AARON M. FREY

Attorney General for the State of Maine

By: /s/ Jonathan R. Bolton

Jonathan R. Bolton*

Assistant Attorney General

Counsel for the State of Maine

ANTHONY G. BROWN

Attorney General for the State of Maryland

By: /s/ Adam D. Kirschner

Adam D. Kirschner*

Senior Assistant Attorney General

Counsel for the State of Maryland

DANA NESSEL

Attorney General of Michigan

By: /s/ Erik Grill

Erik Grill*

Danny Haidar*

Heather S. Meingast*

Assistant Attorneys General

Counsel for the People of the State of
Michigan

KEITH ELLISON

Attorney General for the State of Minnesota

By: /s/ Peter J. Farrell

Peter J. Farrell*

Deputy Solicitor General

Angela Behrens*

Assistant Attorney General

Counsel for the State of Minnesota

MATTHEW J. PLATKIN

Attorney General Of New Jersey

By: /s/ Meghan K. Musso

Meghan K. Musso*

Jonathan Mangel*

Deputy Attorneys General

Counsel for the State of New Jersey

RAÚL TORREZ

Attorney General of New Mexico

By: /s/ James W. Grayson

James W. Grayson*

Chief Deputy Attorney General

Counsel for the State of New Mexico

LETITIA JAMES

Attorney General of New York

By: /s/ Colleen K. Faherty

Colleen K. Faherty*

Special Trial Counsel

Counsel for the State of New York

(additional counsel on the following page)

PETER F. NERONHA
Attorney General of Rhode Island

By: /s/ James J. Arguin
James J. Arguin (BBO No. 557350)
Special Assistant Attorney General

Counsel for the State of Rhode Island

CHARITY R. CLARK
Attorney General for the State of Vermont

By: /s/ Ryan P. Kane
Ryan P. Kane*
Deputy Solicitor General

Counsel for the State of Vermont

JOSHUA L. KAUL
Attorney General for the State of Wisconsin

By: /s/ Charlotte Gibson
Charlotte Gibson*
Assistant Attorney General

Counsel for the State of Wisconsin

**Pro hac vice applications forthcoming*

From: [Hunn, Allison \(Rules\)](#)
To: [Reyes, Steve](#)
Cc: [Murguia, Ryan \(Rules\)](#)
Subject: Fwd: Padilla Leads Push Demanding Trump Rescind Illegal Anti-Voter Executive Order
Date: Friday, March 28, 2025 9:20:01 AM
Attachments: [image001.png](#)

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So you have!



FOR IMMEDIATE RELEASE
March 28, 2025

CONTACT:
[Danny Rodriguez](#)
[REDACTED]

Padilla Leads Push Demanding Trump Rescind Illegal Anti-Voter Executive Order

Senators to Trump: “Requirements in this illegal order would likely disenfranchise millions of American voters...places a variety of other process burdens on voters, especially married women, rural residents, and low-income voters, and communities of color.”

WASHINGTON, D.C. — U.S. Senator Alex Padilla (D-Calif.), Ranking Member of the Senate Committee on Rules and Administration and California’s former Secretary of State, led 14 Democratic Senators in calling on President Trump to revoke his illegal anti-voter executive order that would disenfranchise millions of Americans.

“This unlawful directive exceeds your authority over an independent agency and would likely disenfranchise millions of eligible American voters by creating barriers to voting, while also inviting chaos into state voter registration processes – including by inappropriately sharing Americans’ data with the U.S. Department of Government Efficiency (DOGE),” **wrote the Senators.** “Under the Constitution and existing law, this Executive Order cannot be implemented. Sadly, we are not surprised at your continued efforts to undermine our free and fair elections. From welcoming foreign election interference in our elections, to supporting the January 6 insurrection, to promoting baseless election conspiracy theories, your dangerous rhetoric has undermined public confidence in our election system.”

The proof of citizenship requirements in the executive order would restrict the

right to vote for millions of Americans given the burden it creates to obtain these documents. Nearly [half of all American citizens](#) do not have valid passports, and millions more have a legal name that differs from other government-issued documents, including up to 69 million married women whose birth certificates no longer match their legal name.

The Senators emphasized that the order runs counter to the constitutional foundation that elections are to be primarily administered by the states. They also sounded the alarm on the order's attempt to empower the Department of Government Efficiency (DOGE) and the Department of Homeland Security (DHS) to review state voter registration lists, other state records, and various federal databases, with the power of subpoena.

“Voting by noncitizens is already a federal crime and, despite unsubstantiated claims to the contrary, is extremely rare. By interjecting DOGE into the process, this order would interfere with states’ maintenance of voter registration lists, compromising voters’ personal information,” **continued the Senators.**

“The new federal voter registration requirements in this illegal order would likely disenfranchise millions of American voters. Millions of Americans do not have passports and many face challenges obtaining other documents that would be required by this order, if it was ever implemented,” **concluded the Senators.** “This order also places a variety of other process burdens on voters, especially married women, rural residents, and low-income voters, and communities of color.”

In addition to Senator Padilla, the letter is also signed by Senate Minority Leader Chuck Schumer (D-N.Y.) and U.S. Senators Cory Booker (D-N.J.), Catherine Cortez Masto (D-Nev.), Mazie Hirono (D-Hawaii), Angus King (I-Maine), Amy Klobuchar (D-Minn.), Jeff Merkley (D-Ore.), Patty Murray (D-Wash.), Jack Reed (D-R.I.), Brian Schatz (D-Hawaii), Adam Schiff (D-Calif.), Raphael Warnock (D-Ga.), Sheldon Whitehouse (D-R.I.), and Ron Wyden (D-Ore.).

In a statement earlier this week, Senator Padilla [condemned](#) Trump’s unlawful attempt at a Presidential power grab through his anti-voter executive order.

Full text of the letter is available [here](#) and below:

Dear President Trump,

We write to demand that you immediately rescind your recent Executive Order “Preserving and Protecting the Integrity of American Elections.” This unlawful directive exceeds your authority over an independent agency and would likely disenfranchise millions of eligible American voters by creating barriers to voting, while also inviting chaos into state voter registration processes – including by inappropriately sharing Americans’ data with the U.S. Department of Government Efficiency (DOGE).

Under the Constitution and existing law, this Executive Order cannot be

implemented. Sadly, we are not surprised at your continued efforts to undermine our free and fair elections. From welcoming foreign election interference in our elections, to supporting the January 6 insurrection, to promoting baseless election conspiracy theories, your dangerous rhetoric has undermined public confidence in our election system.

This order runs counter to the constitutional foundation that elections are to be primarily administered by the states. The Federal role in elections is focused on helping states with the costs and technical challenges and ensuring that the right to vote is appropriately protected. This order places new mandates on the states and inserts new federal interference in state voter registration processes by federal agencies, including the Department of Justice and the Department of Homeland Security. We expect state and local election administrators of both parties to have significant legal and operational concerns about this order.

One of the most disturbing aspects of this illegal order is Sec. 2(b)(iii), which attempts to empower DHS and the DOGE Administrator to review state voter registration lists, other state records and various federal databases, with the power of subpoena. Voting by noncitizens is already a federal crime and, despite unsubstantiated claims to the contrary, is extremely rare. By interjecting DOGE into the process, this order would interfere with states' maintenance of voter registration lists, compromising voters' personal information. This effort by DOGE is similar to your 2017 Executive Order that established the "Presidential Advisory Commission on Election Integrity" that sought voter files from states and was rejected by 44 states and the District of Columbia. If this provision were implemented, it would allow Elon Musk and DOGE to recreate this effort to purge state voter databases, preventing the participation of eligible American voters.

The Election Assistance Commission (EAC) was created as an independent, evenly balanced agency in the Help America Vote Act (HAVA), which was enacted on an overwhelming bipartisan basis. The EAC receives appropriations from Congress to support states with the growing financial and technical challenges of administering elections in thousands of jurisdictions across the nation on a nonpartisan basis. This order lacks the authority to place new conditions on Congressionally appropriated funding or order the EAC require documents that many eligible Americans do not have in order to register to vote in federal elections.

The new federal voter registration requirements in this illegal order would likely disenfranchise millions of American voters. Millions of Americans do not have passports and many face challenges obtaining other documents that would be required by this order, if it was ever implemented. This order also places a variety of other process burdens on voters, especially married women, rural residents, and low-income voters, and communities of color.

For these reasons, we must urge you to rescind this illegal order.

Sincerely,

To view the release online, click [here](#).

###

From: [Reynolds, Leslie](#)
To: [Reynolds, Leslie](#)
Cc: [Dodd, Stacy](#); [Milhofer, John](#); [Maria Benson](#); [Lindsey Forson](#); [Brittany Hamilton](#)
Subject: NASS Elections Committee: NASS Summary of WH Executive Order on Preserving and Protecting the Integrity of American Elections
Date: Tuesday, March 25, 2025 4:37:49 PM
Attachments: [summary-exec-order-elections-052525.docx](#)
Importance: High

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Dear NASS Elections Committee, Communications Directors and IT Directors:

As we told you earlier today, the President issued an [Executive Order on Preserving and Protecting the Integrity of American Elections](#). Attached you will find the NASS summary. The order was detailed, so the summary is too. NASS Director of Research and Analysis, John Milhofer did a great job turning this around so quickly. He has put headings on different sections to assist you when reviewing.

We can use the time on the Elections Committee call on Thursday, March 27 at 2:30PM ET to discuss.

Thanks,
Leslie

Leslie Reynolds
Executive Director
National Association of Secretaries of State
444 N Capitol Street, NW Suite 401
Washington, DC 20001

[REDACTED]
[REDACTED]

From: [SOSPress](#)
To: [Stein, Jules](#)
Subject: Fw: NASS Elections Committee: No Call this Week, EAC Releases 2024 EAVS Report, Supreme Court Decision, SAVE Update, EAC FY2026 Congressional Budget Justification
Date: Monday, June 30, 2025 1:03:44 PM

From: Reynolds, Leslie [REDACTED] >
Sent: Monday, June 30, 2025 12:51 PM
To: Reynolds, Leslie [REDACTED] >
Cc: Dodd, Stacy [REDACTED] >; Milhofer, John [REDACTED]; Maria Benson [REDACTED] >; Lindsey Forson [REDACTED]; Brittany Hamilton [REDACTED] >
Subject: NASS Elections Committee: No Call this Week, EAC Releases 2024 EAVS Report, Supreme Court Decision, SAVE Update, EAC FY2026 Congressional Budget Justification

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Dear NASS Elections Committee, Communications Directors and IT Directors:

No Elections Committee Call this Thursday, July 3, 2025

Because of the July 4th Holiday we will not hold a call this Thursday. Our next call will take place on Thursday, July 17 at 2:30PM with the Federal Voting Assistance Program (FVAP).

U.S. Election Assistance Commission Releases 2024 Election Administration and Voting Survey (EAVS) Report

The EAC released the [2024 EAVS Report and datasets, as well as previous EAVS reports, are available here](#). Other resources, such as state-specific summaries of election administration and voting data, will be available on the [EAC's website](#) later this year. Highlights from their press release include:

Voter Registration

More than 211 million citizens were active registered voters for the 2024 general election — 86.6% of the citizen voting age population.

State motor vehicle offices and automatic voter registration were the two most used methods of voter registration. Motor vehicle offices accounted for 32.2% of transactions processed. Automatic voter registration was used for 26.4% of transactions. **States reported sending nearly 40 million confirmation notices as part of efforts to maintain accurate voter rolls.**

Voting Methods

In-person voting continued to be the most common voting method in the 2024 general election, with over 70% of voters choosing to cast their ballots in person. And 35.2% voted in person before Election Day, while 37.4% voted in person on Election Day. **Voting by mail decreased to about 30% of total ballots cast in the 2024 election.** Despite this shift, election officials continue to implement security measures to ensure this option is secure. Mail ballots are protected by state laws that determine how they must be filled out and returned by the voter and then verified by election

officials before they are counted. **Over 98% of election jurisdictions used voting equipment that has voters mark a paper ballot or produces an auditable paper record of voters' ballot preferences.** The percentage of jurisdictions that reported using voting systems without a verified paper trail has decreased significantly since the 2022 general election. In the 2024 EAVS, only 80 jurisdictions in three states reported using these systems, with just one jurisdiction reporting *only* using this type of voting system.

Voting Systems and Election Supporting Technology

Nearly 93% of states, the territories, and DC require voting system testing and certification either by statute or through a formal administrative rule or guidance. Some of these states require full EAC certification, while others require testing to federal standards or testing by a federally accredited laboratory. **Nearly 40% of jurisdictions used electronic poll books to assist with voting, which was the highest percentage reported to date in the EAVS.** Given the rise in use, the EAC recently established a Voluntary Electronic Poll Book Certification Program to evaluate and test the security, accessibility, and usability of electronic poll books across the country.

Poll Workers

While 47.9% of jurisdictions reported facing significant challenges in recruiting and retaining poll workers, recruitment has become easier since the last presidential election. More than 770,000 individuals served as poll workers for the 2024 general election, the majority of which were over 61 years old.

Supreme Court Decision on Existing Executive Orders

Okay, first off, I'm not a lawyer. I have consulted our brilliant John Milhofer, as well as some colleagues in other organizations to try and understand how the Supreme Court's decision on Friday to end the practice of nationwide injunctions issued by federal courts would impact the [Executive Order](#). Timing and priorities are unclear, but the Supreme Court decision means that the District Courts will now have to review their injunctions that have a nationwide impact. We will track the courts in DC and MA that issued preliminary injunctions on parts of the EO.

SAVE Troubleshooting Issues – Will Join NASS July 31st Elections Committee Call

I recently reached out to David Jennings at USCIS with some issues raised by some states. Below are my questions, his responses are in blue.

Here are some of the things we are hearing. I think the states are just checking in with each other at this point to see if they can help each other understand if they are doing something wrong or if others are experiencing the same thing.

- From multiple states hearing, issues getting citizenship reports from bulk uploads or answers from SAVE
 - We are developing an alternate solution to the Web Agency Audit Report as a mechanism for receiving response in bulk. We should deploy the File History Dashboard within the next couple weeks. Stay tuned!
- Specifically emails to save.help@uscis.dhs.gov have not consistently been responded to or with useful information.
 - We've made a couple process modifications with customer support (CS). Due to the

new features, growing interest, and flood of e-mails to this inbox our CS team is triaging voter verification related questions to ensure they get to the right team to resolve.

- The website hasn't been able to handle the volume of requests sent.
 - We may need to understand the details of this one better to see what error the user is experiencing, We've had high volumes go through and other times there have been some issue we needed to work through directly with the user.
- The search functionality is slow to respond.
 - The large volumes are impacting search. We are aware and working to improve functionality for filtering/search.
- Difficult to find data formatting requirements so have had to resend some requests multiple times (no periods, no unicode characters, maximum middle name field length).
 - I'll pass this feedback to the design team so we can provide better helper text. But yes, the system cannot accept non ASCII characters as part of the file upload due to data standards. If middle name is an issue, just drop that column entirely, it's not a required field and not used for matching purposes.
- Some (not sure if it's most because SSA won't respond to me) states are not able to access SSA Death Master File. We had a call with the National Association of Public Health Statistics and Information Systems (NAPHSIS) recently and they have death records the states can access, but for a fee. Do you think states should pursue that or is SSA going to be improving their Death Master File info. You all are supposed to have access to it, right? Have you? Have you found the data to be current?
 - Access to the Death Master File is part of the integration with SSA. If there is a match, SAVE will response with "Deceased per SSA" as one of the messages in lieu of a citizenship response. SSA will need to comment on the processes for updating, accuracy of their dataset, and any improvements they are making.
- Can we also get confirmation on who this data is shared with, in addition to the Secretary of State's office (or State Board/Commission). Some states seem to think it is being shared with other state agencies.
 - The data is not shared by SAVE with other state agencies beyond the user agency that ran the queries.

