

18 October 2024

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Office of the Indiana Secretary of State
200 W. Washington St., Room 201
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Re: Letter from Attorney General Rokita and Secretary Morales to U.S. Citizenship and Immigration Services (Oct. 11, 2024)

Dear Attorney General Rokita and Secretary Morales,

We are non-partisan organizations and advocates for the right of all eligible voters to freely participate in Indiana’s elections and include civil rights attorneys and Indiana-based non-profit organizations serving and assisting eligible voters in exercising their right to vote. We write regarding your October 11, 2024, letter to the United States Citizenship and Immigration Services (“USCIS”), in which your Offices requested information regarding the citizenship status of 585,774 registered Indiana voters in order “to remove ineligible voters from our voter rolls.” We remind you that the federal National Voter Registration Act (“NVRA”) prohibits your Offices from removing Indiana voters from the voter rolls fewer than 90 days before the November 5, 2024, General Election or authorizing or requiring any other officials to remove any such voters.

At the outset, we note that only United States citizens may vote in state and federal elections, and the overwhelming evidence shows that non-citizens do not vote nor attempt to vote. Indeed, every Indiana registered voter affirms their citizenship under penalty of perjury upon registering to vote, and that is all that is required of them under Indiana and federal law.

Section 8(c)(2)(A) of the NVRA requires that all systematic voter list maintenance programs be completed at least 90 days before a federal election. 52 U.S.C. § 20507(c)(2)(A). Furthermore, Section 8(b)(1) of the NVRA requires that these programs be “uniform [and] nondiscriminatory.”¹ 52 U.S.C. § 20507(b)(1). In enacting the NVRA, Congress sought to ensure that eligible voters will not have their right to vote interfered with on the eve of an election by administrative error or discriminatory or unfair list maintenance procedures. Because the General Election is less than three weeks away, any attempt at this point to use information obtained from USCIS, or any other source, to conduct a voter

¹ Voter Registration List Maintenance: Guidance under Section 8 of the National Voter Registration Act, 52 U.S.C. § 20507, Published September 2024, <<https://www.justice.gov/crt/media/1366561/dl>>.

list maintenance program and systematically remove Indiana voters from the voter rolls, including by forwarding the information to local election officials to enable them to systematically challenge voters, violates federal law and intimidates voters. The authority cited in your letter to USCIS to support your request, 8 U.S.C. § 1373, is a general provision that does not alter or permit transgression of the NVRA's requirements.

We are unaware of any information indicating that non-citizens are attempting to vote in the forthcoming election conducted by Indiana. Moreover, there is no basis for concluding that the registered voters included in the broad groups you identified in your letter — encompassing nearly 600,000 Indiana registered voters, identified on the bases that they registered without providing a state ID number, social security number, or are located overseas — are situated such that there is any cognizable reason to suspect that any are in fact non-citizens. There is no basis to single out these voters for heightened scrutiny as to their citizenship. As you freely admit in your letter, “possession of a state-issued identification does not demonstrate that a person is a citizen.” These are voters who have been an integral part of Indiana and its elections, in some cases for decades.

Your letter also asserts, incorrectly, that USCIS's Person Centric Query Service may be used to verify the citizenship of these nearly 600,000 registered voters. As USCIS explained in a recent letter to the Kansas Secretary of State, that system is not constructed in such a manner that the citizenship of thousands of individuals may be accurately assessed. To be clear, there is no way for United States Department of Homeland Security to fulfill your request, even if it were warranted — which it is not — and even if any list maintenance program based on it were consistent with the NVRA — which it is not.

Your Offices have had nearly two years since the last federal General Election to review the citizenship status of Indiana voters and conduct any voter list maintenance procedures. The assertion in the final paragraph of your letter to USCIS that voter list maintenance procedures are necessary because “election day is a little over three weeks away” ignores important federally-guaranteed voter protections and suggests, at best, poor planning, and, at worst, an intent to intimidate eligible voters and to decrease public confidence in the integrity of Indiana's elections.

Please be advised that we reserve all rights to take legal action should you choose to violate federal law by conducting systematic voter list maintenance procedures fewer than 17 days prior to a federal election or intimidate eligible voters.

Lastly, we want to highlight a related concern that some Indiana counties may be prematurely seeking to implement a provision of HEA 1264 which, beginning in July of next year, will authorize the designated NVRA official to compare the statewide voter registration file with the Indiana Bureau of Motor Vehicles' list of temporary credentials issued to non-citizens and provide such comparison to county officials, triggering documentary proof of citizenship requirements for these voters. Just last week, Chicago Lawyers' Committee for Civil Rights alerted the Indiana Secretary of State's office about premature and improper implementation of these provisions and confusion among local election officials. We are concerned that this process is likely to erroneously flag recently naturalized citizens as alleged non-citizens and urge you to consider these issues in connection with the other topics discussed herein.

* * *

We appreciate your attention to these important matters.

Sincerely,

Chicago Lawyers' Committee for Civil Rights

Common Cause Indiana

Count US Indiana

Hoosier Asian American Power

Indiana Conservation Voters

Indiana State Conference of the NAACP

Lawyers' Committee for Civil Rights Under Law

League of Women Voters of Indiana

William R. Groth, Attorney

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