No. 25-1017

In the Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE, PETITIONER

v.

MI FAMILIA VOTA, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES AS RESPONDENT IN SUPPORT OF PETITIONER

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QUESTIONS PRESENTED

1. Whether the National Voter Registration Act or a federal consent decree prohibits Arizona from requiring voter-registration applicants to produce "satisfactory evidence" of U.S. citizenship when registering with a state registration form.

2. Whether the National Voter Registration Act prohibits Arizona from implementing a program within 90 days of a federal election to cancel the registrations of voters who are not U.S. citizens.

PARTIES TO THE PROCEEDING

Petitioner is the Republican National Committee, who was an intervenor-defendant and appellant below.

The following respondents were plaintiffs and appellees below: Mi Familia Vota, Voto Latino, Living United for Change in Arizona, League of United Latin American Citizens Arizona, Arizona Students' Association, ADRC Action, Inter Tribal Council of Arizona, Inc., San Carlos Apache Tribe, Arizona Coalition for Change, Poder Latinx, Chicanos Por La Causa, Chicanos Por La Causa Action Fund, Democratic National Committee, Arizona Democratic Party, Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition, Promise Arizona, Southwest Voter Registration Education Project, Tohono O'odham Nation, Gila River Indian Community, Keanu Stevens, Alanna Siquieros, LaDonna Jacket, and the United States.

The following respondents were defendants and appellees, or intervenor-defendants and appellants below: the State of Arizona, Arizona Secretary of State, Attorney General of Arizona, Director of the Arizona Department of Transportation, Apache County Recorder, Cochise County Recorder, Coconino County Recorder, Gila County Recorder, Graham County Recorder, Greenlee County Recorder, LaPaz County Recorder, Maricopa County Recorder, Mohave County Recorder, Navajo County Recorder, Pima County Recorder, Pinal County Recorder, Santa Cruz County Recorder, Yavapai County Recorder, Yuma County Recorder, and the President of the Arizona Senate and Speaker of the Arizona House of Representatives.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-154a) is reported at 129 F.4th 691. The orders of the district court (Pet. App. 188a-335a, 336a-384a) are reported at 691 F. Supp. 3d 1077 and 719 F. Supp. 3d 929.

JURISDICTION

The judgment of the court of appeals was entered on February 25, 2025. Petitions for rehearing en banc were denied on September 22, 2025 (Pet. App. 155a-187a). Following an extension granted by Justice Kagan, the petition for a writ of certiorari was timely filed on February 19, 2026, and granted on June 29, 2026. The jurisdiction of this Court rests on 28 U.S.C 1254(1).

STATUTORY PROVISIONS INVOLVED

Pertinent statutory provisions are reprinted in the appendix to this brief. See App., *infra*, 1a-27a.

INTRODUCTION

Every State in the Nation requires that only Americans may vote in American federal elections. This case is about two commonsense election-integrity measures that were adopted by Arizona following the 2020 presidential election to ensure that this rule is a reality.

The first law (H.B. 2492) requires that individuals provide documentary proof of citizenship (DPOC) to register to vote using the State's mail-in voter-registration form. The existing federal mail-in voter-registration form—which Arizona must accept, and which Arizonans may still use to register to vote in federal elections—does not require applicants to supply real proof they are in fact American. Instead, applicants need only check a box and attest to U.S. citizenship by signature. In passing H.B. 2492, Arizona reasonably chose something more than "trust me" for its own form.

The second law (H.B. 2243) requires that state election officials regularly check the voter rolls against available databases to remove any noncitizens. If an official identifies a person on the rolls as a noncitizen, he must notify that person; and if that person fails to submit DPOC within 35 days, he must be removed. H.B. 2243 requires the regular checks to continue during the 90 days before an election, as Arizona reasonably recognized that noncitizens may well try to register during that critical period.

These laws are sensible, modest policies to counteract possible voter fraud. In holding that they are preempted by the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. 20501 *et seq.*, the court of appeals badly erred.

As for H.B. 2492, the Ninth Circuit held that the DPOC requirement for the State's mail-in voter-registration form violates the NVRA twice over: requiring such proof purportedly is not "necessary" (violating Section 9) and makes the state form no longer "equivalent" to the federal mail-in voter-registration form (violating Section 7). But as this Court told Arizona the last time it was here in an NVRA case, the Act gives States the "flexibility" to "require information" on their own forms that "the Federal Form does not"—including a "proof-of-citizenship requirement." *Arizona* v. *Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 12 (2013) (*ITCA*). The decision below is irreconcilable with that assurance. The NVRA requires only that a state form ask for useful and appropriate (*i.e.*, "necessary") information, while satisfying the corresponding (*i.e.*, "equivalent") function and criteria for the federal form. As H.B. 2492 readily meets that standard, Arizona did "exactly what th[is] Court recognized as possible." Pet. App. 416a (Bumatay, J., dissenting from vacatur of stay).

The Ninth Circuit also held that H.B. 2492 is precluded by a 2018 consent decree. This too is wrong. Under this Court's precedent, a federal consent decree must give way when a significant change in intervening law renders the decree's continued enforcement inequitable. That is the case here. While state officials agreed in the decree to accept state voter-registration forms without accompanying DPOC, that decree, which never found a violation of federal law, was based solely on the officials' consent, which in turn was expressly premised on the decree's terms being consistent with then-existing state law. But that premise was overtaken by H.B. 2492, which now requires what the decree forbids. So the decree must yield, because without a federal-law violation to remedy or common consent to enforce, there is no valid basis for a federal court to continue to use the decree to override Arizona's democratic processes—let alone in a collateral action against non-parties to the decree.

As for H.B. 2243, the Ninth Circuit held that the State's voter-roll program was preempted by Section 8(c) of the NVRA, which bars systematic programs to remove "ineligible voters from the official lists of eligible voters" within 90 days of a federal election. 52 U.S.C. 20507(c)(2)(A). But the court's blinkered reading of that provision ignored its context. While Section 8 imposes certain restrictions on removing names from "the official lists" of registrants, those do not apply to individuals who were improperly registered in the first place. After all, Section 8(a) generally bars removal of a "registrant" *at any time* except for one of five reasons (request, death, criminal conviction, mental incapacity, or change in residence), 52 U.S.C. 20507(a)(3) and (4), and it would be absurd to permanently prohibit removal of the names of improperly registered noncitizens. Noncitizens are thus obviously not "registrants" within the meaning of Section 8. And they likewise are not "ineligible voters" whose names cannot be removed from the "official lists of eligible voters," as that refers to a subset of such "registrants." In other words, for purposes of Section 8's 90-day bar, an "ineligible voter" is a properly registered "registrant" who has *become* ineligible to vote, not one of the improperly registered noncitizens targeted by H.B. 2243.

In misreading the Act, the decision below jeopardizes one of its twin purposes of ensuring election integrity. Look no further than recent events in New Jersey, which just confessed it has thousands of noncitizens on its rolls, with hundreds having voted. Matt Friedman, "*'It's the honor system'": New Jersey's noncitizen voter registration brings private worries into the open*, Politico, July 30, 2026, https://perma.cc/VN6E-TK7J. The Act allows—indeed, invites—policies that stop this threat to our democracy. It does not prohibit them.

STATEMENT

A. The National Voter Registration Act of 1993

1. The Constitution vests the States with the power to decide who may vote in congressional and presidential elections. U.S. Const. Art. I, § 2, Cl. 1; Art. II, § 1, Cl. 2; Amend. XVII; see *ITCA*, 570 U.S. at 16. The Constitution also entrusts the States with the primary authority to regulate the "Times, Places[,] and Manner" of those races, while empowering Congress to "pre-empt state legislative choices" in favor of uniform federal rules. *Foster* v. *Love*, 522 U.S. 67, 69 (1997); see *Buckley* v. *Valeo*, 424 U.S. 1, 90 (1976) (per curiam). The power to regulate the "Manner" of an election includes the power to regulate the registration of voters. *ITCA*, 570 U.S. at 9 (citing *Smiley* v. *Holm*, 285 U.S. 355, 366 (1932)).

For most of our Nation's history, Congress left regulation of voter registration to the States, resulting in a patchwork of rules. S. Rep. No. 6, 103d Cong., 1st Sess. 42, 46 (1993) (Senate Report). But in 1993, Congress passed, and President Clinton signed, the NVRA to "require[] States to provide simplified systems for registering to vote in federal elections." *Young* v. *Fordice*, 520 U.S. 273, 275 (1997) (emphasis omitted). The Act was the product of a legislative process that lasted more than five years. See H.R. Rep. No. 9, 103d Cong., 1st Sess. 4-5 (1993) (House Report). The legislative compromise that emerged balances twin aims: The Act seeks to "increase the number of eligible citizens who register to vote" and to "enhance[] the participation of eligible citizens as voters" in federal elections, while also "protect[ing] the integrity of the electoral process" and "ensur[ing] that accurate and current voter registration rolls are maintained" by the States. 52 U.S.C. 20501(b).

2. The NVRA generally provides that "each State shall establish procedures to register to vote" in federal elections in at least three ways: (1) "by application made simultaneously with an application for a motor vehicle driver's license"; (2) "by mail application"; and (3) "by application in person" at designated locations. 52 U.S.C. 20503(a); see 52 U.S.C. 20503(b) (exempting certain States). The NVRA specifies requirements for each method in corresponding sections. 52 U.S.C. 20504, 20505, 20506. The first question presented in this case concerns mail-in voter-registration applications.