David also agreed to have SAVE join our call on July 31st at 2:30PM ET to give a status on use of SAVE, updates on SSN (specifically use of last 4), and more.

EAC FY2026 Congressional Budget Justification – No Financial Services/General Government Appropriations Meeting Scheduled Yet

While we continue to watch for an appropriations hearing on the Financial Services and General Government FY2026 Appropriations bill, nothing has been scheduled yet. We will continue to track the activity. This is the bill that will include funding for the EAC. Here is the EAC's ask...[Fiscal Year](#)

[2026 Congressional Budget Justification.](#)

It's unlikely I'll be bothering you again this week. I hope you have a wonderful July 4th celebration!

Best,
Leslie

Leslie Reynolds
Executive Director
National Association of Secretaries of State
444 N Capitol Street, NW Suite 401
Washington, DC 20001

[REDACTED]

[REDACTED]

[REGISTER NOW](#) for the [NASS 2025 Summer Conference](#) from August 4-7, 2025, at the Beau Rivage in Biloxi, MS! Early registration ends in just 3 weeks on Tuesday, July 1st.

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STATE OF CALIFORNIA, et al., Plaintiffs v. DONALD TRUMP, et al., Defendants.	))))))))))))))	No. 25-cv-10810-DJC
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MEMORANDUM AND ORDER

CASPER, J.

June 13, 2025

I. Introduction

On March 25, 2025, President Donald J. Trump issued Executive Order No. 14248, Preserving and Protecting the Integrity of American Elections (the “Executive Order”). Among other things, the Executive Order requires the United States Election Assistance Commission (the “EAC”) and the Secretary of Defense to implement documentary proof of citizenship requirements with federal voter registration forms required to be used by Plaintiffs, Attorney Generals representing nineteen states, California, Nevada, Massachusetts, Arizona, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, Rhode Island, Vermont and Wisconsin (collectively, the “Plaintiffs” or the “States”), commands the Attorney General to take action against thirteen of the States that have laws either allowing for the counting of ballots mailed on or before Election Day but received afterward, or laws allowing voters to cure timely-submitted ballots with minor technical problems (“Ballot

Receipt States”), and directs the EAC to condition statutory funding upon compliance with a ballot receipt deadline that is contrary to the respective state laws established by those thirteen States. The States have moved for a preliminary injunction barring the named Defendants (collectively, the “Defendants” or the “Executive Branch”), from implementing these mandates of the Executive Order.

After careful consideration of the parties’ filings, briefs from *amici curiae* and oral argument by counsel, the Court ALLOWS the States’ motion for preliminary injunction for the reasons explained at length below.

In sum, the challenges by the States to certain provisions of the Executive Order, namely §§ 2(a), 2(d), 3(d), 7(a) and 7(b), are ripe for review. Their challenge to § 2(a), that requires the EAC to take appropriate action to require documentary proof of U.S. citizenship for voter registration, is ripe because it imposes a deadline and dictates the precise contours of this new requirement and implementation of same poses an imminently threatened economic injury on the States. The same is true with § 3(d), that similarly mandates the Secretary of Defense to require documentary proof of U.S. citizenship for members of the military and other U.S. citizens living abroad. Although the Executive Order does not establish a deadline for this requirement, the command of § 3(d) is clear and, accordingly, fit for review and would pose the same hardship for the States as § 2(a). The States have a likelihood of success on the merits as to their challenges to both sections. There is no dispute (nor could there be) that U.S. citizenship is required to vote in federal elections and the federal voter registration forms require attestation of citizenship. The issue here is whether the President can require documentary proof of citizenship where the authority for election requirements is in the hands of Congress, its statutes (the UOCAVA, the NVRA and the HAVA) do not require it, and the statutorily created EAC is required to go through a notice and

comment period and consult with the States before implementing any changes to the federal forms for voter registration. As to both of their challenges to §§ 2(a) and 3(d), the States are likely to succeed on the merits.

The States are also reasonably likely to succeed as to their challenge to § 2(d) of the Executive Order, which requires the head of each voter registration agency to assess citizenship prior even to providing the federal voter registration form to enrollees of public assistance agencies. Defendants cannot point to any source of authority for the President to impose this requirement on the States, particularly where the Elections Clause gives power over federal elections to Congress, and, in acting on that authority, Congress established the EAC to prescribe rules and regulations for elections and the NVRA requires voter registration agencies, including all offices in the States that provide public assistance, to distribute the federal voter registration form.

As to §§ 7(a) and 7(b), the States have standing to challenge both provisions (unlike the DC Court found as to the private parties in that case) and these challenges are ripe for consideration. Pre-enforcement review of a threatened government action is appropriate if the threat of enforcement is sufficiently imminent. This is particularly true where the government has suggested that it could take civil and criminal enforcement action against the Ballot Receipt States for purported violation of the Election Day statutes. As to the merits of the challenge to § 7(a), there is nothing in the text of the Election Day statutes that bars the Ballot Receipt States from counting ballots received in accordance with their ballot receipt laws or that provides for civil enforcement or criminal action by the Attorney General against the Ballot Receipt States. Even if the Attorney General could take some other actions to enforce the Executive Branch's interpretation of the Election Day statutes (which is beyond what the States challenge here), that does not include civil or criminal enforcement action against the thirteen Ballot Receipt States under the current statutory

scheme. As to the challenge to § 7(b), the HAVA does not condition election funding to States to their ballot receipt deadline and the President does not have the authority to direct the EAC to impose such a condition. Accordingly, the States are likely to succeed on the merits of this challenge.

The States have also shown the risk of irreparable harm in the absence of an injunction where the challenged sections of the Executive Order would burden the States with significant efforts and substantial costs to revamp voter registration procedures and would impede the registration of eligible voters, many of whom lack ready access to documentary evidence of citizenship (e.g., U.S. passport and other forms of identification that reflect citizenship). In light of the likelihood of success on the merits of their challenges to these aforementioned sections of the Executive Order, the risk of irreparable harm in the absence of the relief sought and having considered the balance of equities and the public interest in granting such relief, the Court **ALLOWS** the States' motion for a preliminary injunction.

II. Background

The Constitution's Elections Clause empowers states to prescribe the "Times, Places, and Manner of holding" congressional elections. U.S. Const. art. I, § 4, cl. 1. "[T]hese comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes" among other issues. Smiley v. Holm, 285 U.S. 355, 366 (1932). The Elections Clause empowers Congress to "make or alter" state election laws. U.S. Const. art. I, § 4, cl. 1. "In practice, the Clause functions as 'a default provision; it invests the States with responsibility for the mechanics of congressional elections, but only so far as Congress declines to pre-empt state legislative choices.'" Arizona v. Inter Tribal Council of

Arizona, Inc., 570 U.S. 1, 9 (2013) (“ITCA”) (quoting Foster v. Love, 522 U.S. 67, 69 (1997)). For presidential elections, the Electors Clause provides States with the primary authority to decide how electors are chosen. U.S. Const. art. II, § 1, cl. 2.

The Constitution does not grant the President any specific powers over elections. Rather, the Constitution vests the President with “executive Power” and commands him to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, §§ 1, 3. The President “plays no direct role in the process” of appointing electors, “nor does he have authority to control the state officials who do.” Trump v. United States, 603 U.S. 593, 627 (2024). As the Supreme Court has observed, “the President’s power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker.” Medellín v. Texas, 552 U.S. 491, 526-27 (2008) (quoting Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 587 (1952)).

A. Existing Federal Law

1. The Uniform Overseas Citizens Absentee Voting Act (“UOCAVA”)

In the exercise of its constitutional authority, Congress has adopted a comprehensive scheme regarding voter registration and federal elections. In 1986, Congress enacted the UOCAVA to streamline registration and voting rules for members of the military and for U.S. citizens living abroad. 52 U.S.C. §§ 20301 *et seq.* The UOCAVA provides for the creation of “an official post card form, containing both an absentee voter registration application and an absentee ballot application” and requires States to use the prescribed form. *Id.* §§ 20301(b)(2), 20302(a)(4). The UOCAVA does not include a documentary proof of citizenship requirement, but requires that voters are citizens and verifies their citizenship through attestation. Federal Post Card Application (FPCA), <https://www.fvap.gov/uploads/FVAP/Forms/fpca.pdf> (last visited June 12, 2025).

2. *The National Voter Registration Act (“NVRA”)*

Seven years later, in 1993, Congress, recognizing that “the right of citizens of the United States to vote is a fundamental right,” enacted the NVRA to “establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office,” make it possible for federal, state and local governments to implement its provisions to enhance voter participation by eligible citizens, “protect the integrity of the electoral process” and “ensure that accurate and current voter registration rolls are maintained.” 52 U.S.C. § 20501(a), (b). The “NVRA’s primary emphasis is on simplifying the methods for registering to vote in federal elections.” Colón-Marrero v. Vélez, 813 F.3d 1, 10 n.13 (1st Cir. 2016); see 52 U.S.C. § 20506(a)(2)-(3).

As part of its effort to enhance voter participation, the NVRA established baseline voter registration procedures which every state must implement, alongside “any other method of voter registration provided for under State law.” 52 U.S.C. § 20503(a). Specifically, the NVRA requires states to establish procedures to allow voters to register by mail, in tandem with a driver’s license application or at designated voter registration agencies. Id. Designated voter registration agencies must include “all offices in the State that provide public assistance,” “all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities” and other offices designated by the state. Id. § 20506(a)(2)-(3).

As relevant here, the NVRA requires the development of a mail voter registration application form for elections for Federal office (the “Federal Form”), which “may require only such identifying information . . . and other information . . . as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” Id. § 20508(b)(1). Citizenship is an eligibility requirement for which the Federal Form requires attestation. Id. § 20508(b)(2). States subject to the NVRA

“shall accept and use” the Federal Form. Id. § 20505(a)(1). The NVRA requires that certain federal and state agencies (“voter registration agencies”) distribute the Federal Form. Id. §§ 20506(a)(4)(i), (a)(6). “[A]ll offices in the State that provide public assistance” and “all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities” must be designated as voter registration agencies. Id. § 20506(a)(2)(A)-(B).

Congress initially gave responsibility for promulgating the Federal Form to the Federal Election Commission (“FEC”), an “inherently bipartisan” six-member body. See Fed. Election Comm’n v. Democratic Senatorial Campaign Comm., 454 U.S. 27, 37 (1981). In 2002, Congress passed the Help America Vote Act (“HAVA”), which created the EAC, a multi-member, bipartisan, “independent entity” and transferred responsibility for the Federal Form to this body. 52 U.S.C. §§ 20508(a), 20921, 20923, 20928.

The contents of the Federal Form are set by regulation, 11 C.F.R. § 9428.4, and alterations to the Federal Form require notice-and-comment rulemaking, 5 U.S.C. § 553. The NVRA also requires the EAC to consult “with the chief election officers of the States” on changes to the Federal Form. 52 U.S.C. § 20508(a)(2). “States retain the flexibility to design and use their own registration forms, but the Federal Form provides a backstop: [n]o matter what procedural hurdles a State’s own form imposes, the Federal Form guarantees that a simple means of registering to vote in federal elections will be available.” ITCA, 570 U.S. at 12.

3. *The HAVA*

In addition to creating the EAC, see 52 U.S.C. §§ 20508(a), 20921, 20923, 20928, the HAVA also established a funding program to support states’ administration of elections and required that the EAC distribute the associated funds in accordance with statutory mandates. These payments include “requirements payments,” which support compliance with federal standards for

election systems and other improvements, 52 U.S.C. §§ 21001, 21002, 21003, election improvement funds, id. § 20901, and election security matching grants, Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 348, 562 (2018); Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317, 2461 (2019); Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49, 268 (2022); Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459, 4679 (2022); Further Consolidated Appropriations Act, 2024, Pub. L. 118-47, 138 Stat. 460, 549 (2024) (each appropriating funds for election security grants to be administered under the election improvement funding statute, 52 U.S.C. §§ 20901, 20903, 20904); see U.S. Elections Assistance Comm’n, Election Sec. Grant, <https://www.eac.gov/grants/election-security-funds> (last visited June 12, 2025). For example, in March of this year, Congress appropriated an additional \$15 million for election security grants. Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No., 119-4, 139 Stat. 9, 10-11, 26 (2025).

B. The Executive Order

The States here seek to enjoin the sections of the Executive Order which would require the EAC and the Secretary of Defense to implement a documentary proof of citizenship requirement with the federal voter registration form, would require voter registration agencies to assess citizenship before distributing the Federal Form to enrollees in public assistance programs, would prohibit Plaintiff States from counting ballots timely cast but received shortly after Election Day and would condition statutorily mandated funds under the HAVA upon compliance with an Election Day ballot receipt rule.

Specifically, the States challenge: (1) § 2(a) of the Executive Order, which instructs the EAC to require “documentary proof of United States citizenship, consistent with 52 U.S.C.

[§] 20508(b)(3),” and to record information concerning that documentation; (2) § 2(d) of the Executive Order, which provides that “[t]he head of each Federal voter registration executive department or agency . . . under the [NVRA], shall assess citizenship prior to providing a Federal voter registration form to enrollees of public assistance programs”; (3) § 3(d) of the Executive Order, which commands the Secretary of Defense to update the Federal Post Card Application provided under the UOCAVA to require documentary proof of citizenship and “proof of eligibility to vote in elections in the State in which the voter is attempting to vote”; (4) § 7(a) of the Executive Order, which orders the Attorney General to “take all necessary action to enforce” federal statutes setting the date of federal elections against States that “violate these provisions by including absentee or mail-in ballots received after Election Day in the final tabulation of votes for the appointment of Presidential electors and the election of members of the United States Senate and House of Representatives,” and (5) § 7(b) of the Executive Order, which requires the EAC to condition “any available funding to a State” upon its compliance with “a uniform and nondiscriminatory ballot receipt deadline of Election Day for all methods of voting” Exec. Order No. 14248, 90 Fed. Reg. 14,005 (Mar. 25, 2025).¹ On April 11, 2025, numerous States’ chief election officials received a letter from the EAC’s Executive Director citing the Executive Order’s instruction that the Federal Form require documentary proof of citizenship and seeking feedback pursuant to the consultation requirements of the NVRA. D. 76-3 at 17-18 (April 11 letter); D. 76-3 ¶ 8 (attesting to California’s receipt of April 11 letter).

