

# Executive Order on Elections: Legal Background and Court Challenges

September 16, 2025

On March 25, 2025, President Trump issued Executive Order (EO) 14248, “[Preserving and Protecting the Integrity of American Elections](#).” The EO addresses the Election Assistance Commission (EAC) and the national uniform voter registration form, mail-in ballot requirements, state election database access by the federal government, federal election funding conditions, and voting systems requirements, among other issues. In April, the District Court for the District of Columbia in [League of United Latin American Citizens \(LULAC\) v. Executive Office of the President](#) granted, in part, a preliminary injunction pausing some of the provisions of the EO. In June, the District Court for the District of Massachusetts issued an injunction blocking additional provisions in litigation brought by multiple state plaintiffs in [State of California v. Trump](#). Washington and Oregon separately challenged the EO in the U.S. District Court for the Western District of Washington in [State of Washington v. Trump](#).

This Legal Sidebar provides background on relevant constitutional authority and federal election laws, summarizes the provisions of EO 14248, discusses the litigation challenging the EO, and offers some considerations for Congress.

## Constitutional Authority and Relevant Federal Election Law

The [Elections Clause](#) of the U.S. Constitution provides to the states the initial and principal authority to administer elections within their jurisdictions. Specifically, the Elections Clause provides: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.” As a result of this decentralized authority, states vary significantly in how they administer the federal voting process and elections. At the same time, the Elections Clause provides Congress with the authority to “[override](#)” most state laws regulating federal elections. Under that authority, Congress has enacted laws such as the National Voter Registration Act of 1993 ([NVRA](#)) and the Help America Vote Act of 2002 ([HAVA](#)), discussed below, which dictate how states administer certain aspects of the federal election process, including voter registration and voter roll maintenance.

Under the Elections Clause, Congress enacted uniform dates applicable to the general elections for the U.S. Senate and House of Representatives. Specifically, [2 U.S.C. § 7](#) establishes that Election Day for the

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House is the first Tuesday following the first Monday in November in even-numbered years, and [2 U.S.C. § 1](#) establishes that Election Day for the Senate is on the same day as the next House election that precedes the expiration of a Senator's term.

A separate constitutional provision addressing presidential elections known as the Electors Clause—in [Article II, Section 1, clause 2](#)—provides that “Each State shall appoint” electors for President and Vice President “in such Manner as the Legislature thereof may direct.” [Article II, Section 1, clause 4](#), provides Congress with the power to determine when the states choose their electors and “the Day on which they shall give their Votes; which Day shall be the same throughout the United States.” Accordingly, Congress established the same date, every four years, for the states to elect presidential and vice presidential electors in [3 U.S.C. § 1](#), known as Election Day.

## Voter Registration Requirements

For federal elections, the NVRA, also known as the “motor-voter law,” requires states to provide for mail-in voter registration and to establish voter registration procedures for eligible citizens at motor vehicle departments and at certain other state agencies. As amended by HAVA, the NVRA requires the EAC to create a national uniform voter registration [form](#)—often called the [Federal Form](#)—for applicants to use to register by mail and at certain state and local offices. The NVRA specifies that the Federal Form can [require](#) identifying information from an applicant only to assess eligibility and must include a statement specifying eligibility requirements, including citizenship, an attestation that the applicant meets each requirement, and the applicant's signature under the penalty of perjury. The law allows states to create their own mail-in voter registration forms for federal elections so long as those forms comport with NVRA requirements and those states also continue to accept the Federal Form.

The Supreme Court has [held](#) that the NVRA's requirement that states use the Federal Form for registering voters in federal elections preempted a state law requiring documentary proof of citizenship for registering to vote. The Court also determined that, although the NVRA precludes a state from requiring an applicant using the Federal Form to provide additional proof of citizenship beyond what the form requires, a state has the power to ask the EAC to include the requirement in the form's state-specific instructions.

## Voter Roll Maintenance Requirements

As amended by HAVA, the NVRA contains both requirements and restrictions relating to the removal of registrants from federal election voter rolls. The NVRA [prohibits](#) states from removing individual registrants except under certain circumstances, including “by reason of” the registrant's change in residence or death. At the same time, the NVRA requires states to “conduct a general program that makes a reasonable effort to remove” the names of such voters. In a provision that the Supreme Court has called the “[Failure-to-Vote Clause](#),” the NVRA provides that such state programs cannot result in removing a voter's name from the rolls for an individual's “failure to vote,” unless the person has either not notified the registrar or responded to a notice sent by the registrar and has not voted in two or more consecutive general federal elections. In [interpreting](#) this provision, the Supreme Court [held](#) that a state process using voter inactivity to *initiate* a process to remove registrants from its voter rolls did not violate the NVRA's Failure-to-Vote Clause, because the registrant's failure to vote was not the sole determinant for removal.