For that mode of registration, the NVRA gives applicants two options. The Election Assistance Commission (EAC) prescribes a federal mail-in form. 52 U.S.C. 20505(a)(1), 20508(a)(2). "In addition," a State may adopt its own mail-in form for both federal and state elections. 52 U.S.C. 20505(a)(2); see 52 U.S.C. 20508(b). As to these dual registration forms, the NVRA provides that States "shall make the forms * * * available for distribution through governmental and private entities." 52 U.S.C. 20505(b). The Act also imposes several other requirements, three of which are relevant here.

Section 9 contains the substantive requirements for both federal and state mail-in forms. 52 U.S.C. 20508(b). It identifies various things that such forms must contain (such as a signature under penalty of perjury) or cannot contain (such as a notarization obligation). *Ibid.* Foremost among those requirements, Section 9 provides that a form "may require only such identifying information * * * and other information * * * 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)(1) (emphasis added). This Court has stressed that States nevertheless possess "flexibility" in "design[ing] and us[ing] their own registration forms"—including by "requir[ing] information [that] the Federal Form does not." *ITCA*, 570 U.S. at 12.

Section 6 provides that States "shall accept and use" the federal form "for the registration of voters" in federal elections. 52 U.S.C. 20505(a)(1). This Court has interpreted that provision to mean "a State must accept the Federal Form as a complete and sufficient registration application." *ITCA*, 570 U.S. at 9; see *id.* at 10-15.

Section 7 requires distribution of the federal form, or an equivalent form, as part of the in-person registration process. 52 U.S.C. 20506(a)(6)(A). In particular, it requires a State to designate "voter registration agencies," including "offices in the State that provide public assistance" or other "services." 52 U.S.C. 20506(a)(2) and (3). Each agency must provide all applicants for registration or services the federal voter-registration form or "the office's own form if it is equivalent"—which can be the State's mail-in form or a third, agency-specific form. 52 U.S.C. 20506(a)(6)(A); see 52 U.S.C. 20506(a)(4); see also Senate Report 28; Civil Rights Division, U.S. Dep't of Justice, *The National Voter Registration Act of 1993 (NVRA)*, https://www.justice.gov/crt/national-voter-registration-act-1993-nvra (updated Nov. 1, 2024) (Para. 20-23).

3. Section 8 of the NVRA governs how States administer the rolls of registered voters. 52 U.S.C. 20507. The second question presented in this case concerns one of those requirements.

At the outset, Section 8 provides that States must register an "applicant" to vote for a federal election if he is "eligible" and has submitted a "valid voter registration form" within at least "30 days" of the election.

52 U.S.C. 20507(a)(1). Section 8 then regulates how States conduct "program[s] or activit[ies] to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll." 52 U.S.C. 20507(b); see Senate Report 30-32. Such efforts must be (i) "uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965," and (ii) may not remove "any person" solely because of their "failure to vote." 52 U.S.C. 20507(b); see *Husted* v. *A. Philip Randolph Institute*, 584 U.S. 756, 770 (2018).

Section 8 requires States to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters" due to the "death" or "change in * * * residence" of a "registrant." 52 U.S.C. 20507(a)(4); see 52 U.S.C. 20507(c)(1) and (d) (prescribing rules for removal based on change in residence). Conversely, Section 8 bans States from removing "a registrant * * * from the official list of eligible voters except" for those two reasons or three others—registrant request, criminal conviction, or mental incapacity. 52 U.S.C. 20507(a)(3).

At issue here, Section 8 further provides that States must "complete, not later than 90 days prior to the date of a [federal election], any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. 20507(c)(2)(A). But this restriction does not apply to "the removal of names from official lists of voters" based on registrant request, criminal conviction, mental incapacity, or death. See 52 U.S.C. 20507(c)(2)(B)(i) (citing 52 U.S.C. 20507(a)(3)(A), (3)(B), and (4)(A)).

B. Arizona Law

Like every State in the Nation, Arizona requires that voters in federal elections be U.S. citizens. *E.g.*, Ariz.

Const. Art. VII, § 2. Yet after the 2020 presidential election, some officials in Arizona grew concerned that noncitizens had nonetheless voted in that race. Arizona soon joined a number of States in amending its election laws to better address this species of voter fraud. Two of those changes are challenged here.

First, H.B. 2492, 55th Leg., 2d Reg. Sess. (Ariz. 2022), provides that an applicant's submission of Arizona's mail-in voter-registration form must be "accompanied by" documentary proof of citizenship (DPOC), such as a passport, birth certificate, or driver's license—what the law calls "satisfactory evidence" of citizenship. Ariz. Rev. Stat. §§ 16-121.01(C), 16-166(F). That is a change from prior state law, which allowed consideration of DPOC submitted to the State separately from the form. See Pet. App. 476a-477a, 478a-479a; 25-1019 Pet. App. 671. And that also exceeds the requirements of the current federal mail-in voter-registration form, which deems attestation to citizenship by signature to be sufficient without any DPOC. Pet. App. 17a-18a; but see Executive Order No. 14,248, § 2, 90 Fed. Reg. 14,005, 14,006 (Mar. 28, 2025) (directing EAC to require DPOC for federal form); *ITCA*, 570 U.S. at 19 (explaining that at least three of four members must agree for EAC to act). Under H.B. 2492, state-form applicants without DPOC are rejected; federal-form applicants without DPOC become "[f]ederal only" voters—*i.e.*, voters who may only vote in federal races—unless election officials are able to independently verify an applicant's citizenship (as they are required to try to do). Pet. App. 340a; see *id.* at 340a-342a.

Second, H.B. 2243, 55th Leg., 2d Reg. Sess. (Ariz. 2022), requires election officials to regularly check available databases to identify any noncitizens on state voter rolls and cancel their registrations. Ariz. Rev. Stat. § 16-165(G), (H), (J), and (K).[1] And if a county recorder identifies a registered person on the rolls as a noncitizen, the official must notify the individual and then cancel his registration if he does not supply DPOC within 35 days. *Id.* § 16-165(A)(10). This voter-roll program is not time-limited; officials continue to purge noncitizens from the rolls during the 90-day period before a federal election.

C. Procedural History

1. Immediately after Arizona passed its new election laws in 2022, eight suits followed, raising a number of claims under the NVRA (among much else). Pet. App. 13a-15a. Plaintiffs included the Democratic National Committee (DNC), a host of nonprofit organizations, and the United States. *Id.* at 13a.[2] Defendants included Arizona, along with a number of state and local election officials; the Republican National Committee (RNC) as well as Arizona's House Speaker and Senate President intervened as defendants. *Id.* at 14a. The cases were all consolidated before a single district court. *Id.* at 23a.

2. The district court gave plaintiffs "virtually everything they wanted," Pet. App. 78a (Bumatay, J., dissenting), resolving some claims at summary judgment and others after a ten-day bench trial, *id.* at 23a; see *id.* at 260a-261a, 381a. Two of those rulings are relevant here.

First, the district court held, as the League of United Latin American Citizens (LULAC) and others had urged, that H.B. 2492's DPOC requirement for state-form

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[1] H.B. 2243 superseded a similar voter-roll program for noncitizens established in a different bill. See Pet. App. 237a-238a & n.37.

[2] The United States claimed that certain provisions of Arizona's laws not at issue here violated the NVRA and another federal statute. 22-cv-1124 D. Ct. Doc. 1, at 14-16 (July 5, 2022). Following the change in Administration, the United States unsuccessfully sought leave to dismiss its suit. 22-cv-509 D. Ct. Doc. 778 (May 27, 2025).

applicants is unlawful. Pet. App. 364a-366a. The court primarily based its decision on a 2018 consent decree between LULAC (plus another nonprofit) and the Arizona Secretary of State (plus the Maricopa County Recorder). *Ibid.*; see *id.* at 474a-494a. The court did so even though LULAC did not ask the court to enforce that decree—whether through contempt or a new action —in either its operative complaint or its summary-judgment motion. 22-cv-509 D. Ct. Doc. 67, at 59-69 (July 18, 2022); D. Ct. Doc. 394, at 1-15 (June 5, 2023).

Under the LULAC consent decree, Arizona's Secretary of State had agreed to issue a binding directive for all "County Recorders to accept State Form applications submitted without DPOC." Pet. App. 484a. Notably, while the Secretary agreed to do so to avoid litigating a constitutional claim regarding the disparate treatment of state-form and federal-form applicants, she denied that the State's then-extant proof-of-citizenship requirement violated any "federal law," and expressly premised her consent on the decree's terms being "consistent" with Arizona law as it then existed. *Id.* at 476a.

Because the LULAC consent decree had never been "set aside," the district court seized on it to bar enforcement of H.B. 2492's DPOC requirement for state forms. Pet. App. 366a. In a cryptic footnote, the court further held that the requirement is independently barred by the NVRA. *Id.* at 366a n.13.

Second, the district court held, as the DNC and others had urged, that H.B. 2243's procedures for purging noncitizens from the voter rolls are preempted by Section 8 of the NVRA. Pet. App. 357a-360a. The court reasoned that the procedures are a "program" to "systematically remove" "ineligible voters" within 90 days of federal elections. *Id.* at 357a-359a.

In May 2024, the district court issued its final judgment, enjoining (among other things) the enforcement of the two provisions at issue. Pet. App. 427a-429a, 431a.

3. Ahead of the 2024 elections, the RNC and the State Legislators sought a partial stay pending appeal, including as to H.B. 2492's DPOC requirement for state forms. A motions panel of the court of appeals granted the stay in relevant part, Pet. App. 387a, but that stay was vacated by a divided merits panel just two weeks later, *id.* at 393a-404a.

