

November 10, 2025

Camden Kelliher
General Counsel
U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

Re: Oct. 17, 2025 Proposal Regarding Federal Voter Registration Form

Dear Mr. Kelliher,

The undersigned are plaintiffs and counsel challenging Section 2(a) of Executive Order No. 14248 in the consolidated action, *LULAC v. Executive Office of the President*, 1:25-cv-946-CKK. We write to ensure that the U.S. Election Assistance Commission (“EAC”) does not take unlawful and inappropriate action to modify the way that American voters use the national mail voter registration form (“Federal Form”).

On October 17, 2025, the EAC reportedly presented to the National Association of State Election Directors a proposal for voter registration applicants using the Federal Form to submit their applications online. Under the proposed policy, the federal government would evaluate voter identity and citizenship, using a program for assessing citizenship run by the U.S. Department of Homeland Security (“DHS”), before conveying applications to states.¹ On October 23, the EAC and other federal officials discussed that proposal during a call with the National Association of Secretaries of State (“NASS”).² Under the proposal, applicants using the Federal Form would be required to electronically submit a passport, driver’s license or state identification, or Social Security number. Among other concerning features, federal officials on the call with NASS could not say whether, how, or how long the EAC, DHS, or other federal agencies would retain this sensitive voter information. They also indicated an understanding that some states might not be able to accept the proposed digital form.³

While we generally support efforts to make voter registration more accessible, including through online voter registration, this proposal is unlawful in multiple ways and woefully misguided. We urge the EAC not to pursue a policy that would plainly run afoul of the National Voter Registration Act (“NVRA”) and place Americans’ voter registration information at risk.

The Constitution’s Elections Clause empowers Congress and the states to regulate federal elections. *See* U.S. Const. art. I, § 4. Congress, in turn, has delegated certain responsibilities related to voter registration to federal agencies. Namely, the NVRA directs the EAC to develop the Federal Form. 52 U.S.C. § 20508(a). It also requires armed forces recruitment centers to serve as agencies, 52 U.S.C. § 20506(c), and allows states to designate other federal offices as

¹ Carrie Levine, *Trump Administration Proposal for Online Voter Registration Form Raises Concerns*, Votebeat (Oct. 27, 2025), <https://www.votebeat.org/2025/10/27/trump-administration-proposes-online-federal-voter-registration-form/>.

² *Id.*

³ *Id.*

voter registration agencies, *id.* § 20506(a)(3)(B)(ii). Along with the NVRA, the Help America Vote Act (“HAVA”), the Uniformed and Overseas Citizens Absentee Voting Act, and the Military and Overseas Empowerment Act contemplate a role for certain other federal agencies to facilitate access to voter registration opportunities.

By law, however, federal agencies play *no role* in assessing the eligibility of applicants, or approving or rejecting voter registration applications. It would be unlawful for DHS or any other federal agency to do so. Federal law reserves those functions for the states. *See, e.g.*, 52 U.S.C. §§ 20507, 21083.

The proposal would further violate federal law because the policy would require DHS or another federal agency to authenticate an applicant’s identity and citizenship as part of using the Federal Form. The NVRA, however, mandates that the Federal Form “may not include any requirement for . . . formal authentication.” 52 U.S.C. § 20508(b)(3).

Additionally, as explained in detail in our recent comments to the Commission, it would be unlawful to require applicants using the Federal Form to provide passport information or other citizenship documentation.⁴

This latest federal attempt to receive and retain voter registration information is particularly troubling given the ongoing and unlawful efforts by the U.S. Department of Justice to collect state voter information, without adhering to state or federal protections for voters’ data and without respect for state primacy in election administration.⁵ Under the NVRA and HAVA, states, not the federal government, are responsible for maintaining voter registration information. *See* 52 U.S.C. §§ 20507, 21083.

Lastly, as we understand it, the proposal conflicts with the voter registration requirements of many states. For example, some states do not allow online voter registration at all.⁶ Moreover, the proposal would introduce layers of complexity that create the risk that eligible-to-vote American citizens using the Federal Form will miss state voter registration deadlines and fail to be registered. The proposal is untethered to the current realities of voter registration and election administration, both practically and legally.

For these many reasons, we urge the EAC to take no further action to implement the proposed policy to create an online Federal Form that is submitted to one or more federal agencies and that requires the collection of unnecessary identification information.

⁴ *See* ACLU, et al., *Comments in Response to America First Legal’s Petition for Rulemaking* (Oct. 20, 2025), <https://www.aclu.org/cases/comments-on-petition-of-america-first-legal-for-rulemaking-before-the-election-assistance-commission?document=Comment-from-American-Civil-Liberties-Union-the-American-Civil-Liberties-Union-of-the-District-of-Columbia-the-Brennan-Center-for-Justice-the-Legal-Defense-Fund-LatinoJustice-PRLDEF-and-Asian-Americans-Advancing-Justice-AAJC->.

⁵ Kaylie Martinez Ochoa, et al., *Tracker of Justice Department Requests for Voter Information*, Brennan Center for Justice (Oct. 28, 2025), <https://www.brennancenter.org/our-work/research-reports/tracker-justice-department-requests-voter-information> (collecting U.S. Department of Justice demands to at least forty states for copies of their statewide voter registration files).

⁶ National Conference of State Legislatures, *Brief-Online Voter Registration* (Jan. 23, 2025), <https://www.ncsl.org/elections-and-campaigns/online-voter-registration>.

Respectfully submitted,

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