



POWER COALITION
For Equity & Justice



LEAGUE OF WOMEN VOTERS*
OF LOUISIANA

NAACP
Louisiana State Conference



January 28, 2025

Secretary Nancy Landry
Louisiana Secretary of State
P.O. Box 94125
Baton Rouge, LA 70804-9125

Via email and certified mail

Re: Notice of Louisiana’s Non-Compliance with the National Voter Registration Act Arising from Enactment of Senate Bill 436

Dear Secretary Landry and Representatives of Louisiana’s NVRA-Mandated Voter Registration Assistance Agencies:

On behalf of Voice of the Experienced (“VOTE”), the NAACP Louisiana State Conference, the League of Women Voters of Louisiana (“LWVLA”), Power Coalition for Equity and Justice (“PCEJ”), and the Louisiana Organization for Refugees and Immigrants (“LORI”), the undersigned write regarding Senate Bill 436 (“SB 436”), which was signed into law by Governor Landry as Act No. 500 on June 11, 2024 and took effect on January 1, 2025. **Pursuant to 52 U.S.C. § 20501(b), this letter serves as notice that the provision of SB 436 requiring documentary proof of citizenship to register and vote, codified as La. R.S. 18:104(D), violates the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20501, et seq.**

As you know, Louisiana voters may register to vote by mail using the Louisiana Voter Registration Application (“State Form”) or the National Mail Voter Registration Form (“Federal Form”), which is promulgated by the U.S. Election Assistance Commission (“EAC”) pursuant to the NVRA. Louisiana voters may also register to vote online, using a Louisiana Driver’s License and/or special I.D. card issued by the Office of Motor Vehicles, or, alternatively, a social security number or other specified form of identification. Louisiana voters may also register to vote in person at a parish Registrar of Voters office or at several NVRA-mandated public agencies.

Under the NVRA, all states must “accept and use” the Federal Form, which requires attestation of citizenship and residence under penalty of perjury. 52 U.S.C. § 20505. Additionally, Sections 6 and 9 of the NVRA permit states to use the State Form for voter registration in federal elections, but the State Form must meet the same requirements as the Federal Form and “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.” 52 U.S.C. § 20508(b); *see also* 52 U.S.C. § 20502(a)(2).

The NVRA also requires certain mandated public assistance agencies to provide voter registration services using the Federal Form or its “equivalent.” 52 U.S.C. § 20506(a)(6). Every state’s motor vehicle authority must likewise provide a voter registration application that may require “only the minimum amount of information necessary to (i) prevent duplicate voter registrations; and (ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20504(c); *see also id.* § 20508(b)(1). Registration applications available at public assistance agencies and the Office of Motor Vehicles must include “a statement that (i) states each eligibility requirement (**including citizenship**); (ii) contains an attestation that the applicant meets each such requirement; and (iii) requires the signature of the applicant, under penalty of perjury.” 52 U.S.C. § 20504(c)(2)(C)(i)-(iii) (emphasis added); *see also id.* §§ 20506(a)(6)(A)(i), 20508(b)(2).

Finally, if a valid voter registration form through any one of the aforementioned channels—via mail, DMV, or public agency—is timely received by election officials, the NVRA mandates that the State “ensure that any eligible applicant is registered to vote.” 52 U.S.C. § 20507(a)(1). Specifically, Section 8 “regulates[s] the method of delivery” of voter registration applications for federal elections “and by so doing overrides state law inconsistent with its mandates.” *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1354 (11th Cir. 2005). As long as an eligible voter registration applicant has delivered a voter registration form consistent with the requirements of the NVRA, the state must accept that form and place that voter on the rolls. 52 U.S.C. § 20507(a)(1).

SB 436 violates these provisions of the NVRA by requiring all eligible Louisiana voters to provide documentary proof of citizenship (“DPOC”) in order to register to vote using the State Form. Additionally, to the extent that your office construes SB 436 to also require DPOC using the Federal Form, your office would also be in violation of the NVRA, including settled Supreme Court precedent applying the NVRA.

A. SB 436 does not, and cannot under Section 6 of the NVRA, apply to the Federal Form.

First, we write to clarify that, by its text, SB 436 only amends requirements with respect to the State Form, not the Federal Form. *See* S.B. 436 (amending La. R.S. 104, relative to the promulgation of the Louisiana voter registration form). Therefore, voters using the Federal Form to register must be registered even if they don’t provide DPOC with their applications.

Any interpretation of SB 436 to apply to the Federal Form would not only be atextual but also would plainly violate Louisiana’s obligation to “accept and use” the Federal Form which does not require any documentary proof of citizenship to register to vote. As the U.S. Supreme Court has made clear, “a state-imposed requirement of evidence of citizenship not required by the Federal Form is ‘inconsistent with’ the NVRA’s mandate that States ‘accept and use’ the Federal Form,” as “the NVRA forbids States to demand that an applicant submit additional information beyond that required by the Federal Form.” *Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, 15 (2013) (“*ITCA*”) (citation omitted). Therefore, at minimum, your office cannot impose SB 436’s

DPOC requirement on the Federal Form and must issue guidance to that effect to avoid confusion with respect to registration using the Federal Form.