In August 2024, this Court stayed the injunction against the state-form DPOC requirement. Pet. App. 426a. And then in October 2024, this Court stayed an order in a different case enjoining Virginia's program for removing noncitizens from its voter rolls—substantially similar to Arizona's program under H.B. 2243—which another district court had enjoined under Section 8 of the NVRA. See *Beals* v. *Virginia Coalition for Immigrant Rights*, No. 24A407, 2024 WL 4608863 (Oct. 30, 2024).

4. Notwithstanding this Court's stays, the Ninth Circuit subsequently affirmed the injunction.

As for H.B. 2492's state-form DPOC requirement, the court of appeals agreed that it is precluded by the LULAC consent decree. Pet. App. 47a-49a. The court further held that the requirement is preempted under Section 9 of the NVRA (because DPOC is not "necessary") and Section 7 (because the state form is no longer "equivalent" to the federal form). *Id.* at 50a-52a. As for H.B. 2243's voter-roll program, the court agreed that it is preempted under Section 8. *Id.* at 39a-47a.

Judge Bumatay dissented on both issues. Pet. App. 109a-118a, 119a-127a.

5. The court of appeals denied rehearing en banc, with eleven judges dissenting. Pet. App. 163a-187a.

SUMMARY OF ARGUMENT

I. H.B. 2492 requires that people provide DPOC to register to vote with Arizona's mail-in voter-registration form. The Ninth Circuit held that this law is preempted by the NVRA and also precluded by a 2018 consent decree. The court erred on both scores.

A. The DPOC requirement for state-form registrants complies with the NVRA. Indeed, this Court has already said so (and to Arizona). When holding that the NVRA requires States to treat the federal mail-in form as sufficient to register, the Court explained that the NVRA also permits state-developed forms to require information the federal form does not, including a proof-of-citizenship requirement in particular.

The Ninth Circuit held otherwise, concluding that H.B. 2492 violates Section 9 (because DPOC is not "necessary") and also Section 7 (because asking for DPOC renders the state form no longer "equivalent" to the federal form). But each ruling stems from the same basic misunderstanding about the Act: Whereas the court below insisted that a state form must mirror the federal form, this Court has explained that the Act grants States the flexibility to go beyond the federal backstop. A state form complies with the NVRA so long as it requires information useful and appropriate (*i.e.*, "necessary") to verifying an applicant's qualifications, and satisfies the corresponding (*i.e.*, "equivalent") function and criteria for the federal form. Arizona law easily passes that test.

B. The Ninth Circuit also held that H.B. 2492 is precluded by a 2018 consent decree, in which state officials agreed to accept state voter-registration forms not accompanied by DPOC. But under this Court's precedent, a federal consent decree typically must yield to a significant change in law. And that is the case here. The consent decree did not rest on any violation of federal law; and the State's consent was expressly premised on the decree's terms being consistent with then-existing state law. When H.B. 2492 abrogated that premise, continued enforcement of the decree became inequitable.

It is immaterial that the consent decree has not been set aside by the issuing court. The plaintiffs still cannot seek its prospective enforcement—and certainly not in a collateral action against additional defendants.

II. HB 2243 requires Arizona election officials to regularly review available databases to ensure that the voter rolls do not include noncitizens. The Ninth Circuit held that this law is preempted by Section 8(c)(2) of the NVRA, which bars removing "ineligible voters from the official lists of eligible voters" within 90 days of a federal election. The court again misunderstood the Act.

Section 8's restrictions on removing names from "the official lists of eligible voters" only apply to individuals who were properly listed in the first place. This implicit limit is clear from the Act's structure. Section 8(a)(3) generally bars removal of a "registrant" at any time except for certain reasons, but none of those covers *improperly registered* individuals like noncitizens. As it would be absurd if improperly registered individuals were permanently shielded from removal, they clearly are not "registrants" under Section 8(a). Likewise, they clearly are not "ineligible voters" whose names cannot be removed from the "official lists" of registrants under Section 8(c)(2). That term refers to properly registered registrants who have *become* ineligible to vote due to a disqualifying change, not noncitizens who were *never* qualified.

The Ninth Circuit failed to read Section 8 in context. And it subordinated the NVRA's goal of ensuring accurate voter rolls to the co-equal goal of increased registration.

ARGUMENT

This case concerns two commonsense state laws protecting election integrity: One requires individuals to provide documentary proof that they are in fact American in order to register to vote in American federal elections; the other requires election officials to regularly check voter rolls in order to ensure that noncitizens are not registered. These measures, which indisputably fall within a State's constitutional authority to regulate the manner of federal elections, are not preempted by federal law.

I. NEITHER THE NVRA NOR THE LULAC CONSENT DECREE PROHIBITS H.B. 2492'S DPOC REQUIREMENT FOR STATE MAIL-IN VOTER-REGISTRATION FORMS

H.B. 2492 requires that people provide DPOC to register to vote using Arizona's mail-in voter-registration form. The Ninth Circuit held that this requirement is preempted twice over: first, by the NVRA; and second, by a 2018 consent decree. Each holding is deeply flawed.

A. Requiring DPOC For State Forms Falls Well Within The Flexibility That The NVRA Affords States

In *Arizona* v. *Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1 (2013) (*ITCA*), this Court emphasized that the NVRA permits "state-developed forms [to] require information the Federal Form does not"—including a "proof-of-citizenship requirement" that Arizona law had at the time. *Id.* at 12. By taking the Court at its word, Arizona did not violate the Act. Pet. App. 416a-417a (Bumatay, J., dissenting from vacatur of stay). Indeed, that variation is the very product of the decision to have two forms in the first place. As Justice Alito put it in *ITCA*: "The NVRA clearly permits States to require proof of citizenship on their own forms[]—a step that Arizona has taken and that today's decision does not disturb." 570 U.S. at 45 (dissenting) (citations omitted).

The Ninth Circuit's contrary decision is wrong. The court held that Arizona's DPOC requirement is preempted by Section 9 of the NVRA (because it is not "necessary" to verify citizenship), and by Section 7 (because it makes the state form no longer "equivalent" to the federal form). Pet. App. 50a-52a. But each of those holdings flows from the same basic misunderstanding of the Act: Whereas the court misread the NVRA to demand a state form substantively identical to the federal form, the Act affords States "the flexibility to design and use their own registration forms," against the "backstop" of the federal one. *ITCA*, 570 U.S. at 12.

1. Section 9

a. Under Section 9 of the NVRA, a state mail-in voter-registration form "may require only such identifying information * * * as is *necessary* to enable the appropriate State election official to assess the eligibility of the applicant and to administer * * * the election process." 52 U.S.C. 20508(b)(1) (emphasis added); see 52 U.S.C. 20505(a)(2). The word "necessary" is "susceptible of various meanings"—from "indispensable" to "useful"—and its substance is dictated by its surroundings. *Black's Law Dictionary* 1029 (6th ed. 1990).

In the context of the NVRA, "necessary" plainly means no more than useful or important, rather than essential or indispensable. As this Court has recognized, while "[i]n the strictest sense of the term, something is 'necessary' only if it is essential," the "term is often used more loosely" as a matter of "ordinary speech" to "refer to something that is merely important or strongly desired," or "merely helpful and appropriate." *Ayestas* v. *Davis*, 584 U.S. 28, 44 (2018). And in "legal contexts," in particular, "necessary" typically means "appropriate and well adapted to fulfilling an objective." *Cellular Telecommunications & Internet Association* v. *FCC*, 330 F.3d 502, 509-510 (D.C. Cir. 2003) (*CTIA*); see, *e.g.*, *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 414-420 (1819). That ordinary, legal meaning of "necessary" applies in this context. Indeed, that view was a key premise of this Court's decision in *ITCA*.

ITCA involved the meaning of Section 6's mandate that States must "accept and use" the federal mail-in voter-registration form. 52 U.S.C. 20505(a)(1). The Court observed that the phrase, read in isolation, was "fairly susceptible of two interpretations": either "accept as sufficient" to register, or "receive willingly" as part of the registration process. *ITCA*, 570 U.S. at 9-10. In adopting the former interpretation, the Court relied in large part on the NVRA's structure. See *id.* at 12-13. Given that the NVRA authorizes States "to create their own" forms "'*in addition to* accepting and using the' Federal Form," *id.* at 12 (quoting 52 U.S.C. 20505(a)(2)) (brackets omitted), the Court reasoned that the Act was best understood as having each form perform its own "meaningful function" as a distinct option, *id.* at 13. As a result, "state-developed forms may require information the Federal Form does not." *Id.* at 12. And by the same token, a "State [cannot] demand [that] Federal Form applicants [provide] every additional piece of information the State requires on its state-specific form." *Id.* at 13. Instead, under this dual-form structure, "the Federal Form provides a backstop," against which a State has "flexibility to design and use [its] own registration forms" that impose their own additional "procedural hurdles." *Id.* at 12. And as for what those state-form additions might include, this Court cited as an "example" the "proof-of-citizenship requirement" in effect in Arizona at the time. *Ibid.*

All of that reasoning presumes that "necessary" in Section 9 means less than "essential." To begin, if necessary meant essential, then the state form could never require "additional" "information the Federal Form does not." *ITCA*, 570 U.S. at 12-13. The federal form itself would already demand the essential information, as it is subject to the same exact limitation of requiring "only" "necessary" information. 52 U.S.C. 20508(a)(2) and (b)(1); see *ITCA*, 570 U.S. at 18-20. Moreover, if the state and federal forms are identically limited to essential information, then the state form "ceases to perform any meaningful function." *ITCA*, 570 U.S. at 13. Simply put, the rationale that the NVRA provides States "flexibility" presumes that the word "necessary" does not impose a straitjacket. *Id.* at 12.

