

INFORMATIONAL BRIEF

Commission Selection and Non-Citizen Participation

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Core Question

The purpose of this brief is to address the following research question: Should commissioner participation be restricted to citizens only or should commissioner eligibility be extended to both citizens and non-citizens?

Summary of Topline Findings

Extending commissioner roles to non-citizens is politically contentious given voters' attitudes towards non-citizens and franchise more generally.¹² Additionally, extending commissioner roles to non-citizens will open further debate over the question, "who qualifies?" regarding non-citizen's legal (e.g. lawful permanent and temporary residents, DACA recipients) and undocumented status, residency, and age. An alternative viewpoint contends non-citizens should have the opportunity to sit on advisory commissions or boards based on the following:

- Non-citizens have a clear political stake in the redistricting process both as residents and as taxpayers. Non-citizens contribute to the economic, social, and political fabric of their respective communities. Moreover, as taxpayers, non-citizens play an important role in financing state and local policy programs through property and sales taxes. "In 2018," for example, "immigrants paid **\$492.4 billion in taxes** nationwide, of which state and local taxes comprise \$161.7 billion." ([Jacobson 2022](#)).
- The interests of non-citizen residents should be reflected in municipalities with large foreign-born populations. According to PPIC, foreign born residents represented a third of the Los Angeles population. Just over three-fourths of foreign-born residents are naturalized or have legal status while about 22 percent are undocumented.³
- Non-citizens should have the ability to participate as commissioners since city council districts are based on the Los Angeles population as whole, regardless of citizenship.
- Opening commissioner roles to adult residents, regardless of citizenship, can promote civic engagement and participation and feelings of democratic inclusion.

¹According to the poll, 79 percent of voters opposed San Francisco's decision to allow non-citizens to vote in city school board elections. Ninety percent, 70 percent, and 54 percent of Republicans, Independents, and Democrats opposed the decision. See <https://thehill.com/hilltv/what-americas-thinking/399016-poll-americans-overwhelmingly-reject-giving-voting-rights-to/>

² Poll shows 65 percent of registered voters are against extending franchise to non-citizens with legal status in national elections. <https://thehill.com/hilltv/what-americas-thinking/441863-poll-69-percent-of-voters-say-prisoners-shouldnt-be-allowed-to/>

³ <https://www.ppic.org/publication/immigrants-in-california/>

Current Jurisdictions Allowing Commissioner Participation

Allowing non-citizens to serve in an advisory capacity on boards and commissions is not far-fetched, as a handful of localities already allow non-citizens to serve in advisory roles on commissions and boards. Below are the jurisdictions we have found that allow for noncitizens to serve on boards/commissions. It seems that passing Prop C made SF the first major US city to allow noncitizens to serve in these capacities. The only opponent was the SF Republican Party but no lawsuits to be found.

Lawsuits are currently being disputed for SF's 2016 Prop N and Oakland's 2022 Measure S allowing noncitizen parents to vote in school elections. In SF, noncitizens voted in 4 school election cycles before it was challenged in court in March 2022. It is currently at the Court of Appeals. The same is the case for Oakland. Both are expected to be resolved either at the Court of Appeals or the Supreme Court.