B. Application of SB 436’s DPOC requirement at state public assistance agencies violates Section 7 of the NVRA.

Second, because designated state agencies must offer voter registration using the Federal Form or “its equivalent” State Form, these agencies cannot require DPOC for voter registration using the State Form. 52 U.S.C. § 20506. SB 436 amends R.S. 18:104 to mandate that all State Form applicants “shall include with his application proof of United States citizenship.” SB 436 (D)(2). But as discussed above, Louisiana cannot require applicants using the Federal Form to provide DPOC. *See ITCA*, 570 U.S. at 15. In other words, SB 436 mandates that State Form applicants be treated differently (and less favorably) than Federal Form applicants by requiring that State Form applications provide information not required by the Federal Form. “Section 7 is clear: if the Secretary of State supplies the State Form to public assistance agencies, the State Form must be ‘equivalent,’ or ‘virtually identical’ to the Federal Form.” *Mi Familia Vota v. Fontes*, 719 F. Supp. 3d 929, 997 (D. Ariz. 2024). As such, if SB 436 is applied to State Form applications, as SB 436 states it is, the State Form would not be “the equivalent” of the Federal Form, and requiring DPOC for registration at public assistance agencies therefore violates Section 7 of the NVRA. *Id.* (“Because the Voting Laws require a State Form to include DPOR, the State Form is not ‘equivalent’ to the Federal Form. Arizona may not reject State Forms lacking DPOR and must register these applicants as Federal-Only Voters.”).

C. SB 436’s DPOC requirement for State Form applications violates Sections 6 and 9 of the NVRA.

Third, and more fundamentally, SB 436’s DPOC requirement for State Form applications violates Sections 6 and 9 of the NVRA. While Sections 6 and 9 permit Louisiana to create a State Form which “may require information the Federal Form does not,” Louisiana “must abide by section 6 and section 9 and show that the information required on the State Form is ‘necessary’ to determine the eligibility of the applicant.” *Mi Familia Vota*, 719 F. Supp. 3d at 996 (citing *ITCA*, 570 U.S. at 12. Here, the state cannot show that providing additional documentary proof of citizenship is necessary to determining the eligibility of each State Form applicant. In particular, the state cannot show that the attestation of citizenship required for all NVRA-mandated methods of registration—backed by criminal penalties—is not sufficient to verify the citizenship requirement for voting and safeguard against unlawful voting. *See, e.g., Fish v. Kobach*, 840 F.3d 710, 738 (10th Cir. 2016) (“[W]e interpret section 5 [of the NVRA] as establishing the attestation requirement in every case as the presumptive minimum amount of information necessary for a state to carry out its eligibility-assessment and registration duties.”). Thus, SB 436 requires more information than is necessary in violation of Sections 6 and 9 of the NVRA.

D. SB 436’s DPOC requirement, as applied at the Office of Motor Vehicles, violates Section 5 of the NVRA.

Fourth, the Office of Motor Vehicles similarly cannot require DPOC to register to vote, because such a requirement exceeds the “minimum amount of information necessary” for election officials “to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20504(c)(2)(B). The NVRA already requires that registration forms used at designated state agencies and the Office of Motor Vehicles include an

attestation of eligibility—including citizenship—made under penalty of perjury. *See* 52 U.S.C. §§ 20504(c)(2)(C), 20506(a)(6)(A)(i), 20508(b)(2). This attestation requirement provides sufficient, minimum information for state officials to make eligibility determinations and carry out their registration and list maintenance duties under the NVRA. *See, e.g., Fish*, 840 F.3d at 783 (“[W]e interpret section 5 [of the NVRA] as establishing the attestation requirement in every case as the presumptive minimum amount of information necessary for a state to carry out its eligibility-assessment and registration duties.”). Louisiana has made no showing to overcome this presumption nor otherwise suggested that the attestation requirement is insufficient to determine voter eligibility. SB 436’s duplicative and unnecessary proof of citizenship requirement for registrants through the Office of Motor Vehicles thus violates Section 5 of the NVRA’s minimal requirements provision.

E. SB 436’s DPOC requirement violates Section 8 of the NVRA.

Fifth, all the foregoing violations also lead to violations of Section 8 of the NVRA, which requires that States ensure that all applicants who submit valid voter registration forms are placed on the registration rolls. 52 U.S.C. § 20507(a).

Sixth and finally, SB 436’s DPOC requirement is particularly egregious given that SB 436 does not define what constitutes proof of citizenship sufficient to register to vote. Without this, eligible Louisiana voters cannot know how to satisfy SB 436’s requirement, nor can election officials adequately and consistently assess applicants’ eligibility. SB 436’s vague DPOC requirement thus risks inconsistent and arbitrary eligibility determinations and deprivations of the fundamental right to vote. Such a system does not comply with the NVRA’s requirements that States ensure that applicants who submit valid voter registration forms are registered and that its voter registration procedures are uniform and nondiscriminatory. 52 U.S.C. § 20507(b).

As Louisiana’s Secretary of State, you are the State’s Chief Election Officer, La. Stat. Ann. § 18:421(A), and as such, you are responsible for ensuring Louisiana’s compliance with the NVRA, *see* 52 U.S.C. § 20509. This letter constitutes notice pursuant to 52 U.S.C. § 20510(b) that your enforcement of SB 436’s DPOC provision to NVRA-mandated methods of registration will place you in violation of 52 U.S.C. §§ 20504, 20505, 20506, 20507, and 20508. If this violation is not corrected within 90 days, the undersigned may seek declaratory or injunctive relief to remedy the violation. *See* 52 U.S.C. 20510(b)(2).

Sincerely,

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In their capacity as designated NVRA public assistance agencies