"[N]eighboring provisions of the NVRA" confirm this conclusion. *ITCA*, 570 U.S. at 11. Immediately after the provision saying that a state form may require only "necessary" information (20508(b)(1)), the Act mandates that the form must require an applicant to "attest[]" he satisfies all eligibility criteria (20508(b)(2)). If "necessary" meant "essential," it is difficult to see how a State could ever require additional material, as that would require showing it is *impossible* to ensure eligibility solely through the threat of perjury prosecutions for false attestations. See Pet. App. 178a (Nelson, J., dissenting from the denial of rehearing en banc). Even more tellingly, when addressing voter registration through applications for driver's licenses, the Act permits a State to ask for "only the *minimum amount* of information necessary to * * * enable State election officials to assess the eligibility of the applicant and to administer * * * the election process." 52 U.S.C. 20504(c)(2)(B)(ii) (emphasis added). That qualifier would be superfluous if "necessary" meant "essential" throughout the Act. See *Fish* v. *Kobach*, 840 F.3d 710, 734-736 (10th Cir. 2016); accord *McCulloch*, 17 U.S. at 414-415. Thus, in the NVRA, "necessary" is correctly read to retain its more flexible legal meaning, unless specifically qualified. See Pet. App. 111a-112a (Bumatay, J., dissenting).

Accordingly, Section 9 permits States to include a "proof-of-citizenship requirement" on their own mail-in voter-registration forms. *ITCA*, 570 U.S. at 12; see *id.* at 45 (Alito, J., dissenting). Whether or not an attestation under penalty of perjury is sufficient to ensure eligibility, documentary proof of citizenship is plainly "helpful," "important," and "appropriate" to determining whether someone is in fact a citizen. See *Ayestas*, 584 U.S. at 44. Governments routinely require people to provide better proof than their mere word for all sorts of eligibility determinations, and the NVRA affords Arizona the discretion to determine the level of proof it needs to be satisfied that voters are actually citizens. See Pet. App. 113a-114a (Bumatay, J., dissenting). Indeed, given that "[t]he right of American citizens to have their votes properly counted and tabulated, without illegal dilution, is vital" to American democracy, Executive Order No. 14,248, § 1, 90 Fed. Reg. 14,005, 14,005 (Mar. 28, 2025), Arizona's DPOC requirement is eminently reasonable. Cf. *Crawford* v. *Marion County Election Board*, 553 U.S. 181, 192-193, 198 (2008) (plurality opinion) (describing photo-identification requirements as "usual burdens of voting" that are "consistent with" the NVRA).

b. The Ninth Circuit badly erred in reaching the contrary conclusion that Section 9 of the NVRA preempts Arizona from requiring DPOC for its own mail-in voter-registration forms.

Most obviously, that holding is facially irreconcilable with this Court's statement in *ITCA* that "Arizona's" prior "proof-of-citizenship requirement" is an "example" of additional information that "state-developed forms may require." 570 U.S. at 12. The court of appeals never even mentioned this statement in *ITCA*, much less tried to distinguish it. See Pet. App. 50a-51a.

The Ninth Circuit's defenders fail to do much better. Certain respondents brush off *ITCA*'s statement as dicta. AANHPI Br. in Opp. 24. But as discussed, that States have flexibility to require additional information on their own forms was a critical premise of *ITCA*'s rationale, see pp. 17-18, *supra*, and that "reasoning" is "just as binding as th[e] holding," *Bucklew* v. *Precythe*, 587 U.S. 119, 136 (2019). Other respondents insist that *ITCA* was referring to additional material a State may require only for voters to "register for state and local elections." Mi Familia Br. in Opp. 22. But that mischaracterizes the discussion in *ITCA*, the whole point of which was that the state and federal forms "work[] in tandem" for purposes of "registering to vote in *federal* elections." *ITCA*, 570 U.S. at 12 (emphasis added).

Even putting *ITCA* aside, the decision below is woefully lacking. The Ninth Circuit baldly asserted that the "unambiguous" meaning of "necessary" is "essential," and left it at that. See Pet. App. 50a-51a. The court thus ignored the word's more common meaning in both "ordinary speech," *Ayestas*, 584 U.S. at 44, and "legal contexts," *CTIA*, 330 F.3d at 509, to say nothing of how it fits within the NVRA's structure, see pp. 16-19, *supra*.

Some respondents suggest that because the "same statutory provision governs the contents of the two forms," their contents must be the same. Mi Familia Br. in Opp. 18. But while Section 20508(b)(1)'s "necessary" standard applies to both forms, the EAC and a particular State may well disagree about how that standard applies—*i.e.*, what information is useful and appropriate. Under the scheme Congress enacted, that is a feature, not a bug: The NVRA creates a federal-form "backstop," while respecting States' traditional role in regulating voter registration by allowing them to "retain the flexibility to design and use their own" forms too. *ITCA*, 570 U.S. at 12; see Senate Report 26; House Report 9-10. For that reason, even as this Court in *ITCA* held that the State had a duty to treat the federal form as sufficient to register, no Justice "question[ed] Arizona's authority" to "create its own application form that demands proof of citizenship" and "refuse to register an applicant who submits that form without the requisite proof," regardless of what the federal form may require. 570 U.S. at 39 (Alito, J., dissenting).

Finally, some respondents, noting that "necessary" is shaped by its "surrounding language," argue that the word must mean "essential" in Section 9 because it is not paired with a "loosen[ing]" modifier like "reasonably." Mi Familia Br. in Opp. 20. But while context is critical, it cuts completely in the opposite direction. As discussed, the NVRA's motor-voter provision qualifies the phrase "amount of information necessary" with the *tightening* modifier "minimum," which makes clear that the word "necessary" *alone* retains its more flexible meaning elsewhere in the Act. See pp. 18-19, *supra*. Contrary to the suggestion that "minimum amount of information necessary" is somehow "even stricter" than "essential," Mi Familia Br. in Opp. 20, it would be inexplicably redundant for Congress to say the "minimum amount of information [essential]"—anything beyond the "minimum amount" is, by definition, *not* "essential."

By contrast, it makes perfect sense for Congress to say the "minimum amount of information [that is useful and appropriate]," thus limiting the ordinary, legal meaning of "necessary."

2. Section 7

a. Under Section 7 of the NVRA, each voter registration agency designated by a State must offer "[d]istribution of mail voter registration application forms," along with the other "services" provided there. 52 U.S.C. 20506(a)(4)(A)(i) and (a)(6)(A). The agency must distribute either the federal form, see 52 U.S.C. 20506(a)(6)(A)(i) (citing 52 U.S.C. 20508(a)(2)), or "the office's own form if it is *equivalent* to the [federal] form." 52 U.S.C. 20506(a)(6)(A)(ii) (emphasis added).

As with "necessary," the word "equivalent" carries a range of meanings—from "identical" to having the "same function." Pet. App. 114a-115a (Bumatay, J., dissenting); see, *e.g.*, *Black's Law Dictionary*, *supra*, 541 ("corresponding import, meaning, or significance"). And as with "necessary," the NVRA's structure shows that "equivalent" here means "similar in function or effect[,] rather than identical." Pet. App. 179a (Nelson, J., dissenting from the denial of rehearing en banc).

In particular, Section 7 primarily regulates which mail-in voter-registration forms a voter registration agency must distribute, not the contents of those forms, which is primarily regulated by Section 9 instead. So when Section 7 says that an agency may choose to distribute its "own form" so long as it is "equivalent" to the federal form, 52 U.S.C. 20506(a)(6)(A)(ii), that plainly means only that the agency's form must satisfy Section 9's criteria for federal forms: that is, it must enable an applicant to register by mail for federal elections; it must contain all of the information required for the federal form; and it cannot contain any of the requirements prohibited for the federal form. See 52 U.S.C. 20508(a)(2) and (b)(1). The term "equivalent" in Section 7 does not further mean that the agency's form cannot contain the type of "additional" information or requirements that Section 9 permits for state forms. It does not take with one hand what the Act provides in the other. See *ITCA*, 570 U.S. at 13. After all, the whole point of allowing an agency to use its "own form"—rather than either the federal form or the state form—is to give it the option to use a *third*, agency-specific form. See p. 7, *supra*. And that form presumably will contain *some* different information or requirements, because otherwise there would be no reason to use it at all. See Senate Report 27 ("[T]he bill attempts to provide flexibility to the agencies" in designing their "own form" so long as it is otherwise "in compliance with the requirements of [the] Act.").

At bottom, reading "equivalent" in Section 7 to mean "identical" would largely deprive the state form of "meaningful function." *ITCA*, 570 U.S. at 13. There would be little point for States "to design and use their own registration forms" under Section 6, *id.* at 12, if those forms did not satisfy Section 7. Such forms would be nearly useless, since States could not distribute them at any voter registration agency without also distributing the federal form or yet another form precisely mirroring the federal form. The term "equivalent" in Section 7 does not demand duplicative forms and eviscerate the flexibility that Section 9 affords States. See *id.* at 13.

b. In holding otherwise, the Ninth Circuit again disregarded the NVRA's structure. Based solely on a dictionary definition of "equivalent" as meaning "virtually identical," the court held that Section 7 forbids state forms requiring DPOC. Pet. App. 51a-52a; see *id.* at 38a-39a. And respondents add nothing more. Mi Familia Br. in Opp. 21; AANHPI Br. in Opp. 23.