The lawfulness of §§ 2(a), 2(d), 7(a) and 7(b) has already been considered by the United States District Court for the District of Columbia (the “DC Court”), in consolidated cases brought

¹ Plaintiffs’ complaint also purports to challenge § 4(a) of the Executive Order, D. 1 ¶ 49(d), but Plaintiffs raise no such challenge in their motion for preliminary injunction, D. 75, and the Court, therefore, does not consider the lawfulness of this section at this juncture.

by private parties comprised of two groups of nonpartisan, not-for-profit organizations, including the League of United Latin American Citizens, the League of Women Voters Education Fund and several national organizations affiliated with the Democratic Party, including the Democratic National Committee (“DNC”), the Democratic Governors Association (“DGA”), the Democratic Senatorial Campaign Committee (“DSCC”) and the Democratic Congressional Campaign Committee (“DCCC”). League of United Latin Am. Citizens v. Exec. Off. of the President, No. 25-cv-0946-CKK, 2025 WL 1187730 (D.D.C. Apr. 24, 2025) (“LULAC”). The Plaintiffs before the DC Court sought to preliminarily enjoin enforcement of §§ 2(a), 2(b), 2(d), 7(a) and 7(b) of the Executive Order. Id. at *1. On April 24, 2025, the DC Court granted the injunction as to §§ 2(a) and 2(d) of the Executive Order, but denied relief as to §§ 2(b), 7(a) and 7(b). Id. at *63. As to §§ 7(a) and 7(b), the sections that concern ballot counting (which are parts of the Executive Order that the States challenge here), the DC Court concluded that the plaintiffs before it were not the proper parties to challenge these sections. Id. at *52, *56 (noting that “the most natural parties to seek an injunction against enforcement under [§] 7(a) are the States themselves, not the Democratic Party Plaintiffs” and observing that the standing of States to challenge § 7(b) presents “a question for another day”).

III. Procedural History

The States filed this action on April 3, 2025. D. 1. On April 23, 2025, Defendants moved to transfer and consolidate this case with the matter before the DC Court, or in the alternative, stay the matter pending resolution of the matter before the DC Court. D. 62. On May 5, 2025, following the DC Court’s ruling on the preliminary injunction in its case, the States moved to preliminarily enjoin §§ 2(a), 2(d), 3(d), 7(a) and 7(d) of the Executive Order, D. 75. On May 9, 2025, the Court denied the Executive Branch’s motion to transfer and consolidate and denied the alternate motion

to stay this matter. D. 79. The Court heard oral argument from the parties on the motion for preliminary injunction on June 6, 2025, and took the matter under advisement. D. 103.²

IV. Standard of Review

In deciding whether to grant a preliminary injunction, the Court must assess “(1) the [movant]’s likelihood of success on the merits; (2) the potential for irreparable harm in the absence of an injunction; (3) whether issuing an injunction will burden [the nonmovant] less than denying an injunction would burden [the movant]; and (4) the effect, if any, on the public interest.” González-Droz v. González-Colon, 573 F.3d 75, 79 (1st Cir. 2009) (quoting Bos. Duck Tours, LP v. Super Duck Tours, LLC, 531 F.3d 1, 11 (1st Cir. 2008)). “The sine qua non of th[e] four-part inquiry” governing motions for preliminary injunctions is the first factor: “likelihood of success on the merits.” New Comm. Wireless Servs., Inc. v. SprintCom, Inc., 287 F.3d 1, 9 (1st Cir. 2002). A preliminary injunction is an “extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22 (2008) (quoting Mazurek v. Armstrong, 520 U.S. 968, 972 (1997) (*per curiam*)). Accordingly, the Court turns to this analysis as to each of the States’ challenges.

V. Discussion

A. The States are the Proper Parties to Seek the Injunctive Relief Sought Here

While the consolidated matters before the DC Court raised questions concerning the standing of private parties to seek to enjoin the Executive Order, see LULAC, 2025 WL 1187730,

² The Court has received and considered three briefs from *amici curiae*. Local election officials from thirty jurisdictions, and a bipartisan group of former secretaries of state have filed briefs in support of the States’ motion for a preliminary injunction. D. 87; D. 100. The Republican Party of Arizona also has filed an *amicus curiae* brief to contend that regardless of whether the President can direct the EAC’s activity, the EAC has the statutory authority to require documentary proof of citizenship. D. 101.

at *21-25, *31-35, *46-48, *50-56, the States’ standing to seek an injunction as to §§ 2(a), 2(d), 3(d), 7(a) and 7(b) presents a different question. “Article III confines the federal judicial power to the resolution of ‘Cases’ and ‘Controversies.’” TransUnion LLC v. Ramirez, 594 U.S. 413, 423 (2021). “Such a case or controversy exists only when the plaintiff demonstrates such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends.” Gustavsen v. Alcon Lab’ys., Inc., 903 F.3d 1, 6-7 (1st Cir. 2018) (citations and internal quotation marks omitted). “For there to be a case or controversy under Article III, the plaintiff must have a ‘personal stake’ in the case – in other words, standing.” Ramirez, 594 U.S. at 423 (citation and internal quotation marks omitted). To establish standing, “a plaintiff must show (i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief.” Id. “If the plaintiff does not claim to have suffered an injury . . . there is no case or controversy for the federal court to resolve.” Id. (citation and internal quotation marks omitted). In addition, a plaintiff must establish that the issues are ripe for review. “[T]he question of ripeness turns on the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration.” Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm’n, 461 U.S. 190, 201 (1983) (internal citation and quotation marks omitted).

Here, the Executive Branch argues that §§ 2(a), 3(d) and 7(a) are not ripe for consideration, because they do not threaten a sufficiently imminent injury.³ D. 91 at 4-10. Defendants do not contest that once enacted, these and the other challenged sections of the Executive Order would

³ At oral argument, the Executive Branch confirmed that they only challenge the ripeness of the States’ challenges to §§ 2(a), 3(d) and 7(a). D. 104 at 25.

injure states by, at a minimum, imposing compliance costs and jeopardizing a federal funding source. See generally D. 91. Nor do they contest that an order enjoining these sections could prevent each of these harms.⁴ Id. Accordingly, the States are the appropriate parties to seek this injunction, but the Court will address the contested issue of ripeness as to §§ 2(a), 3(d) and 7(a) of the Executive Order in the discussion that follows.

B. Likelihood of Success on the Merits

I. Section 2(a)

The States seek to enjoin the implementation of § 2(a) of the Executive Order. That section provides:

(i) Within 30 days of the date of this order, the [EAC] shall take appropriate action to require, in its national mail voter registration form issued under 52 U.S.C. [§] 20508:

(A) documentary proof of United States citizenship, consistent with 52 [§] U.S.C. 20508(b)(3); and

(B) a State or local official to record on the form the type of document that the applicant presented as documentary proof of United States citizenship, including the date of the document's issuance, the date of the document's expiration (if any), the office that issued the document, and any unique identification number associated with the document as required by the criteria in 52 U.S.C. [§] 21083(a)(5)(A), while taking appropriate measures to ensure information security.

(ii) For purposes of subsection (a) of this section, “documentary proof of United States citizenship” shall include a copy of:

(A) a United States passport;

⁴ The States move for a preliminary injunction against all Defendants except for the President. D. 75 at 2. In general, courts have “no jurisdiction . . . to enjoin the President in the performance of his official duties.” Franklin v. Massachusetts, 505 U.S. 788, 803 (1992). Accordingly, here, the States seek to enjoin members of the Executive Branch from carrying out the Executive Order. Id.

- (B) an identification document compliant with the requirements of the REAL ID Act of 2005 (Pub. L. 109–13, Div. B) that indicates the applicant is a citizen of the United States;
- (C) an official military identification card that indicates the applicant is a citizen of the United States; or
- (D) 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.

Exec. Order No. 14248 § 2(a).

a) The Challenge to § 2(a) is Ripe

As an initial matter, the Executive Branch contends that § 2(a) is not ripe for review because it “contemplates that future action is necessary—the EAC still needs to go through its rulemaking process before any changes to the federal form can be finalized.” D. 91 at 6. “The question of ripeness turns on the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration.” Pac. Gas, 461 U.S. at 201 (internal citation and quotation marks omitted).

“The critical question concerning fitness for review is whether the claim involves uncertain and contingent events that may not occur as anticipated, or indeed may not occur at all.” Mass. Ass’n of Afro-Am. Police, Inc. v. Bos. Police Dep’t, 973 F.2d 18, 20 (1st Cir. 1992). The fitness for review prong is more easily satisfied when it “presents an issue that is ‘purely legal, and will not be clarified by further factual development.’” Susan B. Anthony List v. Driehaus, 573 U.S. 149, 167 (2014) (quoting Thomas v. Union Carbide Agric. Prods. Co., 473 U.S. 568, 581 (1985)). This prong is satisfied here, where, as the DC Court observed, § 2(a) of the Executive Order imposes a deadline (which effectively was April 24, 2024) and dictates the “precise contours of [its]

requirement.” LULAC, 2025 WL 1187730, at *27. “Section 2(a) does not merely ‘authorize’ the EAC to change the Federal Form, or suggest that it ‘consider’ doing so. Instead, it purports to require the EAC to amend the Federal Form and dictate[s] the precise contents of the new rule.” Id. at *28 (citations omitted). Indeed, the EAC has already started to implement this requirement, D. 76-3 at 4 (noting that “[s]ince the [Executive Order] was issued, the EAC has communicated to states that it is moving forward with implementing [it]”); see, e.g., D. 76-3 at 17-18 (April 11 letter), and the Executive Branch represented to the DC Court that the administrative process prior to implementation will address only technical details. See D. 76-2 at 5-9.

The hardship prong is also met here. “[R]unning a statewide election is a complicated endeavor” requiring a “massive coordinated effort” and “rules of the road” which are “clear and settled.” Democratic Nat’l Comm. v. Wis. State Legislature, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring). In addition, § 2(a) would force a diversion of state resources to implement its mandate.⁵ As this Court later discusses in more detail with respect to the irreparable harm requirement, and the States illustrate in their declarations, the Executive Order will require the States to immediately update their voter registration processes and databases, issue new guidance, conduct trainings and “fund and mount public education campaigns to counter confusion and disenfranchisement resulting from the changes.” D. 96 at 9. Each of these responses has associated costs, and an imminently threatened economic injury can ground a federal court’s jurisdiction. Katz

⁵ Relying upon the Supreme Court’s decision in FDA v. All. for Hippocratic Med., 602 U.S. 367, 370 (2024), the Executive Branch suggests that an organization’s diversion of resources in response to a defendant’s actions does not routinely establish standing. D. 91 at 25 n.8. The Executive Branch does not, however, cite any cases applying this principle to a lawsuit brought by states against the federal government. Id. Even if it did, actions directly interfering with an organization’s core mission suffice to ground standing, Havens Realty Corp v. Coleman, 455 U.S. 363, 379 (1982), and election administration is an integral function of the state, see U.S. Const. art. I, § 4, cl. 1.

v. Pershing, LLC, 672 F.3d 64, 76 (1st Cir. 2012); Dep’t of Commerce v. New York, 588 U.S. 752, 766-67 (2019); Massachusetts v. U.S. Dep’t of Health & Hum. Servs., 923 F.3d 209, 222-27 (1st Cir. 2019) (concluding a state had standing when the “likely chain of events” resulted in its imminent fiscal injury). Accordingly, the challenge to § 2(a) is ripe for consideration.

b) Merits as to § 2(a) Challenge

As to merits, the DC Court has already enjoined enforcement of this section as to each of the defendants named here, LULAC, 2025 WL 1187730, at *25-44, and this Court is persuaded by its reasoning. In short, § 2(a) “purports to require the EAC to amend the Federal Form” and precisely dictates what should be included, id. at *28, but “neither the Constitution nor the NVRA grants the President the authority to direct the EAC to change the content of the Federal Form,” id. at *35. Rather, the Elections Clause of the Constitution provides that the “Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations” U.S. Const. art. I, § 4, cl. 1. In other words, only Congress has the power to adjust state election rules. It has done so through its enactment of the NVRA, which as discussed, includes a mandatory procedure requiring States to “accept and use” the Federal Form. 52 U.S.C. § 20505(a)(1).

The Federal Form “may require only such” information “as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1). The NVRA mandates a specific procedure to determine what information is necessary for the Federal Form, requiring that the agency responsible for maintaining it set that content “in consultation with the chief election officers of the States” and through notice and comment rulemaking. 52 U.S.C.

§ 20508(a)(1)-(2). On April 16, 2025, the EAC’s Executive Director sent an email to state officials instructing that new provisions are “required” and seeking “input” on how the States “would propose to implement” the President’s policy. D. 76-3 ¶ 8. Such consultation appears to concern only the implementation of the President’s policy and not the policy itself, and, therefore, does not appear to be in line with the consultation Congress had envisioned. See D. 100 at 21-22; Lujan v. Defs. of Wildlife, 504 U.S. 555, 585 (1992) (Stevens, J., concurring) (describing congressionally required consultation between agencies and explaining that “if Congress has required consultation . . . we must presume that such consultation will have a serious purpose that is likely to produce tangible results”); Campanale & Sons, Inc. v. Evans, 311 F.3d 109, 118 (1st Cir. 2002) (interpreting “consultation” in the context of Atlantic Coastal Act and explaining that it “must mean something more than general participation . . . otherwise the consultation requirement would be rendered nugatory”).

Moreover, when Congress enacted the HAVA, it assigned responsibility for the Federal Form to the EAC, an independent and bipartisan panel, and required that the EAC can revise the Federal Form “only with the approval of at least three” of its four members. 52 U.S.C. §§ 20921-20923, 20928. Section 2(a) flouts this procedure and is thus “contrary to the manifest will of Congress, as expressed in the text, structure, and context of the NVRA and HAVA.” LULAC, 2025 WL 1187730, at *37.

The Executive Branch insists that this is not the case, arguing that Plaintiffs misread the Executive Order’s command to “take appropriate action to require . . . documentary proof of United States citizenship,” by ignoring the words “take appropriate action” and focusing only upon the words “to require.” D. 91 at 12. They insist that here, “‘to require’ must be read in conjunction with ‘take appropriate action,’ and the appropriate action required here involves ‘consult[ing] with

the chief election officers of the States,’ to ‘prescribe . . . regulations’ to ‘develop a mail voter registration application form for elections for Federal office.’” Id. (quoting 52 U.S.C. § 20508(a)). The Executive Branch was, however, much firmer before the DC Court, where it characterized the documentary proof of citizenship requirement as “binary,” D. 76-2 at 5, and explained that even after consultation with the states and notice and comment rulemaking, documentary proof of citizenship would have to be required, id. at 6, 9. Given this position, the Executive Branch is judicially estopped from suggesting otherwise here. New Hampshire v. Maine, 532 U.S. 742, 755 (2001) (holding the State of New Hampshire judicially estopped from taking a position inconsistent from its position in a previous case which the Court there had accepted). By purporting to preordain the outcome of these required procedures, the Executive Order renders them meaningless. See LULAC, 2025 WL 1187730, at *40-41 (concluding same).

The Executive Branch also suggests that “[t]he EAC exercises executive power when it carries out [its] duties and is therefore subject to the administrative control of the President.” D. 91 at 11. As the DC Court explained, this argument “is untethered from precedent and unsupported by even a maximalist view of ‘the executive Power’ under our Constitution.” LULAC, 2025 WL 1187730, at *39 (citing U.S. Const. art. II, § 1, cl. 1). While the Vesting Clause grants the President some supervisory authority over subordinate executive officials, that authority is not absolute and restrictions upon that authority that do “not unduly interfere with the functioning of the Executive Branch” are upheld. Seila L. LLC v. Consumer Fin. Prot. Bureau, 591 U.S. 197, 217 (2020). Here, where “the President has no constitutional duty to prescribe the content of election regulations,” see LULAC, 2025 WL 1187730, at *40, the mandate of the Executive Order to the EAC, a bipartisan and independent entity, is such an undue interference.

