



Public Comment in Support of Proposed Rules Amending Chapter 2: Identification for Voter Registration

The proposed changes to the rules regarding identification for voter registration are a reasonable and commonsense approach to ensuring compliance with Wyoming's eligibility requirements. These rules provide clear guidance and streamline procedures to improve the voter registration process for prospective applicants and election officials.

In Wyoming, only United States citizens who are "bona fide" residents of the state are qualified to register to vote. *See* Wyo. Const. Art. 6, § 2; Wyo. Stat. Ann. § 22-3-102. Wyoming is also one of a handful of states that allows [same-day voter registration](#). *See* Wyo. Stat. Ann. § 22-3-104.

A prospective registrant's "bona fide residency status may be of special concern in areas that experience the significant and regular turn-over of an identifiable population subset compared to the rest of the community, such as communities that are home to colleges, universities, [or] military bases."¹ Wyoming is known as providing one of the [most affordable college tuitions](#) in the United States for out-of-state students. Wyoming is also home to [Francis E. Warren Air Force Base](#). These factors highlight the necessity of uniform procedures for registrars to verify the eligibility of prospective registrants.

There is "no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters." *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 196 (2008). Both the State and the public share an interest in "protecting public confidence in the integrity and legitimacy of representative government." *Id.* Prospective registrants who do not meet citizenship and residency requirements for voter registration are not eligible voters. Establishing uniform procedures for local registrars tasked with assessing prospective voter eligibility is critical to realizing these interests.

Put simply, these rules provide a mechanism by which election officials and prospective voters can easily and uniformly comply with the requirement that prospective voters meet the citizenship and bona fide residency requirements for voter registration. The documents an applicant presents at registration can serve as proof of residency as long as they display the applicant's current address and match the address on the registration form. The proposed rules also outline which additional documents can be used to demonstrate residency if there is inconsistency between the address on the identification document and the applicant's current address.

In many respects, this simplifies the process for prospective registrants and election officials. A prospective registrant whose information is current on their identification document need only provide that document when registering to vote. An election official need only review two documents: the form and the identification document to verify eligibility.

¹Amado, A. (Ed.). (2022). [Election Law Manual](#). Election Law Program.



It is only *if* the prospective registrant's identification document does not match their stated or current address, that an applicant might need to provide any additional documentation regarding residency. In practice, any supplementary documentation should only affect a small subset of persons seeking to register to vote, namely those whose proof of identification does not display their current residential address.

A benefit to prospective registrants who may fall in this small subset is the rule both 1) extends the amount of time certain documents can be used and 2) increases the types of documents that can be used to demonstrate residency for the purposes of voter registration.

An equally important facet of safeguarding public confidence in the democratic process is demonstrated effort to protect against noncitizen voting. Despite legal prohibitions, there are clear, documented instances in which noncitizens have been able to register and even to cast a ballot. It is essential for states to take precautions against noncitizen registration and voting. These rules expressly prohibit the use of any document indicating an applicant is not a citizen of the United States for the purposes of voter registration, ensuring that a noncitizen is not improperly registered to vote in violation of the law.

The proposed rules are a commonsense approach to eliminate potential loopholes that could otherwise enable noncitizens to register and, ultimately, vote. Specifying the documents that cannot be used for registration purposes provides a clear directive to prospective registrants and election officials alike regarding eligibility and what to expect when registering to vote.

While critics of the clarifications in the rules suggest they have [no indication](#) there has been a problem with out-of-state residents misrepresenting themselves as residents, such a statement begs the question whether any metric has ever been used to measure or gauge whether this has occurred and the frequency with which it has occurred. Assuredly, the lack of evidence of an unevaluated problem should have little, if any, persuasive effect. Moreover, states are not required to wait until a problem manifest to act to prevent it. *Brnovich v. Democratic Nat'l Comm.*, 141 S. Ct. 2321, 2348 (2021) ("And it should go without saying that a State may take action to prevent election fraud without waiting for it to occur and be detected within its own borders.").

Additional criticisms include questions regarding how the rule will be [administered and the potential disenfranchisement](#) of voters. Regarding administration, the requirement for a prospective registrant to provide supplemental documentation of residence will only apply *if* their identification information does not display their current address. Local election officials should already be verifying this information, but a strong informational campaign to educate voters about these requirements should be used in implementing this rule change as it may streamline the process for those seeking to register to vote. Notably, without the guidance provided by this rule, there are *no* uniform standards applicable for local registrars in verifying that a voter is a bona fide resident. Additionally, this rule benefits prospective registrants by increasing the types of documents that may be used and increasing the length of time for which these documents can be used to establish proof of residency. Regarding disenfranchisement, Wyoming law already requires that a person applying to register to vote must provide his or her current residential address



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and acceptable identification as defined by rule. *See* Wyo. Stat. Ann. § 22-3-103; 22-3-104. If a prospective voter is unable to provide the information on election day, the voter may still vote by casting a provisional ballot which will only be counted if the ballot was lawfully cast by a person qualified to vote. Wyo. Stat. Ann. § 22-3-104(g).

These rules provide important clarifications that enable election officials to properly process voter registration applications and ensure only eligible voters are registered to vote in Wyoming. Clear guidelines that implement existing requirements in the law benefit election officials and the public alike.