But the NVRA either grants States "flexibility," *ITCA*, 570 U.S. at 12, or compels uniformity. It cannot do both. And since the Act does the former, "equivalent" cannot mean "virtually identical." Rather, it simply requires that the state form (or an agency-specific form) correspond to the federal form, by performing the same function and satisfying the same criteria.

At any rate, even if Section 7 required a voter registration agency's "own form" to be virtually identical to the federal mail-in form, that *still* would not preempt HB 2492's DPOC requirement for Arizona's general mail-in form. At most, that would bar such agencies from using the state form when distributing forms to applicants for services under Section 7, forcing them to distribute instead the federal form or (pointlessly) its identical twin. See 52 U.S.C. 20506(a)(6)(A)(ii). In no circumstance is the State barred from distributing its DPOC-requiring form under Section 6 in other locations or through other entities. See 52 U.S.C. 20505(b).

B. H.B. 2492 Is A Significant Change In Law That Is Not Governed By The LULAC Consent Decree

Under this Court's precedent, a significant change in law can render continued enforcement of a consent decree inequitable. That is the case here. The LULAC consent decree required election officials to accept the State's mail-in voter-registration form for federal elections even if not accompanied by DPOC. But that decree did not rest on any finding of a federal-law violation; and the State's consent was expressly premised on the decree's consistency with then-existing state law. That critical premise, however, was overtaken by H.B. 2492's requirement that the state form be accompanied by DPOC. At that point, lacking the foundation of either an adjudicated legal violation or the State's consent, the decree could no longer be prospectively enforced.

The Ninth Circuit observed that the consent decree has not been vacated by the court that entered it. Pet. App. 47a-48a. But that formality does not permit the lower courts to turn a blind eye to the inequity of continued prospective enforcement—let alone in a separate action when raised as a defense by several defendants who are not even parties to the decree.

1. A "traditional power of a court of equity" is to stop enforcing an injunction "in light of changed circumstances." *Frew ex rel. Frew* v. *Hawkins*, 540 U.S. 431, 441 (2004). Whether such orders are issued after contested litigation or the parties' settlement, their "continued enforcement" can become "not only unnecessary, but improper." *Horne* v. *Flores*, 557 U.S. 433, 450 (2009). This traditional equitable authority is expressly reflected in Rule 60(b)(5) of the Federal Rules of Civil Procedure, which allows a party to move affirmatively for relief from an injunctive order if "applying it prospectively is no longer equitable."

This Court has thus held that a federal court "errs when it refuses to modify an injunction or consent decree in light of" "a significant change either in factual conditions or in law." *Agostini* v. *Felton*, 521 U.S. 203, 215 (1997). Under "the court's equitable powers and the direction given by the Federal Rules of Civil Procedure," an injunctive order must yield "when a significant change in facts or law [so] warrants." *Frew*, 540 U.S. at 441; see *Rufo* v. *Inmates of Suffolk County Jail*, 502 U.S. 367, 384 (1992).

This Court has further emphasized that consent decrees "often raise sensitive federalism concerns," because they override "local autonomy" and use federal courts to "bind state and local officials to the policy preferences of their predecessors." *Horne*, 557 U.S. at 448-449. Courts therefore must "remain attentive" to "ensure that responsibility for discharging the State's obligations is returned promptly to the State and its officials when the circumstances warrant." *Id.* at 450 (quotation marks omitted). The need to do so is heightened when—as here—a consent decree concerns an "area[] of core state responsibility," *id.* at 448, such as the administration of elections, see *ITCA*, 570 U.S. at 8-9, 15-17.

These principles inform what constitutes a "significant change" in law barring continued enforcement of a decree. *Horne*, 557 U.S. at 447; see *Rufo*, 502 U.S. at 380. When a change in "statutory" law "make[s] legal what the decree was designed to prevent," the decree may no longer "bind all future officers of the State" to operate under the court-sanctioned policies of their predecessors. *Rufo*, 502 U.S. at 388, 392. Similarly, "if the parties had based their agreement" on a legal proposition that now reflects "a misunderstanding of the governing law," then there is "a change in circumstances that would support modification." *Id.* at 390. More generally, when the "foundation upon which the claim for injunctive relief was built has crumbled," its continued application is inequitable. *Sweeton* v. *Brown*, 27 F.3d 1162, 1166 (6th Cir. 1994) (en banc), cert. denied, 513 U.S. 1158 (1995); see *Evans* v. *City of Chicago*, 10 F.3d 474, 480-483 (7th Cir. 1993) (en banc), cert. denied, 511 U.S. 1082 (1994).

2. If a consent decree should yield when an intervening change in law makes legal what the decree barred,

then it necessarily should give way when, as here, a new state law requires conduct that was not found illegal to start *and* the decree was premised on its consistency with the old state law. The LULAC consent decree arose out of a claim by the plaintiffs that it was unconstitutional to subject state-form and federal-form applicants to different policies with respect to proof of citizenship. Pet. App. 474a-476a. Despite agreeing to issue a binding directive under then-applicable state law for all "County Recorders to accept State Form applications submitted without DPOC," *id.* at 484a, the Secretary of State denied that the contrary practice was "illegal under state or federal law." *Id.* at 476a. In fact, the Secretary was explicit that she consented to the decree's terms *only because* they were "consistent with the provisions of Arizona law" as it stood at the time. *Ibid.*; see *id.* at 478a (describing the new practice under the decree as "continuing to comply with Arizona law"). In other words, the decree was not based on any violation of federal or state law; instead, it was premised on the Secretary's having *discretion* to make local election practices uniform in this regard *under* state law. See Ariz. Rev. Stat. §§ 16-142(A), 16-452(A).

Because H.B. 2492 displaces that premise and now requires what the LULAC consent decree forbids, it constitutes a "significant change" in law. *Horne*, 557 U.S. at 453. As between the two, it is the decree that must give way. For starters, there is no "violation of federal law" that needs to be "remedied." *Id.* at 451. Again, the district court never found one to begin with; and there is no sound argument that requiring DPOC for a state voter-registration form is unconstitutional, cf. *Crawford*, 553 U.S. at 202-203 (plurality opinion), especially where that state form is "backstop[ped]" for federal elections by a federal form that does not require DPOC, *ITCA*, 570 U.S. at 12. Furthermore, the rock upon which the consent decree was built—what the Secretary "based [her] agreement" upon, *Rufo*, 502 U.S. at 390—has now fractured beyond repair, because following the decree is no longer "consistent" with, or "continuing to comply" with, state law. Pet. App. 476a, 478a.

In short, there is nothing left to sustain the continued enforcement of a federal consent decree when the court never found any violation of federal law to remedy and the premise of the State's original consent has been supplanted. See Pet. App. 106a-107a (Bumatay, J., dissenting). Given the "changed circumstances" presented by H.B. 2492's enactment, the LULAC consent decree's prohibition on DPOC for the State's mail-in form has "turned * * * into an instrument of wrong." *Agostini*, 521 U.S. at 215. The duty of the federal courts is thus to return the "responsibility for discharging the State's obligations" to its elected officials and the political process. *Horne*, 557 U.S. at 450.

3. Neither the Ninth Circuit nor the respondents defending its holding have meaningfully contested that H.B. 2492 marks a "significant change" in law warranting dissolution of the consent decree. Instead, they contend that the decree nevertheless remains binding, and thus bars enforcement of H.B. 2492, unless and until it is set aside under Rule 60(b)(5). Pet. App. 47a-48a; see Mi Familia Br. in Opp. 24-31; AANHPI Br. in Opp. 18-21.

That procedural objection, however, has no basis in law or logic, especially given the procedural posture. As a threshold matter, the "traditional power of a court of equity," *Frew*, 540 U.S. at 441, to determine that "continued enforcement" is "improper," *Horne*, 557 U.S. at 450, is not limited to an affirmative motion for Rule

60(b) relief from the decree. Indeed, in *Frew* itself, the State officials raised their objection to the decree in an opposition to a motion to enforce rather than a Rule 60(b) motion, 540 U.S. at 435, and both the court of appeals and this Court nonetheless addressed the objection on the merits, see *id.* at 436-437; accord *Salazar* v. *Buono*, 559 U.S. 700, 714-715, 718-719 (2010) (plurality opinion); *Miller* v. *French*, 530 U.S. 327, 345-346 (2000) (discussing *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 59 U.S. (18 How.) 421, 431-432 (1856)).

Simply opposing enforcement of the decree was particularly appropriate here given how the issue arose. Long after the "[c]ontinuing [j]urisdiction" of the court that entered the 2018 consent decree had ended on December 31, 2020, Pet. App. 494a, the LULAC plaintiffs challenged H.B. 2492 as part of a *new action* on a *different docket* that did *not* even expressly seek to enforce the consent decree, see 22-cv-519 D. Ct. Doc. 1, at 29-36 (Mar. 31, 2022) (original complaint); 22-cv-509 D. Ct. Doc. 67, at 59-69 (July 18, 2022) (operative complaint). Instead, the plaintiffs claimed, as relevant now, that H.B. 2492's DPOC requirement for the state form violated the NVRA. 22-cv-509 D. Ct. Doc. 67, at 66-68. Yet the district court nevertheless appears to have invoked the consent decree as a free-floating justification for its summary-judgment ruling against the DPOC requirement—without identifying any party who actually raised such a claim or possessed a cause of action to enforce the consent decree in a collateral action. See Pet. App. 365a-366a; see also p. 11, *supra*.