Further, as the DC Court observed, “when enacting the NVRA, Congress considered and rejected a proposal that would have allowed States to impose exactly the kind of documentary proof of citizenship requirement that the President’s Executive Order now directs the EAC to adopt, concluding that such a requirement was ‘not necessary or consistent with the purposes of [the] Act.’” LULAC, 2025 WL 1187730, at *37 (alteration in original) (quoting H.R. Rep. No. 103-66, at 23 (1993) (Conf. Rep.)). The Supreme Court has made this point clear and has concluded that the NVRA’s requirement that states “accept and use” the Federal Form preempts an Arizona state-law requirement that officials “reject” the application of a prospective voter who submits a completed Federal Form unaccompanied by documentary evidence of citizenship. ITCA, 570 U.S. at 14-15.⁶ In short, § 2(a)’s instruction to add a documentary proof of citizenship requirement to the Federal Form conflicts with the will of Congress, rendering the President’s power “at its lowest ebb.” Youngstown, 343 U.S. at 637 (Jackson, J., concurring). “The President’s power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself.” Id. at 585. Congress, not the President, has the ultimate constitutional authority over elections.

The question then is whether § 2(a) can lawfully be interpreted more narrowly through its saving clause, i.e. that “[t]his order shall be implemented consistent with applicable law and subject to the availability of appropriations.” Exec. Order No. 14248 § 11(b). The Supreme Court has “long rejected interpretations of sweeping saving clauses that prove ‘absolutely inconsistent with the provisions of the act’ in which they are found.” Atl. Richfield Co. v. Christian, 590 U.S. 1, 23 (2020) (quoting AT&T Co. v. Cent. Off. Tel., Inc., 524 U.S. 214, 228 (1998)). “If ‘consistent with

⁶ Defendants and one of *amici curiae*, the Republican Party of Arizona, assert that the EAC would, on its own accord, have the power to adopt a documentary proof of citizenship requirement. D. 91 at 13; D. 101 at 9-17; see D. 96 at 17-18 (responding to same). This issue is not before the Court on this preliminary injunction, and the Court, therefore, does not reach it. See LULAC, 2025 WL 1187730, at *38 (declining to consider same).

law’ precludes a court from examining whether the Executive Order is consistent with law, judicial review is a meaningless exercise, precluding resolution of the critical legal issues.” City & Cnty. of San Francisco v. Trump, 897 F.3d 1225, 1240 (9th Cir. 2018). “In other words, the act cannot be held to destroy itself” through a saving clause. Tex. & Pac. Ry. Co. v. Abilene Cotton Co., 204 U.S. 426, 446 (1907). Here, the saving clause cannot shield § 2(a) from review because that section unambiguously requires the EAC to implement a documentary proof of citizenship requirement as part of the Federal Form. The saving clause “does not and cannot override [this] meaning.” City & Cnty. of San Francisco, 897 F.3d at 1240; see LULAC, 2025 WL 1187730, at *28 (concluding same). The States’ separation of powers challenge to § 2(a) is, therefore, likely to succeed on the merits.

2. *Section 3(d)*

The States also move to enjoin the implementation of § 3(d) of the Executive Order. That section provides:

(d) The Secretary of Defense shall update the Federal Post Card Application, pursuant to the [UOCAVA] to require:

(i) documentary proof of United States citizenship, as defined by section 2(a)(ii) of this order; and

(ii) proof of eligibility to vote in elections in the State in which the voter is attempting to vote.

Exec. Order No. 14248 § 3(d).

a) The Challenge to § 3(d) is Ripe

The Executive Branch argues that this section is not ripe for review because the Secretary of Defense has not yet updated the Federal Post Card Application and the Executive Order does not establish a deadline for it to do so. D. 91 at 9. In addition, both parties agree that “what proof of

eligibility might suffice, or how a UOCAVA voter might obtain such proof” have not yet been determined. D. 76 at 24; D. 91 at 9. Like § 2(a), however, § 3(d)’s command is clear: “[t]he Secretary of Defense shall update the Federal Post Card Application . . . to require . . . documentary proof of United States citizenship.” Exec. Order No. 14248 § 3(d). Even if the timeframe for implementation and the specific form of identification § 3(d) requires are yet to be determined, § 3(d) does not merely authorize or suggest a change in the Federal Post Card Application, it leaves no doubt that documentary proof of citizenship will be required. The fitness for review prong of the ripeness analysis is, therefore, satisfied. The hardship prong is similarly met with respect to § 3(d) because its implementation would force a diversion of state resources and could cast uncertainty upon the “massive coordinated effort” necessary to run state elections. See Democratic Nat’l Comm., 141 S. Ct. at 31 (Kavanaugh, J., concurring).

b) Merits as to § 3(d) Challenge

As to the likelihood of success on the merits, the “UOCAVA was passed in 1986 to protect the voting rights of military members, their families, and other United States citizens living overseas.” United States v. Alabama, 998 F. Supp. 2d 1283, 1286 (M.D. Ala. 2014), aff’d, 778 F.3d 926 (11th Cir. 2015). “By passing [the] UOCAVA, and later by strengthening its protections, Congress unequivocally committed to eliminating procedural roadblocks, which historically prevented thousands of service members from sharing in the most basic of democratic rights.” United States v. Alabama, 778 F.3d 926, 928 (11th Cir. 2015). Like the Federal Form, the Federal Post Card Application requires applicants to attest to their citizenship with a “standard oath,” signed under penalty of perjury. 52 U.S.C. § 20301(b)(7). This “standard oath” preempts state laws requiring “an oath or affirmation” from overseas voters. 52 U.S.C. § 20302(a)(5). The Executive Branch now insists that this “standard oath” is not a substitute for proof of eligibility. D. 91 at 24.

Rather, according to the Executive Branch, the standard oath is “merely a mechanism by which applicants are held accountable for the veracity of all statements they make in completing required application documents.” Id. (emphasis omitted).

The States assert that by mandating that the form is a postcard, “Congress necessarily precluded any requirement that an applicant submit documentation with the Form to federally register.” D. 76 at 24; see D. 96 at 18-19. A postcard is “a card . . . for mailing without an envelope and to which the sender must affix a stamp” (citing Postcard, Miriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/postcard> (last visited June 12, 2025)). Although 52 U.S.C. § 20301(b)(2) contains no express requirement “limit[ing] what kind of document requirements the Secretary of Defense may ‘prescribe,’” D. 91 at 23 (emphasis omitted), this Court cannot presume that Congress ignored the meaning of “postcard” when it employed it in the statute. See TRW Inc. v. Andrews, 534 U.S. 19, 31 (2001) (observing that “[i]t is ‘a cardinal principle of statutory construction’ that ‘a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant’” (quoting Duncan v. Walker, 533 U.S. 167, 174 (2001))); United States v. Abreu, 106 F.4th 1, 12 (1st Cir. 2024) (noting that statutes must be interpreted “based on their plain and ordinary meaning”).⁷

In addition, as the States note, D. 96 at 20, the UOCAVA specifically enumerates eleven “Duties of [the] Presidential Designee.” 52 U.S.C. § 20301(b). These include “consult[ing] State and local election officials in carrying out” the Act and “prescrib[ing] a suggested design for absentee ballot mailing envelopes.” 52 U.S.C. § 20301(b)(1), (4). None of the enumerated duties

⁷ The Executive Branch notes that “the [Federal Post Card Application] already contemplates the submission of additional information or documents in the case of Arizona, Vermont, and Puerto Rico,” D. 91 at 24, but these state provisions affect only whether a voter can obtain a ballot for state elections and they have no impact on a voter’s ability to obtain a ballot for federal selections, see D. 96 at 19; Alabama, 998 F. Supp. 2d at 1290-91.

contemplates a documentary proof of citizenship requirement. See City of Providence v. Barr, 954 F.3d 23, 31 (1st Cir. 2020) (noting that “[w]hen an executive agency administers a federal statute, the agency’s power to act is ‘authoritatively prescribed by Congress’” (citation omitted)).

Adding a documentary proof of citizenship requirement to the Federal Post Card Form also appears to be contrary to the will of Congress, which sought to remove procedural roadblocks which had prevented American citizens living abroad from voting. See Alabama, 778 F.3d at 928; D. 76 at 24. The Executive Branch denies that § 3(d) creates procedural roadblocks “because it involves existing voter qualifications that UOCAVA voters are already required to meet—citizenship and eligibility.” D. 91 at 23. But many United States citizens who are otherwise eligible to vote lack access to the citizenship documents the Executive Order requires and cannot easily obtain them. See, e.g., D. 76-14 ¶ 12 (observing that, according to the State Department, only “approximately 50% of Americans have passports”); D. 76-3 ¶ 21 (noting that “many people might not have their [documentary proof of citizenship] readily available, the [documentary proof of citizenship] might not match their current identification due to a name change . . . or the required documents may have been lost or destroyed”); D. 76-6 ¶ 8 (stating that obtaining “the proper supporting documentation can take weeks or even months to acquire”).

In sum, neither the Constitution nor any statute grants the President the authority to enact § 3(d), and its mandate appears to be in conflict with the will of Congress, which is duly authorized to act in this area, and has acted through its enactment of the UOCAVA. Nor can § 3(d) be interpreted through the lens of the saving clause because, like § 2(a), its command is clear: “[t]he Secretary of Defense shall update the Federal Post Card Application . . . to require . . . documentary proof of United States citizenship.” Exec. Order No. 14248 § 3(d). Interpreting § 3(d) not to require such proof of citizenship would override its meaning. See City & Cnty. of San Francisco,

897 F.3d at 1240. The States’ challenge to this provision of the Executive Order is, therefore, likely to succeed on the merits.

3. Section 2(d)

The States also challenge as *ultra vires* § 2(d), which requires the head of each federal voter registration agency within the meaning of the NVRA to “assess citizenship prior to providing” the Federal Form to “enrollees of public assistance programs.” Exec. Order No. 14248 § 2(d); see D. 76 at 24-25. Per the NVRA, federal voter registration agencies include “all offices in the State that provide public assistance” and “all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities” and other offices designated by the state. 52 U.S.C. § 20506(a)(2)-(3). The NVRA requires these voter registration agencies distribute the Federal Form, Id. § 20506(a)(1), (a)(4), (a)(6), for voter registration with no pre-assessment of citizenship before doing so.

The Executive Branch suggests § 2(d)’s mandate is appropriate and lawful, insisting that “unlike virtually all other provisions of the Constitution, the Elections Clause gives Congress the power to ‘conscript state agencies to carry out’ federal mandates.” D. 91 at 14 (quoting Gonzalez v. Arizona, 677 F.3d 383, 391 (9th Cir. 2012) (en banc) aff’d sub nom., ITCA, 570 U.S. 1 (2013)). Exercising this authority, Congress established the EAC and charged it with “prescrib[ing] . . . regulations . . . necessary to . . . develop a mail voter registration application form for elections for Federal office.” 52 U.S.C. § 20508(a)(1), (2). Neither the Constitution nor the NVRA, however, affords the President the power to conscript states (here, voter registration agencies in the States that include public assistance agencies) to carry out his Executive Order mandates, or to direct the outcome of the EAC’s processes. As the Supreme Court has recognized, “States are not mere political subdivisions of the United States. State governments are neither regional offices nor

administrative agencies of the Federal Government.” New York v. United States, 505 U.S. 144, 188 (1992). Because the President, therefore, has no authority to command agencies to “assess citizenship prior to providing” the Federal Form to “enrollees of public assistance programs,” the States’ separation of powers argument is likely to succeed on the merits. Like §§ 2(a) and 3(d), § 2(d) cannot be more narrowly interpreted through the lens of the saving clause because its mandate to voter registration agencies to assess citizenship prior to providing the Federal Form is clear. City & Cnty. of San Francisco, 897 F.3d at 1240.

4. *Section 7(a)*

While the DC Court considered a challenge to §§ 7(a) and 7(b), it did not ultimately rule on the merits, as it determined the plaintiffs there, private parties, had no standing to challenge these sections. LULAC, 2025 WL 1187730, at *1, *52, *56. The States here raise such a challenge, and although the Executive Branch presses a ripeness objection, the Executive Branch does not otherwise dispute their standing to assert this challenge. D. 91 at 7-9, 16-22.

The Ballot Receipt States, California, Nevada, Massachusetts, Arizona, Colorado, Hawaii, Illinois, Maryland, Michigan, New Jersey, New Mexico, New York and Rhode Island maintain laws either allowing for the counting of ballots mailed on or before Election Day but received afterward, or laws allowing voters to cure timely-submitted ballots with minor technical problems such as a missed signature.⁸ The Ballot Receipt States move to preliminarily enjoin the implementation of § 7(a) of the Executive Order.

⁸ See Cal. Elec. Code § 3020(b); 10 Ill. Comp. Stat. 5/19-8, 5/18A-15; Mass. Gen. Laws ch. 54, § 93; Md. Elec. Law, § 11-302(c); Md. Code Regs. § 33.11.03.08(B)(4); Mich. Const. 1963, art. II, § 4(1)(b); Mich. Comp. Laws § 168.759a(18); Nev. Rev. Stat. § 293.269921(1)(b), (2); N.J. Stat. Ann. § 19:63-22(a); N.Y. Elec. Law §§ 8-412(1), 8-710(1); 17 R.I. Gen. Laws § 17-20-16. See Ariz. Rev. Stat. § 16-550; Cal. Elec. Code § 3019; Colo. Rev. Stat. § 1-7.5-107.3; Haw. Rev. Stat. § 11-106; 10 Ill. Comp. Stat. 5/19-8; Md. Elec. Law § 11-302; Mich. Comp. Laws § 168.766a;

“To achieve full compliance with the Federal laws that set the uniform day for appointing Presidential electors and electing members of Congress,” Exec. Order No. 14248 § 7(a) provides:

The Attorney General shall take all necessary action to enforce 2 U.S.C. [§] 7 and 3 U.S.C. [§] 1 against States that violate these provisions by including absentee or mail-in ballots received after Election Day in the final tabulation of votes for the appointment of Presidential electors and the election of members of the United States Senate and House of Representatives.

Id.

a) The Challenge to § 7(a) is Ripe

With respect to justiciability, pre-enforcement review of a threatened government action is appropriate if the government’s threat of enforcement is “sufficiently imminent.” Susan B. Anthony List, 573 U.S. at 159; see Rhode Island Ass’n of Realtors, Inc. v. Whitehouse, 199 F.3d 26, 30 (1st Cir. 1999). Here, the Executive Branch insists that the Attorney General can lawfully enforce § 7(a) “by, for example, sending letters to the Plaintiff States encouraging compliance with the President’s interpretation of 2 U.S.C. § 7 and 3 U.S.C. § 1.” D. 91 at 8. According to the Executive Branch, “[b]ecause the President can enforce these statutes ‘consistent with applicable law,’” as set forth in the Executive Order’s saving clause, § 11, “there is no risk of imminent harm.” Id. But the government has not indicated that the Attorney General will cabin enforcement of § 7(a) merely to sending such letters. Rather, it has suggested that the Attorney General can take “[a]ny number of actions, including criminal actions” to enforce this section. D. 76-2 at 10. “Where threatened government action is concerned, a plaintiff is not required to expose himself to liability before bringing suit to challenge the basis for the threat.” MedImmune, Inc. v. Genentech, Inc., 549 U.S. 118, 129 (2007) (emphasis omitted).