Jurisdiction	Year	Source	Comments
Huntington Park	2015	https://www.cnn.com/2015/08/08/us/huntington-park-undocumented-immigrants-city-commission-appointees/index.html	Had 2 noncitizens serve as city commissioners; Appointed to advisory commission as volunteers and without pay
State of CA (SB225)	2019	https://www.sfchronicle.com/politics/article/California-opens-state-boards-to-undocumented-14517946.php	Newsom signed bills allowing undocumented immigrants to serve on state boards/commissions
San Francisco	2020	https://missionlocal.org/2020/11/for-first-time-san-franciscans-can-serve-on-city-boards-regardless-of-immigration-status-voters-said/	Prop C. Voters approved measure allowing anyone regardless of citizenship to be appointed to city advisory boards & commissions (art, police, health)
Costa Mesa	2021	https://www.latimes.com/socal/daily-pilot/news/story/2021-08-04/should-residents-be-u-s-voters-to-serve-on-city-commissions-costa-mesa-council-narrowly-decides-no	Planning commissioners will neither be forced to reside within the voting districts they represent, nor be U.S. citizens to serve
Santa Ana	2021	https://www.latimes.com/socal/daily-pilot/entertainment/story/2021-03-17/santa-ana	City council removed “qualified elector” requirement in order to serve on advisory bodies, boards, commissions, committees
Chula Vista	2022	https://ballotpedia.org/Chula_Vista,_California,_Measure_K,_City_Charter_Modification_Measure_(November_2022)	Recently began to allow it for commissions the charter specifies
Denton, TX	2022	https://texasscorecard.com/local/denton-allows-noncitizens-to-serve-on-city-boards/	Removed registered voter requirement to serve on city boards and commissions
San Jose	Under Consideration	https://www.kqed.org/news/11901435/give-us-a-chance-non-citizens-	Will study impact of amending charter to allow for this, after year-

		in-san-jose-could-potentially-be-allowed-to-vote	long charter review by independent commission
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Legal Precedent for Non-Citizen Political Participation

While some states and municipalities allow non-citizens to serve on commissions, there is legal precedent for localities to extend commissioner roles to non-citizens. For instance, the Illegal Immigration Reform and Immigration Responsibility Act (1996) prevents non-citizens from voting in national elections. However, it does not prevent states and localities from determining who can vote in statewide or local elections (see also Pakdaman 2019).⁴

- US Code Title 18, section 611: (a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless-
 - (1) the election is held partly for some other purpose;
 - (2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and
 - (3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal office

State Constitutions on Suffrage and Citizenship

Moreover, according to Douglas (2017), “Municipalities can expand voting rights in local elections if there are no explicit state constitutional or legislative impediments and so long as local jurisdictions have the power of home rule” (Douglas 2017). California’s constitution limits voting to citizens, 18 years of age, and residency. However, Douglas (2017) also finds that California—along with 13 other states—pose “no clear impediments to municipalities passing their own voter qualifications.”⁵

Below is a list of municipalities in California, Illinois, Maryland, New York, and Vermont that allow non-citizens to vote in some or all elections. This list is not comprehensive.

Jurisdiction	Year	Source	Comments
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⁴ https://ballotpedia.org/Laws_permitting_noncitizens_to_vote_in_the_United_States#Federal_law

⁵ These states include: Arkansas, Colorado, Illinois, Maryland, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Rhode Island, South Dakota, Washington, Wisconsin (See Appendix, Douglas, 2017).