In that contrived posture, the defendants were allowed to collaterally impugn the validity of the consent decree, without having to run to the entering court to seek formal relief under Rule 60(b)(5). Even if it were somehow appropriate for the district court to have invoked the consent decree in the way that it did, the decree's continued enforcement is governed by equitable principles. *Frew*, 540 U.S. at 441. Prospective enforcement is thus not automatic; to the contrary, courts have a "continuing duty and responsibility to assess" whether circumstances have materially changed. *Brown* v. *Plata*, 563 U.S. 493, 542 (2011).

All the more so when continued enforcement affects *nonparties* to the decree—like the RNC and State Legislators who intervened as defendants in this case—as they cannot directly seek vacatur of a judgment to which they are strangers. See Pet. App. 108a-109a (Bumatay, J., dissenting). Just as these nonparties could collaterally attack the decree offensively without intervening to seek relief under Rule 60(b)(5), see *Martin* v. *Wilks*, 490 U.S. 755, 768-769 (1989), they can do so defensively here, especially since the decree was invoked as an amorphous matter of equity to buttress a distinct statutory claim.

Accordingly, the courts below erred in relying on the LULAC consent decree to hold H.B. 2492 unlawful, while refusing to consider whether the decree's continued enforcement had become inequitable in light of H.B. 2492's enactment. Given that the consent on which the decree was premised has been vitiated by a significant change in law, the courts should have declined to enforce it as moribund, consistent with this Court's precedent. The decree cannot preempt the lawful decision of Arizona's elected officials to require DPOC as part of the State's mail-in voter-registration form under the NVRA.

II. THE NVRA DOES NOT PROHIBIT H.B. 2243'S PROGRAM FOR REMOVING NONCITIZENS FROM VOTER ROLLS

H.B. 2243 requires Arizona election officials to regularly check the State's voter rolls against available databases to ensure that noncitizens are not registered to vote. That law complies with Section 8 of the NVRA, which restricts systematic programs within 90 days of a federal election that seek to "remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. 20507(c)(2)(A). Properly read in the context of Section 8's reticulated process for registering voters and maintaining voter rolls, its protections for registered voters apply only to valid registrants who *become* ineligible voters. They do not apply to those, like noncitizens, "who were ineligible and improperly registered to vote in the first place." See *Bell* v. *Marinko*, 367 F.3d 588, 591-592 (6th Cir. 2004).

The Ninth Circuit's contrary decision is wrong. The court entirely ignored the critical difference between registered voters who have become ineligible and those who were never eligible at all. That failure makes a hash of Section 8's text and structure. Indeed, if the Ninth Circuit's approach were applied consistently throughout Section 8, the provision would *never* permit the removal of improperly registered noncitizens, as noncitizenship is not one of the enumerated exceptions to the general ban on removing "the name of a registrant * * * from the official list of eligible voters." See 52 U.S.C. 20507(a)(3) and (4). "[A] congressional ban on removing foreign citizens [from] voting in American elections [would be] absurd," and Congress did no such thing in Section 8. Pet. App. 126a (Bumatay, J., dissenting).[3]

A. Section 8's Restrictions On Removing Names From The Lists Of Eligible Voters Do Not Apply To Those Who Were Improperly Listed In The First Place

1. Under Section 8 of the NVRA, a "State shall complete, not later than 90 days prior to the date of a [federal election], any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. 20507(c)(2)(A). The dispute here turns on what it means to be an "ineligible voter" for purposes of Section 8.

Of course, in isolation, the term "ineligible voter" could describe noncitizens. But this Court is "not asking an abstract question about the meaning of '[ineligible voter]'; [it is] seeking the meaning of the whole phrase '[remove the names of ineligible voters from the official lists of eligible voters],' where it occurs in the [NVRA]." See *General Dynamics Land Systems, Inc.* v. *Cline*, 540 U.S. 581, 596 (2004). After all, "[t]he plainness or ambiguity of statutory language is determined by reference" not just "to the language itself," but also to "the specific context in which that language is used[] and the broader context of the statute as a whole." *Robinson* v. *Shell Oil Co.*, 519 U.S. 337, 341 (1997). As a result, even where a statutory term "carries no express modifier," this Court has sometimes identified implicit limits based on statutory context. See *Cline*, 540 U.S.

[3] The United States previously construed the NVRA the same way that the Ninth Circuit did, including in stay briefing before this Court. See U.S. Stay Appl. Br. in Opp., *Beals* v. *Virginia Coalition for Immigration Rights*, No. 24A407 (Oct. 29, 2024). Following the change in Administration and this Court's stay in *Beals*, the United States has reached the opposite conclusion.

at 586; *id.* at 595 (construing "age" to mean "old age" in law banning "discrimination * * * because of an individual's age") (brackets omitted); see also *Johnson* v. *United States*, 559 U.S. 133, 140 (2010) (holding that "the phrase 'physical force' means violent force" in "statutory definition of 'violent felony'") (emphases omitted).

Here, to understand the proper scope of "ineligible voters" under Section 8, one must understand the proper scope of "the official lists of eligible voters" from which the removal of their names is restricted. See 52 U.S.C. 20507(c)(2)(A). As Judge Bumatay's dissent explained, Section 8's text uses different "terms" to refer to individuals as they "progress[]" through the registration-and-listing process, and each one "is a subset of its preceding" one. Pet. App. 124a; see *id.* at 124a-125a (graphical illustration of "this progression of terms"). And as detailed below, under that multi-step scheme for registering voters and maintaining voter rolls, "the official lists of eligible voters" are limited to *properly* registered voters (*i.e.*, voters who were in fact eligible at the time of registration); so the "ineligible voters" whose removal from those lists is restricted by the 90-day bar are likewise limited to the subset of properly registered voters who *merely become* ineligible due to some disqualifying change (*e.g.*, moving residence). Noncitizens who were improperly registered fall outside this scheme entirely: they were never properly "registrant[s]" protected from removal from "the official list of eligible voters," see 52 U.S.C. 20507(a)(3), and thus they are not the type of "ineligible voters" protected from having their names removed from that list, see 52 U.S.C. 20507(c)(2)(A). In other words, when the 90-day bar in Section 8 restricts removal of "ineligible voters" from "the official lists of eligible voters"—*i.e.*, from the lists of *registrants*—it is referring only to those ineligible voters who were properly registrants in the first place.

2. This conclusion becomes clearer walking through the steps of Section 8's registration-and-listing process. At the start, Section 8 refers to a person seeking to register as an "applicant." 52 U.S.C. 20507(a)(1). And it provides that a State "shall" register such individuals for a federal election if they are an "eligible applicant" who has submitted a "valid voter registration form" at least "30 days" before the election. *Ibid.*; see 52 U.S.C. 20507(a)(2) (requiring notice of decision on application).

Under Section 8, a successful applicant becomes "a registrant" who is placed on "the official list of eligible voters." 52 U.S.C. 20507(a)(3). The term "registrant" is not defined; and read in isolation, it would cover any applicant who was in fact registered, whether legally or not. But in context, the term is implicitly limited to *proper* registrants—the term is plainly referring only to the subset of "applicant[s]" who, as noted above, were "eligible" and had successfully submitted a "valid" registration form. 52 U.S.C. 20507(a)(1).

That implicit limit is confirmed by the protections that Section 8 grants such "registrants." It generally provides that "the name of a registrant may not be removed from the official list of eligible voters" at any time, "except" for a small set of enumerated reasons: registrant request, criminal conviction, mental incapacity, death, or change in residence. 52 U.S.C. 20507(a)(3) and (4). Each of those categories involves a registrant who *became* an ineligible voter based on changed circumstances. None expressly authorizes removal of noncitizens who were *improperly* deemed registrants from the beginning. It would, of course, be "absurd" to read Section 8 as imposing "a congressional ban on removing foreign citizens [from] voting in American elections." Pet. App. 126a (Bumatay, J., dissenting). And the Sixth Circuit therefore has held that Section 8(a)(3) does not "bar the removal of names from the official list of [eligible voters] who were ineligible and improperly registered to vote in the first place." *Bell*, 367 F.3d at 591-592.

That context critically frames Section 8(c)(2)'s additional restriction, at issue here, on removing certain "names of ineligible voters from the official lists of eligible voters" within "90 days" of a federal election. 52 U.S.C. 20507(c)(2)(A). As the above makes plain, "the official lists of eligible voters" referred to in the 90-day bar are the lists of "registrant[s]" who were actually "eligible applicant[s]" that submitted a "valid" voter-registration form, 52 U.S.C. 20507(a)(1) and (a)(3). And since the lists of "registrants" are limited to those who were properly registered in the first instance, the "ineligible voters" on those lists must be voters who have *become* ineligible thereafter. Put differently, just as the subset of "registrants" who generally may not be removed from "the official list of eligible voters" is implicitly limited to *properly registered* registrants, see p. 34, *supra*, so too the subset of "ineligible voters" who may not be removed from "the official list of eligible voters" is implicitly limited to *properly registered* ineligible voters. That the provisions "carr[y] no express modifier" to that effect is no more problematic under the 90-day removal restriction than under the general removal ban. See *Cline*, 540 U.S. at 581. "[I]n the context of" provisions restricting the removal of names from the official lists of eligible voters, it is nevertheless "clear" that the provisions simply do not apply to noncitizens who never belonged on those lists at all. Cf. *Johnson*, 559 U.S. at 140 (construing definition in light of term being defined).