Nev. Rev. Stat. § 293.269927; N.J. Stat. Ann. § 19:63-17; N.M. Code R. § 1.10.12.16; N.Y. Elec. Law § 9-209; 410 Code R. § 20-00-23.12.

To the extent that the States must demonstrate that compliance with § 7(a) would pose hardship as they have with other ripeness challenges, they have done so. As this Court discusses below in more detail with respect to the showing of irreparable harm, and the States illustrate in their declarations, the Executive Order will require the States to undergo extensive training and voter education efforts related to ballot receipt deadlines. These efforts have associated costs, and an imminently threatened economic injury can ground a federal court’s jurisdiction. See Katz, 672 F.3d at 76. The States’ challenge to § 7(a) is, therefore, justiciable.

b) Merits as to § 7(a) Challenge

As to the merits, the Executive Branch insists that § 7(a) is consistent with the President’s duty to enforce statutes setting a uniform date for congressional and presidential elections (“Election Day statutes”). D. 91 at 16-22; 2 U.S.C. § 7 (setting “the day for the election” for congressional representatives); 3 U.S.C. §§ 1, 21(1) (setting a Presidential election day). According to the Defendants, “[c]ontinuing to receive ballots after Election Day means that the election is not final or consummated until after Election Day and therefore violates the Election Day statutes.” D. 91 at 18. In Republican National Committee. v. Wetzel, 120 F.4th 200 (5th Cir. 2024), a case invoked in the Executive Order and relied upon by the Defendants, the Fifth Circuit recently concluded that a Mississippi statute permitting the counting of ballots postmarked on or before the date of the election but received up to five days later was preempted by the Election Day statutes. Id. at 214. According to that court, “it makes no sense to say the electorate as a whole has made an election and finally chosen the winner before all voters’ selections are received.” Id. at 207. While the counting of ballots may conclude after Election Day, the Fifth Circuit held that “[r]eceipt of the last ballot . . . must occur on Election Day.” Id. at 209.

As other courts have noted, however, the text of the Election Day statutes require only that all votes are cast by Election Day, not that they are received by that date. 2 U.S.C. § 7; 3 U.S.C. §§ 1, 21(1); see Bost v. Illinois State Bd. of Elections, 684 F. Supp. 3d 720, 736 (N.D. Ill. 2023) (upholding an Illinois law allowing ballots postmarked on or before Election Day to be counted if received up to fourteen days thereafter, concluding that this provision “is facially compatible with the relevant federal statutes”), aff’d on other grounds, 114 F.4th 634 (7th Cir. 2024); Donald J. Trump for President, Inc. v. Way, 492 F. Supp. 3d 354, 372 (D.N.J. 2020) (concluding that “the Federal Election Day [s]tatutes are silent on methods of determining the timeliness of ballots” and, therefore, do not preempt a New Jersey law allowing ballots lacking a postmark to be counted if received within 48 hours after polls close). The logic behind such a ruling is simple: states that allow ballots received after Election Day to be counted still require that all votes are cast by Election Day, meaning a candidate’s “electoral fate is sealed at midnight on Election Day, regardless of the resources he expends after the fact.” Bost, 684 F. Supp. 3d at 733-34.

In addition, it is notable that Congress has not endorsed the Executive Branch’s present interpretation of Election Day statutes even as Congress “has amended other aspects of federal election administration within the last few years.” D. 76 at 28-29; see Bost, 684 F. Supp. 3d at 736 (noting that “[d]espite these ballot receipt deadline statutes being in place for many years in many states, Congress has never stepped in and altered the rules”). Indeed, the UOCAVA acknowledges the variances in state ballot receipt deadlines. 52 U.S.C. § 20303(b)(3) (setting the deadline for counting absentee ballots of overseas voters as the “deadline for receipt of the State absentee ballot under State law”); 52 U.S.C. § 20304(b)(1) (noting that officials must count UOCAVA ballots if received by “the date by which an absentee ballot must be received in order to be counted in the election”). “The case for federal pre-emption is particularly weak where Congress has indicated its

awareness of the operation of state law in a field of federal interest and has nonetheless decided to stand by both concepts and to tolerate whatever tension there [is] between them.” CTS Corp. v. Waldburger, 573 U.S. 1, 18 (2014) (alteration in original) (quoting Wyeth v. Levine, 555 U.S. 555, 575 (2009)). While “congressional silence, no matter how ‘clanging,’ cannot override the words of the statute,” Sedima, S.P.R.L. v. Imrex Co., Inc., 473 U.S. 479, 495 n.13 (1985), here, where the Executive Branch’s interpretation of the Election Day statutes is not reflective of their plain text, such silence is notable.

The Executive Branch insists that “states arbitrarily treat some people’s votes differently when they permit absentee votes to be received after Election Day,” noting that “[i]f postmarks are unenforced, for example, absentee voters have several extra days after Election Day to cast their votes.” D. 91 at 20. To underscore this threat, the Executive Branch points to an Illinois statute permitting certain ballots without postmarks to be counted even if they are received after Election Day. Id.; 10 Ill. Comp. Stat. Ann. 5/19-8(c). But the Executive Branch has offered no evidence suggesting that this statute, or others, result in the counting of votes cast after Election Day.⁹ Nor do they explain why this hypothetical risk justifies the potential disenfranchisement of voters whose ballots may not be received by Election Day, simply because of mailing delays outside of their control. See Wise v. Circosta, 978 F.3d 93, 100-01 (4th Cir. 2020) (concluding that a state court consent judgment extending the receipt deadline for ballots mailed on or before Election Day was clear and uniform and “impacts only an element outside the voters’ control: how quickly their ballots must be received to be counted”). Moreover, as the States note, “[t]he concern about counting non-postmarked ballots is also a red herring where the [Executive Order] prohibits the

⁹ The Executive Branch also cites concerns with voters recalling mail, D. 91, but as the States countered at oral argument, mail recalled should receive a fresh postmark if it is then resent. D. 104 at 41.

counting of any mail ballots received after Election Day, whether postmarked or not.” D. 96 at 23 n.11 (emphasis omitted).

Even if the Election Day statutes could be read to bar states from counting ballots received after Election Day, they do not authorize the President to enforce those statutes as he purports to through § 7(a). Contrary to the suggestion by the Executive Branch to the DC Court, D. 76-2 at 10, criminal enforcement actions do not appear to be authorized by the Election Day statutes, as the statutes do not define any criminal offenses and the Executive Branch cites no statute criminalizing the counting of ballots in accordance with a state’s ballot-receipt deadlines. See LULAC, 2025 WL 1187730, at *51 (concluding same). Civil enforcement actions likewise appear unavailable as the Election Day statutes, unlike other election-related statutes, do not include provisions allowing them. Id. & n.65.

Nevertheless, as the Executive Branch and the DC Court have noted, there are at least some lawful actions the Attorney General can take to “enforce” his interpretation of Election Day statutes. Id. For example, “[t]he Attorney General could ‘send letters’ to the States to ‘encourage compliance’ with the President’s interpretation of the Election Day [s]tatutes and to change their ballot-counting practices accordingly.” Id. Because the Executive Order requires the Attorney General to implement its mandates “consistent with applicable law,” Exec. Order No. 14248 § 11(b), the Court “cannot simply assume” that the Attorney General will disregard this directive with other undefined actions. LULAC, 2025 WL 1187730, at *51 (quoting Common Cause v. Trump, 506 F. Supp. 3d 39, 49 (D.D.C. 2020)) (further citation omitted). The Court will not enjoin all applications of § 7(a), but does, however, enjoin the Attorney General from taking civil or criminal enforcement actions to enforce § 7(a) against the thirteen Ballot Receipt States.

5. *Section 7(b)*

The States move for a preliminary injunction barring the implementation of § 7(b) of the Executive Order. Section 7(b), like § 7(a), is geared toward compliance with Election Day statutes and provides:

Consistent with 52 U.S.C. [§] 21001(b) and other applicable law, the Election Assistance Commission shall condition any available funding to a State on that State’s compliance with the requirement in 52 U.S.C. [§] 21081(a)(6) that each State adopt uniform and nondiscriminatory standards within that State that define what constitutes a vote and what will be counted as a vote, including that, as prescribed in 2 U.S.C. [§] 7 and 3 U.S.C. [§] 1, there be a uniform and nondiscriminatory ballot receipt deadline of Election Day for all methods of voting, excluding ballots cast in accordance with 52 U.S.C. [§] 20301 *et seq.*, after which no additional votes may be cast.

Exec. Order No. 14248 § 7(b).

a) Merits as to § 7(b) Challenge

The States argue that § 7(b) “unlawfully imposes extra-statutory conditions on congressionally authorized funds.” D. 76 at 30. “When an executive agency administers a federal statute, the agency’s power to act is ‘authoritatively prescribed by Congress.’” City of Providence, 954 F.3d at 31 (quoting City of Arlington v. FCC, 569 U.S. 290, 297 (2013)). “Any action that an agency takes outside the bounds of its statutory authority is *ultra vires*.” Id. Accordingly, an agency acts *ultra vires* if it attaches conditions to formula grants that are unauthorized by statute. Id. at 45; see City & Cnty. of San Francisco, 897 F.3d at 1231 (concluding that “under the principle of Separation of Powers and in consideration of the Spending Clause, which vests exclusive power to Congress to impose conditions on federal grants, the Executive Branch may not refuse to disperse the federal grants in question without congressional authorization”).

In City of Providence, 954 F.3d at 26, the First Circuit considered the validity of a DOJ policy conditioning states’ entitlement to federal formula grants for law enforcement activities upon

their assistance with federal enforcement of certain immigration-related laws. The court concluded that these funding conditions were unlawful, explaining that “the statutory formula [for the grants] is not so elastic: it simply does not allow the DOJ to impose by brute force conditions on . . . grants to further its own unrelated law enforcement priorities” and “[n]one of the challenged conditions falls within the compass of” those allowed by the statute. Id. at 34-35.

This holding controls here, where the HAVA does not allow the EAC to condition states’ funding upon their ballot receipt deadlines. Relevantly, to receive the payments outlined by the HAVA, “[e]ach State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.” 52 U.S.C. § 21081(a)(6); see 52 U.S.C. § 21003. The Executive Order references these statutory provisions, see Exec. Order No. 14248 § 7(b), but as the DC Court observed, “the reference to ‘uniform and nondiscriminatory standards’ appears to refer to uniformity within each State, not among the several States.” LULAC, 2025 WL 1187730, at *52 (citing H.R. Rep. 107-329, at 39 (2001)) (noting that “[a]s Americans learned in November and December 2000, a major part of the problem in Florida was that the vote-counting process was subjective and inconsistent, with definitions of what constitutes a vote varying from jurisdiction to jurisdiction”). In short, while the Defendants assert here that “Congress itself” set its condition upon funding through § 21081(a)(6) “as well as [through] the Election Day statutes,” D. 91 at 22, those statutes do not support this contention, just as they do not empower the EAC to add additional conditions to funding. See D. 76 at 30; City of Providence, 954 F.3d at 34-35.

Nor can the saving clause shield § 7(b) from review, because that section leaves no ambiguity that it would condition funding to states upon their adoption of a uniform ballot receipt deadline. Any other interpretation of that section would override its meaning. City & Cnty. of San

Francisco, 897 F.3d at 1240. Because § 7(b) thus purports to impose an extra-statutory condition on the disbursement of congressionally authorized funds, the States’ challenge to this section of the Executive Order is likely to succeed on the merits.

C. Irreparable Harm

The documentary proof of citizenship requirements, the assessment of citizenship prior to distribution of the Federal Form to enrollees in public assistance programs and the requirements related to ballot receipt deadlines pose the risk of irreparable harm to the States for at least three reasons: (1) compliance with these provisions will require significant time, cost and effort; (2) with respect to § 7(b), the States may lose funding based upon their non-compliance with what this Court has determined is likely an unconstitutional condition and (3) these provisions threaten to chill voter registration and participation – the antithesis of Congress’s purpose in enacting the UOCAVA and the NVRA.

1. The Time, Cost and Effort Associated with Compliance

The States have attested that the documentary proof of citizenship requirement and the corresponding recordkeeping requirements would force them to undertake the expensive and arduous task of updating their voter registration databases and their voter registration processes.¹⁰ The Chief of the Election Division of California, for example, has attested that adding new fields to the voter registration database could take up to one year and would require, among other things,

¹⁰ See D. 76 at 32; D. 76-3 ¶¶ 9-13, 25-27 (attesting for California); D. 76-4 ¶¶ 13, 20-27 (attesting for Nevada); D. 76-5 ¶¶ 9, 12, 16 (attesting for Massachusetts); D. 76-7 ¶¶ 10-12, 19 (attesting for New Jersey); D. 76-8 ¶¶ 6, 8-10, 20 (attesting for Michigan); D. 76-9 ¶¶ 22-40, 54-56 (attesting for Maryland); D. 76-10 ¶¶ 12-13, 24-25 (attesting for Arizona); D. 76-11 ¶¶ 9, 11-12, 22 (attesting for Maine); D. 76-12 ¶¶ 8-12, 23 (attesting for Vermont); D. 76-15 ¶¶ 5-7 (attesting for Cook County, Illinois); D. 76-16 ¶¶ 12-13, 15, 24-25 (attesting for Rhode Island); D. 76-17 ¶¶ 12, 15-16, 25-26 (attesting for Colorado); D. 76-18 ¶¶ 8-10, 12, 20 (attesting for New York); D. 76-19 ¶¶ 18-20, 38-40, 42 (attesting for Connecticut); D. 76-20 ¶¶ 8, 10-11 (attesting for New Mexico).

programming and testing new software, implementing the update and ensuring that all changes in the database are connected to all 58 California counties, each with its own election management systems. D. 76-3 ¶¶ 11-13, 16-17, 26. In Maryland, the documentary proof of citizenship requirement will also require the state to update its electronic security features to accommodate storage of personal identifying information. D. 76-9 ¶ 55.

The States have also shown that they would need to issue guidance related to the documentary proof of citizenship requirement, conduct trainings for agencies and local election officials and develop public education campaigns regarding registering to vote.¹¹ In Maryland, the concurrent development of training materials and guidance documents for a new documentary proof of citizenship requirement on the Federal Form would require “35-40% of [its election] agency’s full time resources and 75% of [its] contractual resources.” D. 76-9 ¶ 41. In New York, this effort is expected to be “all consuming” and will require the concurrent development of “new materials and guidance documents for use by state election officials,” none of which has “been contemplated in any state or local budgetary processes.” D. 76-18 ¶¶ 11-15, 22. The same is true with the implementation of the § 2(d) requirement that voter registration agencies assess citizenship before distributing the Federal Form to enrollees in public assistance programs. D. 76 at 34. As the States have explained, such a change would impose new and complex duties on agencies across the States

¹¹ See D. 76-3 ¶¶ 14-17, 19-20 (attesting for California); D. 76-4 ¶¶ 28-37 (attesting for Nevada); D. 76-5 ¶¶ 13-17 (attesting for Massachusetts); D. 76-7 ¶¶ 11-15, 19-20 (attesting for New Jersey); D. 76-8 ¶¶ 11-15, 21-22 (attesting for Michigan); D. 76-9 ¶¶ 41-48, 56-57 (attesting for Maryland); D. 76-10 ¶¶ 14-19, 26 (attesting for Arizona); D. 76-11 ¶¶ 13-17, 23 (attesting for Maine); D. 76-12 ¶¶ 13-18, 23 (attesting for Vermont); D. 76-13 ¶¶ 16-17, 19, 23-24 (attesting for Minnesota); D. 76-15 ¶¶ 5-7 (attesting for Cook County, Illinois); D. 76-16 ¶¶ 9, 14-19, 25-26 (attesting for Rhode Island); D. 76-17 ¶¶ 17-19, 25-26 (attesting for Colorado); D. 76-18 ¶¶ 11-15, 22 (attesting for New York); D. 76-19 ¶¶ 24-27, 40-42 (attesting for Connecticut); D. 76-20 ¶¶ 8, 12-16, 22-23 (attesting for New Mexico); see also D. 76-6 ¶¶ 13-17 (attesting for Nevada County, California); D. 76-14 ¶¶ 14, 26-28 (attesting for Los Angeles County, California).

and would divert and require significant resources to train personnel in these agencies to assess citizenship where public assistance agencies do not have such expertise. Id. (and declarations cited); see, e.g., D. 76-3 ¶¶ 22-24.