Oakland, CA	2022	https://ballotpedia.org/Oakland, California, Measure S, Noncitizen Residents Voting Measure (November 2022)	Allows noncitizen residents who are parents, legal guardians, or legal caregivers of a public school student to vote for school board directors
San Francisco, CA	2016	https://ballotpedia.org/San Francisco, California, Non-Citizen Voting in School Board Elections Amendment, Proposition N (November 2016)	(Prop N) Non-Citizen Voting in School Board Elections. Remains in effect as of August 31, 2022 after California 1 st District Court of Appeal Ruling.
New York, NY	1968-2002	https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1026&context=firo	Non-citizens permitted to vote on school councils.
New York, NY	2021	https://bppj.berkeley.edu/2022/11/06/expand-non-citizen-voting-rights-in-local-elections/	In December 2021, the City Council of New York City voted to allow noncitizens to vote in local elections. (begins 2023)
Chicago, IL	1988	https://www.nprillinois.org/statehouse/2021-06-23/legislative-proposal-would-allow-noncitizens-to-vote-in-school-board-elections	Non-citizens can vote in local school councils.
Chicago, IL	2023	https://www.illinoispolicy.org/illinois-senate-bill-would-allow-noncitizen-parents-guardians-to-vote-in-school-board-elections/	Bill Considering granting noncitizens the right to vote if children are in the school district.
Barnesville, MD		https://www.barnesvillemd.org/town-charter	Charter: The Barnesville town charter defines qualified voters as "having resided therein for six months previous to any town election and being eighteen years of age
Cheverly, MD	2020	https://www.cheverly-md.gov/home/news/may-3-2021-election-information	Any person over the age of 18 who has been a resident of Cheverly for at least 30 days at the time of the election and has not been convicted of a crime is eligible to register to vote in town elections
Chevy Chase, Section 3, MD	2021	https://www.chevychaseelection3.org/sites/g/files/vyhlf406/f/uploads/chart-er-revised-2014-2015.pdf	Qualified Voter' shall mean any person who is a resident of Chevy Chase Section 3, without regard to citizenship, and is at least eighteen (18) years of age
Garret Park, MD		https://www.garrettparkmd.gov/home/showdocument?id=2496	Qualified persons may register by universal registration with either Montgomery County or the town, or may register only with the town, including residents who are not citizens of the United States, up to and including election day
Glen Echo, MD		https://glenecho.org/election/	Any person who is not a United States citizen, and (a) is a resident of the Town of Glen Echo, (b) is a

			lawful resident of the United States, and (c) except for the United States citizenship requirement, meets the voter qualifications provided in Section 501(a) may register to vote in Town elections
Hyattsville, MD		https://www.hyattsville.org/841/Elections	All City residents 16 and older who have lived in Hyattsville for more than 30 days by May 9, 2023 can vote in the upcoming election. U.S. citizenship is not a requirement to vote in City elections!
Martin's Additions, MD		https://www.martinsadditions.org/governance/village_council_elections/index.php	Qualified Voter' is any person who owns property or any resident of Martin's Additions who is eighteen (18) years of age or over
Mount Ranier, MD		https://ballotpedia.org/Laws_permittin_g_noncitizens_to_vote_in_the_United_States#cite_note-VTdigger-22	Mount Rainier's city charter states that any person who has been a city resident for 30 days or more at the time of a local election, is at least 18 years old, has not been convicted of a felony offense or of buying and selling votes, and is not under mental guardianship may register to vote.
Riverdale Park, MD		https://www.riverdaleparkmd.gov/government/town_charter_1.php	Riverdale Park's town charter states, "(a) Every resident of the town who (1) has the Town of Riverdale Park as his or her primary residence, (2) is at least sixteen (16) years of age, (3) has resided within the corporate limits of the town for at least forty-five (45) days immediately preceding any nonrunoff town election, (4) does not claim the right to vote elsewhere in the United States, (5) has not been found by a court to be unable to communicate a desire to vote, and (6) is registered to vote in accordance with the provisions of § 503 of this charter shall be a qualified voter of the Town
Somerset, MD		http://townofsomerset.com/DocumentCenter/View/852/Town-Charter-updated-as-of-November-2017-	"Every person who (1) is at least eighteen years of age, (2) has resided within the corporate limits of the town for fourteen days next preceding any election, and (3) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town election

Takoma Park, MD		https://takomaparkmd.gov/news/city-election-information/register-to-vote/	The City allows city residents who are non-US citizen to vote as well as 16/17-year-old City residents.
Montpelier, VT	2021	https://vtdigger.org/2021/06/24/vermont-senate-overrides-veto-of-non-citizen-voting-measures-approves-housing-bill/	Amended city charter, authorizing non-citizens to vote in city elections.
Winooski, VT	2021	https://vtdigger.org/2021/06/24/vermont-senate-overrides-veto-of-non-citizen-voting-measures-approves-housing-bill/	Winooski city charter amendment authorizing legal residents to vote in city and school district election
Source: Ballotpedia. " Laws Permitting Noncitizens to vote in the United States. "			

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