The 90-day bar's exceptions further prove the point. They permit removal, even within the 90-day window, based on registrant request, death, criminal conviction, or mental incapacity. See 52 U.S.C. 20507(c)(2)(B) (citing 52 U.S.C. 20507(a)(3)(A), (3)(B), and (4)(A)). Section 8(c)(2) thus permits systematic purges *at any time* even for certain proper registrants who only later become ineligible voters removable under Section 8(a)(3) and (a)(4). It would turn Section 8 on its head to construe the 90-day bar to grant greater protection to those who were *never* properly registered as eligible voters.

Accordingly, H.B. 2243 complies with Section 8 of the NVRA. A noncitizen is an ineligible applicant, because a noncitizen is not eligible to register or vote in the first place. For that reason, a noncitizen cannot become a "registrant" and, in turn, cannot become an "ineligible voter" for purposes of Section 8. See *Bell*, 367 F.3d at 591-592. Properly read in context, Section 8's 90-day restriction does not apply to noncitizens, and thus does not prohibit Arizona's voter-roll program.

B. The Arguments That Section 8's 90-Day Provision Extends To Noncitizens Are Incorrect

The Ninth Circuit held that H.B. 2243 violates Section 8. Pet. App. 41a-47a. None of the rationales offered by that court or its defenders has merit.

1. To begin, the Ninth Circuit asserted that Section 8's 90-day bar protects noncitizens because it applies to "*any* program" that systematically removes "the names of ineligible voters" from voter rolls. Pet. App. 42a. But while the term "'any' has an expansive meaning," it is not "transformative." *Thompson* v. *United States*, 604 U.S. 408, 414 (2025) (quotation marks omitted). Courts still must determine the meaning of the key language modified by "any"—here, "ineligible voters"—based on

the context in which it appears. See *Freeman* v. *Quicken Loans, Inc.*, 566 U.S. 624, 634-635 (2012) (narrowly construing a phrase by applying the canon that "a word is given more precise content by the neighboring words," "even though [it was] preceded by 'any' "). For instance, if a university athletic department adopted a policy that "any person ineligible to play at a game may not ride on the team's bus to the game," no one would read that policy to require the coaching staff to make their own travel arrangements. Despite the breadth of the phrase "any person ineligible to play" in isolation, it is obvious in context that the policy applies to players who *become* ineligible to play (say, due to suspension), not coaches who were *never* eligible players.

The same contextual inference holds here. As explained, the NVRA distinguishes an ineligible *applicant* from an ineligible *voter*. The 90-day bar protects some of the latter, but does nothing for any of the former. At each stage of the process, Section 8 uses different language to refer to each new subset of individuals: Working backwards, an "ineligible voter" is a "registrant" who later suffers a disqualifying condition; a "registrant" is an "eligible applicant" who was placed on the official lists of eligible voters; and an "eligible applicant" is an "applicant" who was qualified to vote and completed a valid registration form. But an *ineligible* applicant like a noncitizen falls outside this scheme at its first step, never making it into the funnel. Pet. App. 185a (Nelson, J., dissenting from the denial of rehearing en banc). Again, absent this contextual reading, it would be impossible to remove people from the voter rolls based on lack of citizenship *at any time*, because the general removal ban also does not expressly exempt noncitizens. Pet. App. 126a (Bumatay, J., dissenting).

2. Remarkably, the Ninth Circuit did not even try to address that last absurdity, let alone do so persuasively. See Pet. App. 41a-47a. Defenders of the Ninth Circuit's position have suggested reasons that it would not permanently prohibit removal of noncitizens from the rolls. But they are inconsistent, unclear, and unsuccessful.

Some respondents assert that "'registrant' is most naturally understood as any person who is registered to vote." See AANHPI Br. in Opp. 27-28. If that reading were adopted, however, the NVRA *would* insulate noncitizens who were improperly registered, because Section 8's general ban on the removal of "the name of a registrant * * * from the official list of eligible voters" contains no exception for noncitizens. See 52 U.S.C. 20507(a)(3) and (a)(4). Indeed, in adopting the same position as the Ninth Circuit about the 90-day provision, the Eleventh Circuit seemed to concede that an "equitable exception [to] the General Removal Provision" would be needed to avoid this result. *Arcia* v. *Florida Secretary of State*, 772 F.3d 1335, 1347 (2014). But of course, "[c]ourts may not engraft an unwritten '[equitable]' exception onto" Section 8. *Ross* v. *Blake*, 578 U.S. 632, 648 (2016). And here, the felt need for such a text-free exception is a telling sign that the Eleventh Circuit's reading is wrong. Ironically, the court thought an atextual limit was needed because it disregarded the "limit" that is "baked into [the] text" implicitly, *ibid.*—namely, that the NVRA's removal protections are available only for those "registrants" properly placed on "the official list of eligible voters" to start.

Indeed, other respondents appear to concede that Section 8's general-removal ban does *not* extend to a person who "was never a proper 'registrant' due to initial ineligibility." See DNC Br. in Opp. 14. But that ultimately gives away the game. They provide no explanation why "registrant" in the general-removal ban is implicitly limited to *properly registered* registrants, but "ineligible voter" in the 90-day bar should not likewise be implicitly limited to *properly registered* ineligible voters. And no explanation is possible. Recall, the 90-day bar covers programs that "systematically remove the names of ineligible voters from the *official lists of eligible voters*." 52 U.S.C. 20507(c)(2)(A) (emphasis added). And "the official list of eligible voters" is the list of "registrant[s]." See 52 U.S.C. 20507(a)(3). So if "registrant" includes only a "proper" registrant, then "the official list of eligible voters" is likewise the list of "proper" registrants. At which point, it is incoherent to treat noncitizens as "ineligible voters" whose "names" cannot be removed from the list of "proper" registrants within 90 days of a federal election, 52 U.S.C. 20507(c)(2)(A), because noncitizens were *not* "proper" registrants. The incoherence disappears only by instead limiting "ineligible voters" under the 90-day bar to people who, unlike noncitizens, became ineligible to vote *after* they were properly registered in the first place.

3. Some respondents contend that the 90-day bar's exceptions imply that the bar itself must extend to voters who were initially registered improperly. See DNC Br. in Opp. 15. They observe that the exceptions cover all but one of the "categories" of registrants "subject to removal" under the general ban—*i.e.*, registrant request, death, criminal conviction, or mental incapacity—"leaving only" those who change residence. *Ibid.* Reasoning that Congress "knew how to" write a provision targeted solely at that category of registrants, *ibid.* (citing 52 U.S.C. 20507(a)(4)(B)), they conclude that Congress must have intended the 90-day bar to apply to a "broader" set

of "'ineligible voters'"—namely, improper registrants like non-citizens, *ibid.* This rationale is doubly flawed.

First, it overlooks the NVRA's protracted statutory history, which culminated, in its sponsor's words, in a "compromise." *Voter Registration: Hearing Before the Subcomm. On Elections of the Comm. On H. Admin.*, 103d Cong., 1st Sess. 2 (Jan. 26, 1993) (Rep. Swift). A critical part of sealing that deal was to amend the bill to "improve its provisions related to protection of the electoral process from registration fraud." Senate Report 58. That included the 90-day bar, where Congress added exceptions to a previously categorical ban. Compare, *e.g.*, H.R. 2190, 101st Cong., 1st Sess. § 6(e) (May 1989), with S. 250, 102d Cong., 1st Sess. § 8(c) (Jan. 1991), with H.R. 2, 103d Cong., 1st Sess. § 8(c) (May 1993) (enacted). The fact that Congress during the amendment process opted for *carveouts* nearly covering the waterfront of proper registrants—instead of a wholesale rewrite to target only those registrants who later moved —is far too thin a reed on which to infer that the bar broadly *extends* even to improper registrants.

Second, structuring the provision this way, rather than the opposite, serves a distinct function. As written, the default rule is that proper registrants cannot be removed from the rolls within the 90-day window, unless one of the carve-outs applies. This means that if the exceptions to the general-removal ban are ever expanded, systematic programs to remove registrants on the additional grounds would automatically be covered by the 90-day bar. By contrast, such newly created grounds for removal would not have been automatically covered by the 90-day bar if the provision had been drafted as applying only to those who changed their residence. Thus, had it been so drafted, subjecting any new grounds to the bar would have required amending the bar as well. And the prospect that the general grounds for removal might later expand would have been no mere hypothetical to Congress, given the hard-fought debate over whether States should be allowed to remove voters from the rolls solely for failing to vote over multiple elections—a prophylactic practice at the time that the Act ultimately proscribed. 52 U.S.C. 20507(b)(2); see, *e.g.*, *Returning Without My Approval S. 250, the National Voter Registration Act of 1992: Message from the President of the United States*, S. Doc. No. 23, 102d Cong., 2d Sess. 1 (1992) (vetoing predecessor bill that would "restrict severely [States'] ability to remove from the voter rolls the names of persons who have not voted in several years"). At minimum, this is at least as plausible an inference for the 90-day bar's structure as the contrary inference that respondents try to draw.

4. Finally, the Ninth Circuit and its defenders invoke the general purpose of the 90-day bar. They emphasize that the bar reflects a congressional judgment that, within the window shortly before a federal election, the risk of "inaccurate removal[s]" during a systematic purge outweighs the peril of illegal voters not being discovered. Pet. App. 46a. And they insist that the problem is particularly acute for those believed to be noncitizens. DNC Br. in Opp. 16-19.