Compliance with § 7’s requirements would also demand the States’ time and resources. Specifically, the Ballot Receipt States will need to train local election officials “to ensure that votes are received and tabulated consistent with the [Executive Order]’s Election Day provisions.”¹² In Cook County, Illinois, compliance will require the County to hire at least one hundred additional staff members and “train and retain several hundred Cook County clerk staff and more than 8,000 election judges and deputy voter registrars.” D. 76-15 ¶ 14. States will also need to update the public regarding the change, including by updating “[a]ll voter facing websites, documents, and ballot packet information.”¹³ D. 76-9 ¶ 61. In Nevada, public education will entail, “at a minimum, newspaper notices, social media posts, mail notifications, and press briefings throughout 2026.” D. 76-4 ¶ 48. To educate the public, Vermont has begun outreach on social media and community forums and will need to update its websites and public-facing resources “on the accelerated timeline contemplated by the [Executive Order].” D. 76-12 ¶ 16. The Ballot Receipt States have attested

¹² See D. 76-3 ¶ 32 (attesting for California); D. 76-4 ¶ 48 (attesting for Nevada); D. 76-5 ¶ 33 (attesting for Massachusetts); D. 76-7 ¶ 33 (attesting for New Jersey); D. 76-8 ¶ 27 (attesting for Michigan); D. 76-9 ¶ 61 (attesting for Maryland); D. 76-12 ¶¶ 13-14 (attesting for Vermont); D. 76-13 ¶ 16 (attesting for Minnesota); D. 76-14 ¶ 26 (attesting for Los Angeles County, California); D. 76-15 ¶ 14 (attesting for Cook County, Illinois); D. 76-16 ¶ 31 (attesting for Rhode Island); D. 76-18 ¶ 26 (attesting for New York); D. 76-19 ¶ 25 (attesting for Connecticut); D. 76-20 ¶ 27 (attesting for New Mexico).

¹³ See D. 76-3 ¶ 32 (attesting for California); D. 76-4 ¶ 48 (attesting for Nevada); D. 76-5 ¶¶ 32-33 (attesting for Massachusetts); D. 76-7 ¶ 33 (attesting for New Jersey); D. 76-8 ¶ 27 (attesting for Michigan); D. 76-9 ¶ 61 (attesting for Maryland); D. 76-10 ¶ 18 (attesting for Arizona); D. 76-11 ¶ 16 (attesting for Maine); D. 76-12 ¶ 16 (attesting for Vermont); D. 76-13 ¶ 16 (attesting for Minnesota); D. 76-16 ¶ 31 (attesting for Rhode Island); D. 76-18 ¶ 14 (attesting for New York); D. 76-19 ¶ 26 (attesting for Connecticut); D. 76-20 ¶¶ 15, 27 (attesting for New Mexico); see also D. 100 at 27.

that this “would be a significant undertaking.”¹⁴ *Amici*, local election officials, caution that these additional requirements would be devastating: “[i]f every voter registration application took even only a few more minutes to process, offices could be overwhelmed.” D. 87 at 17.

In addition, each of these changes would, in turn, divert the States’ resources from other key projects such as voter registration list maintenance and preparing for upcoming elections.¹⁵ Michigan, for example, has attested that these changes will disrupt the “crucial work” performed by “virtually all staff associated with election administration in the Bureau of Elections.” D. 76-8 ¶¶ 8-10, 21-22, 29. As *amici*, bipartisan former secretaries of state, explain, “[a]llowing the President to change election rules and procedures on [his] whim whenever [he] see[s] fit, without any input from election administrators charged with executing those rules and without the checks and balances provided by Congress, would be equivalent to dropping an anvil onto the carefully balanced scales of justice.” D. 100 at 18.

¹⁴ D. 76-3 ¶ 32 (attesting for California); D. 76-5 ¶¶ 32-33 (attesting for Massachusetts); D. 76-7 ¶ 33 (attesting for New Jersey); D. 76-8 ¶ 27 (attesting for Michigan); D. 76-9 ¶ 61 (attesting for Maryland); D. 76-14 ¶¶ 26, 28 (attesting for Los Angeles County, California); D. 76-15 ¶ 14 (attesting for Cook County, Illinois); D. 76-17 ¶ 38 (attesting for Colorado); D. 76-18 ¶ 26 (attesting for New York); D. 76-20 ¶ 27 (attesting for New Mexico).

¹⁵ See D. 76 at 36; D. 76-3 ¶¶ 13, 28 (attesting for California); D. 76-4 ¶¶ 10, 15-19, 40 (attesting for Nevada); D. 76-5 ¶¶ 13, 28 (attesting for Massachusetts); D. 76-6 ¶¶ 9, 13, 22 (attesting for Nevada County, California); D. 76-7 ¶¶ 13, 19-20, 23, 32-33 (attesting for New Jersey); D. 76-8 ¶¶ 8-10, 21-22, 25, 29 (attesting for Michigan); D. 76-9 ¶¶ 13-18, 26-28, 41, 56-57, 60-61 (attesting for Maryland); D. 76-10 ¶¶ 7-9, 14, 27 (attesting for Arizona); D. 76-11 ¶¶ 9, 11-12, 24 (attesting for Maine); D. 76-12 ¶¶ 8, 23 (attesting for Vermont); D. 76-13 ¶¶ 8, 15, 17-18 (attesting for Minnesota); D. 76-14 ¶¶ 8, 10, 27 (attesting for Los Angeles County, California); D. 76-15 ¶¶ 5, 7, 17 (attesting for Cook County, Illinois); D. 76-16 ¶¶ 9, 14, 25-26, 28, 33 (attesting for Rhode Island); D. 76-17 ¶¶ 12-13, 17, 23, 26-27, 37-38 (attesting for Colorado); D. 76-18 ¶¶ 8, 22, 25 (attesting for New York); D. 76-19 ¶¶ 16, 18-20, 24, 27, 36, 41 (attesting for Connecticut); D. 76-20 ¶¶ 8-12, 14, 22-23, 26 (attesting for New Mexico).

The Executive Branch insists that “diverted resources and compliance costs are quantifiable amounts, and ‘[m]oney damages would adequately resolve all of the alleged harms.’” D. 91 at 26 (alteration in original) (quoting Together Emps. v. Mass. Gen. Brigham Inc., 19 F.4th 1, 8 (1st Cir. 2021)). This is not the case for the States, for whom “the inability to enforce [] duly enacted plans clearly inflicts irreparable harm.” Abbott v. Perez, 585 U.S. 579, 603 n.17 (2018); see Louisiana v. Biden, 55 F.4th 1017, 1033-35 (5th Cir. 2022) (affirming a district court’s finding of irreparable harm based upon plaintiff states’ diversion of resources to comply with an invalid regulation); Kansas v. United States, 249 F.3d 1213, 1227 (10th Cir. 2001) (noting that harms to a state’s “sovereign interests and public policies” are irreparable).

2. *Threatened Loss of Federal Funding*

The States receive millions of dollars in funding through the HAVA, which they rely upon to safely, securely and efficiently administer elections, including to purchase voting infrastructure and to pay employees.¹⁶ As this Court has concluded, § 7(b) threatens to unlawfully deprive states of this crucial funding source. See City & Cnty. of San Francisco, 897 F.3d at 1236 (identifying harm where plaintiffs showed that “if their interpretation of the Executive Order is correct, they will be forced to either change their policies or suffer serious consequences”).

¹⁶ See D. 76-3 ¶ 35 (attesting that California, since 2003, has received \$505 million in HAVA funding); D. 76-4 ¶ 51 (attesting that Nevada “has previously received over \$36 million” in funding through HAVA); D. 76-7 ¶ 28 (attesting that New Jersey, between 2019 and 2025, received “\$22.3 million in HAVA grants”); D. 76-8 ¶ 29 (attesting that in addition to the approximately \$300,000 HAVA funding “recently approved by Congress” to go to Michigan, the state has received over \$27.3 million through a HAVA Security Grant); D. 76-9 ¶ 66 (attesting that Maryland has received over \$80.8 million under HAVA); D. 76-10 ¶ 31 (attesting that Arizona, since 2020, has received more than \$12 million in HAVA grants); D. 76-16 ¶ 33 (attesting that Rhode Island, since 2018, has received \$9.2 million under HAVA and attesting that the state has also received over \$13 million HAVA section 251 grants through 2022); D. 76-17 ¶ 39 (attesting that Colorado, since 2022, has distributed through sub-grants \$3.4 million in HAVA funding to counties); D. 76-18 ¶ 29 (attesting that New York, since 2003, has received over \$237 million in HAVA grants); D. 76-20 ¶ 31 (attesting that New Mexico has received approximately \$1 million under HAVA).

3. *Chilling of Voter Registration and Participation*

The States’ expectation is that as a result of the documentary proof of citizenship requirement, fewer of their eligible citizens will become registered to vote.¹⁷ This is unquestionably a harm to the States, with whom “[o]ur Constitution principally entrusts ‘[t]he safety and the health of the people . . . to guard and protect.’” S. Bay United Pentecostal Church v. Newsom, __ U.S. ___, 140 S. Ct. 1613, 1613 (2020) (Roberts, C.J., concurring in denial of application for injunctive relief) (quoting Jacobson v. Massachusetts, 197 U.S. 11, 38 (1905)).

According to the States, many otherwise eligible voters “lack ready access to the necessary citizenship documents.” D. 76 at 34; see League of Women Voters of United States v. Newby, 838 F.3d 1, 9 (D.C. Cir. 2016) (characterizing proof of citizenship laws as “new obstacles [that] unquestionably make it more difficult” to register voters). As *amici*, local election officials note, “when Kansas attempted to impose [documentary proof of citizenship] requirements in 2011, around 12 percent of all registrants’ applicants were rejected, even though it was undisputed that nearly all of them were U.S. citizens.” D. 87 at 11-12 (citing Fish v. Schwab, 957 F.3d 1105, 1128 (10th Cir. 2020)). Those who have changed their names, “elderly individuals, unhoused individuals and young persons” often have a particularly difficult time obtaining documentary proof of citizenship. D. 76-6 ¶ 19. Citizenship documents are also expensive. For example, in Rhode Island, it can cost up to \$165 to obtain a passport and, in the City of Providence, \$22 to obtain a

¹⁷ See D. 76-3 ¶¶ 18, 21 (attesting for California); D. 76-4 ¶¶ 7, 19, 32, 34, 38 (attesting for Nevada); D. 76-5 ¶¶ 15-16, 21, 25 (attesting for Massachusetts); D. 76-6 ¶¶ 18-19 (attesting for Nevada County, California); D. 76-8 ¶ 16 (attesting for Michigan); D. 76-9 ¶¶ 28, 49 (attesting for Maryland); D. 76-10 ¶ 20 (attesting for Arizona); D. 76-11 ¶ 18 (attesting for Maine); D. 76-12 ¶ 19 (attesting for Vermont); D. 76-13 ¶¶ 19, 21 (attesting for Minnesota); D. 76-14 ¶¶ 12, 16, 28-29 (attesting for Los Angeles County, California); D. 76-15 ¶ 8 (attesting for Cook County, Illinois); D. 76-16 ¶¶ 20-21 (attesting for Rhode Island); D. 76-17 ¶¶ 19-20 (attesting for Colorado); D. 76-18 ¶ 16 (attesting for New York); D. 76-19 ¶¶ 25, 28 (attesting for Connecticut); D. 76-20 ¶ 17 (attesting for New Mexico).

birth certificate. D. 76-16 ¶ 20. For this reason and others, § 2(a) appears likely to disproportionately disenfranchise Black and poorer Americans. See, e.g., Owen Backskai & Eliza Sweren-Becker, “House Bill Would Hurt American Voters,” Brennan Ctr., <https://www.brennancenter.org/our-work/analysis-opinion/house-bill-would-hurt-american-voters> (Jan. 31, 2025) (reporting that approximately fifty percent of Americans do not have a passport, two-thirds of Black Americans lack a passport and passport ownership increases dramatically with income).

Some states’ citizens will face specific challenges with respect to obtaining documentary proof of citizenship. For example, in regions of Maine along the Canadian border, many residents are citizens but lack the required documentary proof of citizenship because they have Canadian birth certificates and do not have passports. D. 76-11 ¶ 18. New Mexico has attested that its “unique population and geographic dynamics,” namely its remote villages and nineteen “federally-recognized Native American pueblo tribes, many of which are also remotely located,” will cause the proof of citizenship requirement to have a greater impact. D. 76-20 ¶ 17. Massachusetts has a significant student population, many of whom will be registering to vote for the first time, and may not “have ready access to [documentary proof of citizenship] documents such as their birth certificate or passport.” D. 76-5 ¶ 21.

This likelihood of disenfranchisement is a serious harm because “[t]he right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” Reynolds v. Sims, 377 U.S. 533, 555 (1964); see Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886) (explaining that the right to vote “is regarded as a fundamental political right, because preservative of all rights”).

4. *These Risks of Harm are Imminent*

The Executive Branch questions the imminence of any of these harms because the Executive Order is geared towards the November 2026 election. D. 91 at 26. Voter registration is, however, a year-round process, and the implementation of voter registration requirements, the corresponding record-keeping requirements and voter-education campaigns demands significant lead time. D. 96 at 10. Further, any argument that what the Executive Order will require is still uncertain, see D. 91 at 24-27, “is belied by both the text of the Executive Order and the factual record before this Court,” which make clear that documentary proof of citizenship will be required. LULAC, 2025 WL 1187730, at *42 (noting this with respect to § 2(a)); Newby, 838 F.3d at 8-9 (concluding that states need not be currently enforcing laws which would require proof-of citizenship to accompany the Federal Form for voter groups to challenge their enforcement as “it seems almost certain that similar obstacles to registration will spring up” and “a preliminary injunction requires only a likelihood of irreparable injury”). The documentary proof of citizenship requirements, assessment of citizenship prior to distribution of the Federal Form to enrollees in public assistance programs and the ballot counting requirements use mandatory language and would require states to imminently undertake the extensive efforts associated with compliance to avoid consequences. This is sufficient to ground a finding of imminent, irreparable harm.¹⁸

¹⁸ The Executive Branch also argues that the States’ more than thirty-day delay between filing their complaint and moving for preliminary injunctive relief “belies their claim of imminent irreparable harm.” D. 91 at 27. To make this point, however, they highlight cases involving months or a year of delay. See Seafreeze Shoreside, Inc v. United States Dep’t of Interior, No. 22-cv-11091-IT, 2023 WL 3660689, at *5 (D. Mass. May 25, 2023), appeal dismissed, No. 23-1473, 2023 WL 8259107 (1st Cir. Oct. 20, 2023); Charlesbank Equity Fund II v. Blinds To Go, Inc., 370 F.3d 151, 162-63 (1st Cir. 2004). Not only is any delay here much less significant, but it may also reflect a decision to wait for the DC Court’s ruling as to the lawfulness of overlapping sections of the Executive Order. Such a strategic decision is not unreasonable in these circumstances and does not undermine the risk of irreparable harm.

VI. Equities and the Public Interest

To obtain a preliminary injunction against the implementation of the challenged sections of the Executive Order, the States must demonstrate that “the balance of equities tips in [their] favor” and that “an injunction is in the public interest.” Winter, 555 U.S. at 20. The analysis regarding the balance of the equities and the public interest “merge when the [g]overnment is the opposing party.” Does 1-6 v. Mills, 16 F.4th 20, 37 (1st Cir. 2021) (alteration in original) (quoting Nken v. Holder, 556 U.S. 418, 435 (2009)). “[T]he public has an important interest in making sure government agencies follow the law,” Neighborhood Ass’n of The Back Bay, Inc. v. Fed. Transit Admin., 407 F. Supp. 2d 323, 343 (D. Mass. 2005), aff’d, 463 F.3d 50 (1st Cir. 2006), and agencies have no countervailing interest in perpetuating unlawful practices, Newby, 838 F.3d at 12; Rodriguez v. Robbins, 715 F.3d 1127, 1145 (9th Cir. 2013). Here, where, as determined, the States’ challenge to the Executive Order is likely to succeed on the merits, the equities and the public interest favor an injunction.

The Executive Branch asserts that the “Executive Order seeks to increase [] confidence [in federal elections] by directing executive officials to carry out their statutory duties to prohibit foreign nationals from participating in elections and [by] enforc[ing] the Election Day statutes.” D. 91 at 27. But there is little evidence in the record suggesting the Executive Order would accomplish these goals. See LULAC, 2025 WL 1187730, at *43 (concluding same); Fish, 957 F.3d at 1142 (affirming that, after a trial on the merits, plaintiff had not shown “that substantial numbers of noncitizens successfully registered to vote” under the current attestation procedures). In fact, Congress has already determined that a documentary proof of citizenship requirement is “not necessary or consistent with the purposes of the [NVRA],” LULAC, 2025 WL 1187730, at *6 (quoting H.R. Rep. No. 103-66, at 23 (1993) (Conf. Rep.)), which include “protect[ing] the integrity

of the electoral process,” 52 U.S.C. § 20501(b)(3). The Executive Branch can, instead, use the “other tools at their disposal to ensure the integrity of elections, including protections against voter fraud.” Newby, 838 F.3d at 13. For example, the President can continue to enforce criminal statutes prohibiting non-citizens from voting or registering to vote in federal elections. 18 U.S.C. §§ 611, 1015(f).

The States, on the other hand, have shown a “substantial risk” that, absent an injunction, citizens will be disenfranchised. LULAC, 2025 WL 1187730, at *43 (citing Newby, 838 F.3d at 12); see Purcell v. Gonzalez, 549 U.S. 1, 4 (2006) (noting the “strong interest in exercising the fundamental political right to vote” and observing that “the possibility that qualified voters might be turned away from the polls would caution any district judge to give careful consideration” to a challenge) (internal citation and quotation marks omitted). The States have also credibly attested that the challenged requirements could create chaos and confusion that could result in voters losing trust in the election process. See D. 76-9 ¶ 62; D. 87 at 24-25. On balance, the equities and the public interest favor granting a preliminary injunction in the States’ favor as to §§ 2(a), 2(d), 3(d), 7(a) and 7(b) of the Executive Order.¹⁹

VII. Injunction Bond

The Executive Branch asks that the Court require a bond if it issues a preliminary injunction. D. 91 at 28. “The bond requirement is not jurisdictional,” and district courts have discretion to issue an injunction without requiring the States to post a bond. Pineda v. Skinner Servs., Inc., 22

¹⁹ In Purcell, 549 U.S. at 4-5, the Supreme Court cautioned that “orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.” The principle articulated in this decision does not counsel against this Court issuing a preliminary injunction because here it is the Executive Order, not the Court’s injunction of certain of its provisions, that purports to disturb the status quo by changing decades of established practice with respect to voter registration and ballot counting. LULAC, 2025 WL 1187730, at *57 (concluding same).

F.4th 47, 57 (1st Cir. 2021) (citing cases); see Int’l Ass’n of Machinists & Aerospace Workers v. E. Airlines, Inc., 925 F.2d 6, 9 (1st Cir. 1991) (observing that “there is ample authority for the proposition that the provisions of Rule 65(c) are not mandatory and that a district court retains substantial discretion to dictate the terms of an injunction bond”).

The Executive Branch does not suggest and has not demonstrated that it will suffer a monetary loss from this Court’s injunction. See D. 91 at 28. Further, as the DC Court observed, “requiring a bond as a condition of obtaining an injunction against unlawful executive action under the circumstances presented here would risk deterring other litigants from pursuing their right to judicial review of unlawful executive action.” LULAC, 2025 WL 1187730, at *62. Other courts have declined to require a bond under these circumstances. See New York v. McMahon, No. 25-10601-MJJ, 2025 WL 1463009, at *39 (D. Mass. May 22, 2025) (declining to require a bond in a suit to enforce important federal rights and the public interest); Nat’l Ass’n of Diversity Officers in Higher Educ. v. Trump, 767 F. Supp. 3d 243, 291 (D. Md. 2025) (setting “a nominal bond of zero dollars” where plaintiffs sought to protect their Constitutional rights and a bond “would essentially forestall [p]laintiffs’ access to judicial review”). The Court, therefore, declines to require the States to post a bond.

VIII. Conclusion

For the foregoing reasons, the Court shall grant the motion for preliminary injunction as sought as to §§ 2(a), 3(d), 2(d),²⁰ 7(b) of the Executive Order and § 7(a) of the Executive Order as

²⁰ The Court’s injunction as to §§ 2(a), 2(d), 3(d) applies as to all states, but it “is neither ‘nationwide’ nor ‘universal.’ It is a remedy tailored to the irreparable harm that Plaintiffs in these consolidated case would suffer in the absence of an injunction.” LULAC, 2025 WL 1187730, at *59. “To the extent the Court’s ‘injunction advantage[s] nonparties, that benefit [is] merely incidental.’” Id. (quoting Trump v. Hawaii, 585 U.S. 667, 717 (2018) (Thomas, J., concurring)). Were the Court to enjoin the Defendants only with respect to Plaintiff States, it would undermine

to civil or criminal enforcement actions.²¹

None of the States shall be required to post an injunction bond or any other security as a condition of obtaining the injunction described in this Memorandum or the accompanying Order.

Nothing in this Memorandum or the accompanying Order shall prevent the Executive Branch from taking any lawful action that is not based upon §§ 2(a), 2(d), 3(d), 7(a) or 7(b) of the Executive Order as described herein and in the accompanying Order. An Order of preliminary injunction shall be entered today in accordance with this Memorandum.

So Ordered.

/s Denise J. Casper
United States District Judge

the national uniformity central to the NVRA, the HAVA and the UOCAVA. “In these unique circumstances, an injunction tailored to the Plaintiffs before the Court is coextensive with an injunction tailored to the Defendants before the Court, who happen to be actors with . . . power . . . nationwide.” *Id.* at *59. The injunctive relief sought as to §§ 7(a) and 7(b) is only sought as to the thirteen Ballot Receipt States and, accordingly, is limited as to them.

²¹ The Executive Order contains a severability clause which provides that “[i]f any provision of this order, or the application of any provision to any agency, person, or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other agencies, persons, or circumstances shall not be affected thereby.” Exec. Order No. 14248 § 10. In the absence of “strong evidence” suggesting otherwise, the Court will not presume that “the validity of the [Executive Order will] depend on the validity of the constitutionally offensive [sections].” *Seila L. LLC*, 591 U.S. at 234. Accordingly, the Court’s ruling applies only to the challenged sections, §§ 2(a), 2(d), 3(d), 7(a) and 7(b) and only to the extent discussed above and incorporated into the accompanying Order.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STATE OF CALIFORNIA, et al.,

Plaintiffs

v.

DONALD TRUMP, et al.,

Defendants.

No. 25-cv-10810-DJC

ORDER OF PRELIMINARY INJUNCTION

CASPER, J.

June 13, 2025

Pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, and for the reasons explained by the Court in its Memorandum and Order, D. 107 (entered June 13, 2025), the Court finds that Plaintiff States are likely to succeed on the merits of their claims in their motion for preliminary injunction, D. 75, that Section 2(a), Section 2(d), Section 3(d), Section 7(a), and Section 7(b) of Executive Order No. 14248 are unlawful and unconstitutional; that Plaintiffs will suffer irreparable harm absent the preliminary injunctive relief granted herein; that the balance of equities and public interest favor granting this injunctive relief; and, a bond is not warranted here.

Accordingly, the Court hereby **ALLOWS** Plaintiff States' motion for preliminary injunction, D. 75, and Defendants, their officers, agents, servants, and employees, other than the President, are enjoined from:

- (1) implementing Section 2(a) of the Executive Order that mandates that the EAC require documentary proof of citizenship in the federal voter registration form and that the States

- record information concerning such documentary proof;
- (2) implementing Section 3(d) of the Executive Order that requires Defendant Secretary of Defense to update the federal postcard application to require documentary proof of citizenship and proof of eligibility to vote in a particular State;
 - (3) implementing Section 2(d) that requires the head of each federal voter registration executive department or agency to assess citizenship prior to providing the federal voter registration form to enrollees of public assistance programs;
 - (4) implementing civil or criminal enforcement actions pursuant to Section 7(a) of the Executive Order as to the Ballot Receipt States (Plaintiffs California, Nevada, Massachusetts, Arizona, Colorado, Hawaii, Illinois, Maryland, Michigan, New Jersey, New Mexico, New York and Rhode Island); and
 - (5) implementing Section 7(b) of the Executive Order, which conditions any available funding from the EAC to the States on the adoption of a ballot receipt deadline of Election Day, against the Ballot Receipt States (Plaintiffs California, Nevada, Massachusetts, Arizona, Colorado, Hawaii, Illinois, Maryland, Michigan, New Jersey, New Mexico, New York and Rhode Island).

This Order shall remain in effect unless and until modified by the Court.

SO ORDERED.

By: /s Denise J. Casper
United States District Judge

From: [SOSPress](#)
To: [Bonnie Hitch](#)
Cc: [KRON Assignment Desk](#)
Subject: Re: KRON4 News Inquiry
Date: Tuesday, March 25, 2025 5:54:38 PM

Hello, Bonnie.

Please see statement below from California Secretary of State Shirley N. Weber, Ph.D:

"President Trump's Executive Order "Preserving and Protecting the Integrity of American Elections" does nothing of the sort. Instead, it is a calculated and dramatic assault on every American's right to vote.

Sixty years ago today, Martin Luther King Jr. led the historic march from Selma to the state capitol in Montgomery, Alabama which marked a pivotal moment in our nation's quest for voting rights and led to the passage of the Voting Rights Act of 1965, which eliminated the most restrictive obstacles to voting. Today, we face a similar crossroads in our collective fight to preserve voting rights for all Americans.

Trump's illegal executive order instead aims to deny hundreds of millions of Americans access to the ballot box by making it costly and burdensome to register to vote and cast a ballot. Under the guise of protecting Americans from voter fraud, this unprecedented and reckless interference into state election processes is premised on a widely debunked myth of massive non-citizen voting. Make no mistake, President Trump, through this action, fears voters and our democracy. As California Secretary of State, I will do all in my power to ensure that all eligible Californians can freely and securely participate in our democracy."

Thank you,

Press Team

California Secretary of State's Office

From: SOSPress <SOSPRESS@sos.ca.gov>
Sent: Tuesday, March 25, 2025 4:48 PM
To: Bonnie Hitch <[REDACTED]>; SOSPress <SOSPRESS@sos.ca.gov>
Cc: KRON Assignment Desk <[REDACTED]>
Subject: Re: KRON4 News Inquiry

Thank you for reaching out, Bonnie.

We will be providing you with a statement shortly.

Press Team

California Secretary of State's Office

From: Bonnie Hitch <[REDACTED]>

Sent: Tuesday, March 25, 2025 2:26 PM

To: SOSPress <sospress@sos.ca.gov>

Cc: KRON Assignment Desk <[REDACTED]>

Subject: KRON4 News Inquiry

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Good afternoon,

Today President Trump signed an executive order making changes to voter citizenship verification. How will the state of California elections department respond to these changes?

Thanks,

Bonnie Hitch
KRON4 News

From: [SOSPress](#)
To: [Hanna Kang](#); [SOSPress](#)
Subject: Re: Media inquiry
Date: Wednesday, March 26, 2025 12:53:06 PM

Hello, Hanna.

Our office is still reviewing the executive order, but the following is a statement from California Secretary of State Shirley N. Weber, Ph.D. that we can give you at this time:

"President Trump's executive order "Preserving and Protecting the Integrity of American Elections" does nothing of the sort. Instead, it is a calculated and dramatic assault on every American's right to vote.

Sixty years ago yesterday, Martin Luther King Jr. led the historic march from Selma to the state capitol in Montgomery, Alabama, marking a pivotal moment in our nation's quest for voting rights. National outrage over discriminatory voting practices and massive public support of the march led to the passage of the Voting Rights Act of 1965 later that year, which eliminated the most restrictive obstacles to voting. Today, we face a similar crossroads in our collective fight to preserve voting rights for all Americans.

Trump's illegal executive order instead aims to deny hundreds of millions of Americans access to the ballot box by making it costly and burdensome to register to vote and cast a ballot. Under the guise of protecting Americans from voter fraud, this unprecedented and reckless interference into state election processes is premised on a widely debunked myth of massive non-citizen voting. Make no mistake, President Trump, through this action, shows that he fears voters and America's longstanding principles of democracy. As California Secretary of State, I will do all in my power to ensure that all eligible Californians can freely and securely participate in our democracy."

Thank you,

Press Team

California Secretary of State's Office

From: Hanna Kang <[REDACTED]>
Sent: Wednesday, March 26, 2025 10:14 AM
To: SOSPress <sospress@sos.ca.gov>
Subject: Media inquiry

Caution: External Email Warning: This is an email from an external sender. Do not click

any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Hello,

I hope this email finds you well. I'm reaching out for a story on President Trump's recent executive order on elections and its potential impact on California's voting process.

Could you provide any insight on:

- Whether the state sees this order as legally enforceable
- How it could impact California's vote-by-mail system and election administration
- What challenges it could pose for election officials
- Any steps California plans to take in response

I appreciate your time and any comments you can share. Looking forward to your response. My deadline is 1 p.m.