Consistent with the legislative compromise that begot it, however, the NVRA does not pursue "at all costs" its goal of increasing voter registration. *American Express Co.* v. *Italian Colors Restaurant*, 570 U.S. 228, 234 (2013). It instead expressly includes tradeoffs and exceptions in furtherance of its countervailing goal of ensuring election integrity. See 52 U.S.C. 20501(b). In fact, as discussed, the 90-day bar *itself* includes multiple exceptions, allowing systematic programs that purge individuals within the pre-election window based on death, criminal conviction, or mental incapacity. See p. 8, *supra*. Those too are "*all voters susceptible of being incorrectly removed*." Pet. App. 126a (Bumatay, J., dissenting). And if anything, noncitizens have far more in common with those categories of ineligible voters—all of whom are likewise ineligible based on a durable and readily ascertainable legal status—than with registrants who merely might have changed their residence, which is a factual issue that is much harder for election officials to assess. See 52 U.S.C. 20507(c)(1) and (d) (prescribing standards to assess a change of residence).

Conversely, whatever the relative risks of erroneous removals, the relative harms from illegal votes are far more pernicious for noncitizens. While any illegal voting by felons, for instance, would of course be troubling, they at least are still part of the polity. Noncitizens, by contrast, remain strangers to "our national political community," and thus should have no say in our "democratic self-government." *Bluman* v. *FEC*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011) (Kavanaugh, J.), aff'd, 565 U.S. 1104 (2012). Noncitizen voting fundamentally corrupts our elections in a uniquely deleterious way: When those with no proper stake in shaping American government vote in American elections, the results of the ballot box no longer reflect the true voice of the People.

Moreover, the NVRA is the very reason that it is critical for States to be allowed to conduct systematic checks for voter registration by noncitizens even within the 90-day window. The Act requires States to register eligible applicants who submit valid forms within 30 days of a federal election, 52 U.S.C. 20507(a)(1), and requires States to treat the federal mail-in form as sufficient to register, *ITCA*, 570 U.S. at 9, even though that form may unreasonably require no proof of citizenship other than the applicant's mere say-so, see p. 9, *supra*. Systematic checks within the 90-day window are the only way for States to ensure that a rush of noncitizens do not illegally register shortly before a federal election. The Act should not be misconstrued to bar the States from solving a problem that the Act itself created.

Notably, while the 90-day bar is inapplicable, Congress did not leave state programs to purge noncitizens from the voter rolls wholly unaddressed in the NVRA. Elsewhere in Section 8, the Act provides that state programs seeking to "ensur[e] the maintenance of an accurate and current voter registration roll" for federal elections "shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965." 52 U.S.C. 20507(b)(1). Unlike the 90-day bar, this equality provision clearly covers the removal of noncitizens, because it refers to "registration rolls," not "official lists of eligible voters" or "registrants," and it imposes no limits on the types of persons protected. It thus sets a modest floor for election-integrity programs that target those who never should have been registered in the first place. See *Arcia* v. *Detzner*, 908 F. Supp. 2d 1276, 1284 (S.D. Fla. 2012), rev'd, 772 F.3d 1335 (11th Cir. 2014). Moreover, for voters incorrectly removed as noncitizens, the Act provides a private right of action for injunctive relief, which is expressly made available even within the 90-day window before a federal election. 52 U.S.C. 20510(b). That Congress chose to address state efforts to purge noncitizens from the voter rolls in these distinct ways is "as much a part of [the NVRA's] purpose" as the 90-day bar's objectives. *Encino Motorcars, LLC* v. *Navarro*, 584 U.S. 79, 89 (2018).

In sum, while expanding the 90-day bar's text based on its perceived purpose is misguided in all events, it is especially so in these circumstances. Instead, this Court should hold that Section 8's restrictions on voter-roll removals do not apply to those, like noncitizens, "who were ineligible and improperly registered to vote in the first place." See *Bell*, 367 F.3d at 591-592.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

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* The Solicitor General and the Assistant Attorney General for the Civil Rights Division are recused in this case.

APPENDIX

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APPENDIX

1. 52 U.S.C. 20501 provides:

Findings and purposes

(a) Findings

The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

(b) Purposes

The purposes of this chapter are—

(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this chapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

2. 52 U.S.C. 20502 provides:

Definitions

As used in this chapter—

(1) the term "election" has the meaning stated in section 30101(1) of this title;

(2) the term "Federal office" has the meaning stated in section 30101(3) of this title;

(3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;

(4) the term "State" means a State of the United States and the District of Columbia; and

(5) the term "voter registration agency" means an office designated under section 20506(a)(1) of this title to perform voter registration activities.

3. 52 U.S.C. 20503 provides:

National procedures for voter registration for elections for Federal office

(a) In general

Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office—

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 20504 of this title;

(2) by mail application pursuant to section 20505 of this title; and

(3) by application in person—

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 20506 of this title.

(b) Nonapplicability to certain States

This chapter does not apply to a State described in either or both of the following paragraphs:

(1) A State in which, under law that is in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which, under law that is in effect continuously on and after August 1, 1994, or that was enacted on or prior to August 1, 1994, and by its terms is to come into effect upon the enactment of this chapter, so long as that law remains in effect, all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

4. 52 U.S.C. 20504 provides:

Simultaneous application for voter registration and application for motor vehicle driver's license

(a) In general

(1) Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) Limitation on use of information

No information relating to the failure of an applicant for a State motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(c) Forms and procedures

(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license—

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) 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;

(C) shall 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;

(D) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 20507(a)(5)(A) and (B) of this title;

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) Change of address

Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(e) Transmittal deadline

(1) Subject to paragraph (2), a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

5. 52 U.S.C. 20505 provides:

Mail registration

(a) Form

(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 20508(a)(2) of this title for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 20508(b) of this title for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) Availability of forms

The chief State election official of a State shall make the forms described in subsection (a) available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) First-time voters

(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [52 U.S.C. 20301 et seq.];

(B) who is provided the right to vote otherwise than in person under section 20102(b)(2)(B)(ii) of this title; or

(C) who is entitled to vote otherwise than in person under any other Federal law.

(d) Undelivered notices

If a notice of the disposition of a mail voter registration application under section 20507(a)(2) of this title is sent by nonforwardable mail and is returned undelivered, the registrar may proceed in accordance with section 20507(d) of this title.

6. 52 U.S.C. 20506 provides:

Voter registration agencies

(a) Designation

(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies—

(A) all offices in the State that provide public assistance; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance;

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 20508(a)(2) of this title, including a statement that—

(I) specifies 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; or

(ii) the office's own form if it is equivalent to the form described in section 20508(a)(2) of this title,

unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes—

(i) the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(ii) if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C)), together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iv) the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(v) the statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with __________.", the blank being filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) Federal Government and private sector cooperation

All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a), and all nongovernmental entities are encouraged to do so.

(c) Armed Forces recruitment offices

(1) Each State and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States.

(2) A recruitment office of the Armed Forces of the United States shall be considered to be a voter registra-

tion agency designated under subsection (a)(2) for all purposes of this chapter.

(d) Transmittal deadline

(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

7. 52 U.S.C. 20507 provides:

Requirements with respect to administration of voter registration

(a) In general

In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 20504 of this title, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 20505 of this title, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);

(5) inform applicants under sections 20504, 20505, and 20506 of this title of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) Confirmation of voter registration

Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) [now 52 U.S.C. 10301 et seq.]; and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote, except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual—

(A) has not either notified the applicable registrar (in person or in writing) or responded during the period described in subparagraph (B) to the notice sent by the applicable registrar; and then

(B) has not voted or appeared to vote in 2 or more consecutive general elections for Federal office.

(c) Voter removal programs

(1) A State may meet the requirement of subsection (a)(4) by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude—

(i) the removal of names from official lists of voters on a basis described in paragraph (3)(A) or (B) or (4)(A) of subsection (a); or

(ii) correction of registration records pursuant to this chapter.

(d) Removal of names from voting rolls

(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant—

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) Procedure for voting following failure to return card

(1) A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(i) or (A)(ii)(II), voting at the other locations described in subparagraph (A) need not be provided as options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) Change of voting address within a jurisdiction

In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

(g) Conviction in Federal court

(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 20509 of this title of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) Omitted

(i) Public disclosure of voter registration activities

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not

each such person has responded to the notice as of the date that inspection of the records is made.

(j) "Registrar's jurisdiction" defined

For the purposes of this section, the term "registrar's jurisdiction" means—

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

8. 52 U.S.C. 20508 provides:

Federal coordination and regulations

(a) In general

The Election Assistance Commission—

(1) in consultation with the chief election officers of the States, shall prescribe such regulations as are necessary to carry out paragraphs (2) and (3);

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this chapter on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this chapter; and

(4) shall provide information to the States with respect to the responsibilities of the States under this chapter.

(b) Contents of mail voter registration form

The mail voter registration form developed under subsection (a)(2)—

(1) 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;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury;

(3) may not include any requirement for notarization or other formal authentication; and

(4) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 20507(a)(5)(A) and (B) of this title;

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

9. 52 U.S.C. 20509 provides:

Designation of chief State election official

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this chapter.

10. 52 U.S.C. 20510 provides:

Civil enforcement and private right of action

(a) Attorney General

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this chapter.

(b) Private right of action

(1) A person who is aggrieved by a violation of this chapter may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) Attorney's fees

In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) Relation to other laws

(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this chapter shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) [now 52 U.S.C. 10301 et seq.].

(2) Nothing in this chapter authorizes or requires conduct that is prohibited by the Voting Rights Act of

1965 (42 U.S.C. 1973 et seq.) [now 52 U.S.C. 10301 et seq.].

11. 52 U.S.C. 20511 provides:

Criminal penalties

A person, including an election official, who in any election for Federal office—

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for—

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this chapter; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held, shall be fined in accordance with title 18 (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31), notwithstanding any other law), or imprisoned not more than 5 years, or both.