--

All the best,

Hanna Kang

Staff Writer

Orange County Register | *Southern California News Group*

C: [REDACTED]

Twitter: [REDACTED]

Support local journalism and subscribe to the [OC Register](#)

From: [SOSPress](#)
To: [Edward Henderson](#)
Subject: Re: Quote Request for Dr. Weber on Trump Executive Order on Election Rules
Date: Wednesday, March 26, 2025 2:01:19 PM

Thank you for reaching out, Edward.

California Secretary of State Shirley N. Weber, Ph.D., issued the following statement in response to President Trump's executive order entitled "Preserving and Protecting the Integrity of American Elections" :

"President Trump's executive order "Preserving and Protecting the Integrity of American Elections" does nothing of the sort. Instead, it is a calculated and dramatic assault on every American's right to vote.

Sixty years ago yesterday, Martin Luther King Jr. led the historic march from Selma to the state capitol in Montgomery, Alabama, marking a pivotal moment in our nation's quest for voting rights. National outrage over discriminatory voting practices and massive public support of the march led to the passage of the Voting Rights Act of 1965 later that year, which eliminated the most restrictive obstacles to voting. Today, we face a similar crossroads in our collective fight to preserve voting rights for all Americans.

Trump's illegal executive order instead aims to deny hundreds of millions of Americans access to the ballot box by making it costly and burdensome to register to vote and cast a ballot. Under the guise of protecting Americans from voter fraud, this unprecedented and reckless interference into state election processes is premised on a widely debunked myth of massive non-citizen voting. Make no mistake, President Trump, through this action, shows that he fears voters and America's longstanding principles of democracy. As California Secretary of State, I will do all in my power to ensure that all eligible Californians can freely and securely participate in our democracy."

Thank you,

Press Team

California Secretary of State's Office

From: Edward Henderson <[REDACTED]>
Sent: Wednesday, March 26, 2025 1:50 PM
To: SOSPress <sospress@sos.ca.gov>
Subject: Quote Request for Dr. Weber on Trump Executive Order on Election Rules

-

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Good Afternoon,

My name is Edward Henderson and I am a writer for California Black Media. I am working on a story on President Trump's latest Executive Order on election rules which seem to target California's standing rules on mail in ballots received after election day. I wanted to see if Dr. Weber had a quote on the order. My deadline is Friday. Thank you so much for your consideration.

Politico Link to the story on the order: <https://www.politico.com/news/2025/03/25/trump-signs-sweeping-executive-order-targeting-election-rules-00249891>

Best,

Edward Henderson
Writer
California Black Media

From: [Walter Garcia](#)
To: [Stein, Jules](#)
Cc: [Patrick, Jim](#); [Cruz-Jauregui, Alia](#); [SOSPress](#)
Subject: Re: SOS has a new Deputy Secretary for Communications
Date: Monday, May 5, 2025 3:54:13 PM

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Just hit send: <https://oag.ca.gov/news/press-releases/attorney-general-bonta-files-motion-preliminary-injunction-halt-implementation>

-WG

--

Walter Garcia | Media Relations Manager

California Department of Justice

Attorney General Rob Bonta

[REDACTED]

From: "Stein, Jules" <[REDACTED]>
Date: Monday, May 5, 2025 at 2:23 PM
To: Walter Garcia <[REDACTED]>
Cc: "Patrick, Jim" <[REDACTED]>, "Cruz-Jauregui, Alia" <[REDACTED]>, SOSPress <SOSPRESS@sos.ca.gov>
Subject: RE: SOS has a new Deputy Secretary for Communications

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Thank you.

Jules

From: Walter Garcia <[REDACTED]>
Sent: Monday, May 5, 2025 2:23 PM
To: Stein, Jules <[REDACTED]>
Cc: Patrick, Jim <[REDACTED]>; Cruz-Jauregui, Alia <[REDACTED]>; SOSPress <[REDACTED]>
Subject: Re: SOS has a new Deputy Secretary for Communications

■

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Hi folks,

Wanted to flag that, in around an hour or so, we will be filing a motion for a preliminary injunction in our Elections Executive Order lawsuit (here: <https://oag.ca.gov/news/press-releases/attorney-general-bonta-co-leads-multistate-lawsuit-against-trump-administration>).

Don't need anything – just wanted to flag for you all.

-WG

--

Walter Garcia | Media Relations Manager

California Department of Justice

Attorney General Rob Bonta

[REDACTED]

[REDACTED]

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NASS Summary of [Executive Order on Preserving and Protecting the Integrity of American Elections](#)

March 25, 2025

Enforcing Citizenship Requirement for Federal Elections

Changes to the National Mail Voter Registration Form

- Requires the EAC to take following actions with respect to the National Mail Voter Registration Form within 30 days of the EO:
 - Require documentary proof of citizenship, defined as a copy of:
 - a U.S. passport
 - a REAL ID compliant identification document that indicates U.S. citizenship
 - an official military identification card that indicates U.S. citizenship
 - a valid federal or state government issued photo ID that indicates U.S. citizenship, or is accompanied by proof of U.S. citizenship
 - Require a state or local official to record on the form the type of document provided as proof of U.S. citizenship, including the issuance date, expiration date, office that issued the document, and any unique identification number associated with the document.

Access to Federal Systems for Citizenship Verification

- Requires DHS to ensure that state and local officials have access to appropriate systems (without requiring a fee) for verifying citizenship or immigration status of individual registering to vote or already registered.
- The State Department to make information available from relevant databases to state and local election officials for verifying the citizenship of individuals registering to vote or already registered.

DHS Review of State Voter Registration Lists

- Requires DHS, in coordination with DOGE, to review each state's publicly available voter registration list, and records concerning voter list maintenance activities, alongside federal immigration databases and state records requested, for consistency with federal requirements, including through subpoena where necessary and authorized.

Immigration Forms Indicating Registration or Voting

- Requires DHS to provide DOJ (within 90 days of the EO) with complete information on all foreign nationals who have indicated on any immigration form that they have registered or voted in a federal, state, or local election, and submit the information to relevant state or local election officials.

NVRA Agency Citizenship Assessment

- Requires the head of each federal voter registration department or agency under NVRA must assess citizenship prior to providing a federal voter registration form to enrollees of public assistance programs.

DOJ Enforcement

- Requires DOJ to prioritize enforcement of federal laws that restrict non-citizens from registering to vote or voting, including through the use of:
 - information maintained by DHS
 - state-issued identification cards and driver license databases
 - similar records relating to citizenship
- Requires DOJ coordinate with state attorneys general to assist with state-level review and prosecutions of aliens unlawfully registered to vote or casting votes.

Assistance to States Verifying Voter Eligibility

Availability of Social Security Administration Data

- Requires SSA to make information available to state and local election officials engaged in verifying the eligibility of individuals registering to vote or already registered, including the Social Security Number Verification Service, the Death Master File, and any other federal databases containing relevant information.

State List Maintenance Compliance

- Requires DOJ to take appropriate action with respect to states that fail to comply with the list maintenance activities under NVRA and HAVA.

Changes to the Federal Post Card Application

- Requires DOD to update the Federal Post Card Application to require documentary proof of U.S. citizenship (as defined above), and proof of eligibility to vote in elections in the state where the individual is attempting to vote.

Improving the Election Assistance Commission

Termination of Funding for Noncompliant States

- Requires the EAC to stop providing federal funds to states that do not comply with the federal laws identified in [52 U.S.C. 21145](#), including the requirement under NVRA that states accept and use the National Mail Voter Registration Form and any requirement for documentary proof of U.S. citizenship required under the EO.

Updating of Voting System Guidance

- Requires the EAC to amend the VVSG 2.0 and issue other guidance establishing standards for voting systems to protect election integrity. The amended guidelines and other guidance must provide that voting systems should not use a ballot in which a vote is contained in a barcode or quick-response code in the vote counting process (except where necessary to accommodate individuals with disabilities) and should provide a voter-verifiable paper record.
- Within 180 days of the EO, the EAC must take action to review and, if appropriate, re-certify voting systems under the new standards, and rescind all previous certifications of voting equipment under prior standards.

Reporting of HAVA Fund Audit Issues

- Following an audit of HAVA fund expenditures, the EAC must report any discrepancies or issues with a state's certification of compliance with federal law to the DOJ for appropriate enforcement action.

Voting System Compliance and Homeland Security Grants

- In considering the provision of funding for state or local election offices through the Homeland Security Grant Programs, DHS and FEMA must heavily prioritize compliance with the VVSG 2.0 and completion of testing through the Voting System Test Labs accreditation process.

Prosecuting Election Crimes

DOJ Information Sharing Agreements with States

- Requires DOJ to enter into information-sharing agreements, to the maximum extent possible, with the chief state election official or multi-member agency of each state. The agreements must aim to provide DOJ with detailed information on all suspected violations of state and federal election laws discovered by state officials, including information on individuals who:
 - registered or voted despite being eligible or registered multiple times
 - committed election fraud
 - provided false information on voter registration or other election forms
 - intimidated or threatened voters or election officials
 - otherwise engaged in unlawful conduct to interfere in the election process
- To the extent that any states are unwilling to enter into an information sharing agreement or refuse to cooperate in investigations and prosecutions of election crimes, the DOJ must:
 - prioritize enforcement of federal election integrity laws in those states
 - review for potential withholding of DOJ grants to state and local governments for law enforcement and other purposes

Improving Security of Voting Systems

Non-Citizen Involvement in Election Administration

- So long as DHS maintains the designation of election infrastructure as critical infrastructure, DOJ and DHS must take all appropriate actions to prevent non-citizens from being involved in the administration of any federal election, including by accessing election equipment, ballots, or any other relevant materials used in the conduct of any Federal election.

DHS Review of Voting System Security

- DHS, in coordination with the EAC, and to the maximum extent possible, must review and report on the security of all electronic systems used in the voter registration and voting process.
- The Secretary of Homeland Security, as the head of the designated Sector Risk Management Agency, in coordination with the EAC, must assess the security the systems to the extent they are

connected to, or integrated into, the internet and report on the risk of the systems being compromised through malicious software and unauthorized intrusions into the system.

Compliance with Federal Law Setting the National Election Day

DOJ Enforcement

- Requires DOJ to take all necessary enforcement actions against states that violate 2 U.S.C. 7 (Time of Election) and 3 U.S.C. 1 (Time of Appointing Electors) by including absentee or mail-in ballots received after Election Day in the final tabulation of votes for the appointment of Presidential electors and the election of members of the United States Senate and House of Representatives.

Availability of EAC Funding

- Requires the EAC to condition funding on a state's compliance with federal law requiring each state to adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote, including that there be a uniform and nondiscriminatory ballot receipt deadline of Election Day for all methods of voting (excluding ballots cast in accordance with UOCAVA provisions) after which no additional votes may be cast.

Preventing Foreign Interference and Unlawful Use of Federal Funds

- Requires the DOJ, in consultation with Treasury, to prioritize enforcement of federal laws that prevent foreign nationals from contributing or donating in U.S. elections. The DOJ must also prioritize enforcement of federal law prohibiting lobbying by organizations or entities that have received federal funds.

Federal Actions to Address Executive Order 14019

- Requires the heads of all agencies and the EAC to cease all agency actions implementing Executive Order 14019 (Promoting Access to Voting), and, within 90 days, submit to the President a report describing compliance with the requirement.

Monthly County Elections Officials' Call
Thursday, April 17, 2025
10:00 a.m. to 10:30 a.m.

Microsoft Teams meeting
[REDACTED]
Meeting ID: [REDACTED]
Passcode: [REDACTED]
Join [REDACTED]
[REDACTED]
Video Conference ID: [REDACTED]
Or call in (audio only)
[REDACTED] United States, Sacramento
Phone Conference ID: [REDACTED]

Agenda

Elections

- **Executive Order Discussion**
- **VoteCal County Test Environment (CTE) June Release and Mock List Maintenance – CCROV #25033**
 - Deadline for new counties to opt-in to the CTE, May 9, 2025
 - All CTE counties to take backup copy, May 16, 2025, 11:00 p.m.
 - Mock List Maintenance in CTE, June 3-20, 2025
 - Production Release, June 29, 2025
- **Recall of Governor Gavin Newsom – CCROV #25024**
 1. Please see the Newsom Recall Calendar of Events (CCROV #25024) issued on 3/28/25 for a list of reporting deadlines.
The first two reporting notice dates and report deadlines are as follows:
 - SOS will issue the 1st (or A1) reporting notice CCROV on **4/18/25**.
The 1st (A1) report deadline is **4/28/25**.
 - SOS will issue the 2nd (or A2) reporting notice CCROV on **5/20/25**.
The 2nd (A2) report deadline is **5/28/25**.
- **Election Security Update**
 - MS-ISAC Updates – The Multistate Information Sharing and Analysis Center (MS-ISAC) has held two town hall meetings with members to try to share information and keep the community update about ongoing changes to their budget and operations. They have provided a Frequently Asked Questions and an informational sheet about the services that are at risk due to changes federal funding.
 - The Election Security team will be holding the small group discussion about this issue and more with people that volunteered to participate.

We will also hold the large Statewide Election Security Working Group meeting next Thursday April 24th, at 10:00 a.m.

- **HAVA Reminder**

- Counties with HAVA 301 Funds remaining (21G301) have until tomorrow, April 18, 2025, at 5:00 p.m. to submit claims.

- **Special Election**

- Assembly District 63 Special Primary Election – June 24, 2025

Open Forum

Upcoming Meetings

- Next SOS-CACEO call is scheduled for April 23rd at 10:30 a.m.
- Next Statewide Election Security Working Group meeting is April 24th at 10:00 a.m.
- Next monthly County Elections Officials' call is scheduled for May 8th at 10:00 a.m.

Recent CCROVs

Date	CCROV Number	Title
04/16/2025	25033	<u>VoteCal: County Test Environment for the June 2025 Release (PDF)</u>
04/09/2025	25032	<u>Initiative: 1978, Related to Environmental Education (PDF)</u>
04/09/2025	25031	<u>Motor Voter Task Force: April 22, 2025, Meeting (PDF)</u>
04/09/2025	25030	<u>VoteCal: County Test Environment Mock List Maintenance 2025 – County Signup Action Needed (PDF)</u>
04/07/2025	25029	<u>Voting Systems: OVSTA Monthly Update – April 2025 (PDF)</u>
04/04/2025	25028	<u>Voting Accessibility Advisory Committee: April 16, 2025, Meeting (PDF)</u>

04/03/2025	25027	<u>Political Body: For You Party (PDF)</u>
04/01/2025	25026	<u>Voter Registration: Postage Reimbursement and Replenishment Claims (FY 2024/2025 – 3rd Quarter) (PDF)</u>

From: [REDACTED]
To: [REDACTED]
Subject: White House Executive Order re: Elections
Date: Tuesday, March 25, 2025 12:51:08 PM
Attachments: [Election Integrity Fact Sheet - Final.pdf](#)
[2025ElectionIntegrity.eo.rel.pdf](#)
Importance: High

Caution: External Email Warning: This is an email from an external sender. Do not click any links or attachments unless you have confirmed the sender. Report phishing by using the phishing alert button.

Hello all,

I don't usually send such specific/one-subject emails but wanted to get this out to you as soon as possible.

Attached please find an Executive Order signed by the president around 3pm ET that is **specifically about election administration**. I've also attached a fact sheet from the White House.

I will also be reaching out to the EAC to get information from them.

Amy

Amy Cohen
Executive Director
National Association of State Election Directors
Direct: [REDACTED]
Follow us on Twitter [@NASEDorg](#)!

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