## Voluntary Voting System Guidelines

As authorized by HAVA, the EAC promulgates voluntary federal guidelines—the [Voluntary Voting System Guidelines](#)—to assist states in implementing requirements for their voting systems. While these guidelines are voluntary under federal law, many states [require](#) use of some or all of the EAC's testing

and certification program under state law, incentivizing voting system vendors to tailor their systems to the guidelines.

## Federal Law “Alien” Voting Prohibition

Federal criminal law, codified at [18 U.S.C. § 611](#), prohibits “any alien to vote” in an election held only or partially for candidates for “the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner.” There are exceptions to this prohibition, including when an alien is authorized to vote by state or local law for nonfederal candidates or issues and if the ballot is formatted in a way that the alien has the opportunity to vote solely for nonfederal candidates or issues. (For example, the District of Columbia enacted [D.C. Law 24-242](#), the Local Resident Voting Rights Amendment Act of 2022, to allow eligible [non-citizen residents](#) to vote in D.C. local elections.) Additionally, 18 U.S.C. § 611 does not apply when: “(1) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization); (2) the alien permanently resided in the United States prior to attaining the age of 16; and (3) the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States.”

[Several other federal laws](#) proscribe voting where the actor is not a U.S. citizen. For example, it is [unlawful](#) to make “any false claim that [the individual] is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election.”

## Executive Order 14248

[EO 14248](#) states that certain aspects of American elections—such as “self-attestation for citizenship,” “patchwork [] voting methods,” and “mass voting by mail”—threaten the integrity of the elections process, and it orders a variety of actions to be taken to address these matters. As discussed below, whether the EO’s provisions amount to “requirements” or “suggestions” is at issue in [LULAC v. Executive Office of the President](#) and related litigation.

[Section 2](#) of the EO contains various provisions aimed at “enforc[ing] the Federal prohibition on foreign nationals voting in Federal elections.” [Section 2\(a\)](#) states that the EAC “shall take appropriate action to require, in its national mail voter registration form,” documentary proof of U.S. citizenship. [Section 2\(b\)](#) states that federal officials shall open certain databases to state and local election officials to identify unqualified voters and that the Department of Homeland Security (DHS) and the “DOGE Administrator” shall review federal immigration databases alongside state voter registration lists and other state records. [Section 2\(c\)](#) requires the Secretary of DHS to provide to the Attorney General and state officials “complete information on all foreign nationals who have indicated on any immigration form that they have registered or voted in a Federal, State, or local election.” [Section 2\(d\)](#) requires that federal voter registration agencies “shall assess citizenship” of individuals who receive public assistance prior to providing them voter registration forms.

The EO also states that “counting ballots received after Election Day” is a violation of federal law establishing a [uniform Election Day](#). In accordance with this interpretation, [Section 7\(a\)](#) of the EO provides that the Attorney General “shall take all necessary action to enforce” [2 U.S.C. § 7](#) and [3 U.S.C. § 1](#) “against States” that do not adopt an interpretation that mail-in ballots must be *received*, rather than *sent*, by Election Day to be counted.

Other provisions of the EO include a [requirement](#) for the Secretary of Defense to update the Federal Post Card Application for military and overseas voters to include documentary proof of citizenship, an instruction to the EAC to [amend](#) the [Voluntary Voting System Guidelines](#) and rescind prior certifications

of [voting systems](#), and [requirements](#) for the Attorney General to enter into voter information-sharing agreements with state election officials.

Several provisions of the EO purport to punish states that do not comply with its mandates. For example, [Section 4](#) prohibits the EAC from providing federal funds to states that do not comply with new voting systems standards, and [Section 5](#) orders the Attorney General to prioritize enforcement of federal election integrity laws in and review withholding grants from states that do not enter into information-sharing agreements or refuse to cooperate with federal law enforcement. Similarly, [Section 7\(b\)](#) states that the EAC shall withhold certain federal grants from states that do not comply with the interpretation that mail-in ballots must be received by Election Day to be counted.

### *LULAC v. Executive Office of the President*

In cases consolidated in the U.S. District Court for the District of Columbia, nonprofit and Democratic Party organizations and elected officials [challenged](#) EO 14248. In separate motions, the [nonprofit](#) and [Democratic Party plaintiffs](#) sought preliminary injunctions requesting to block Sections 2(a), 2(b), 2(d), and 7 of the EO. On April 24, the district court [granted in part](#) a preliminary injunction, pausing Sections 2(a) and 2(d) of the EO, and denied the injunction with respect to 2(b), 7(a), and 7(b).

As a general matter, the court [observed](#) that the U.S. Constitution reserves the power to regulate federal elections invoked by the EO to Congress and the states, not the President. Therefore, the court concluded that it was likely that the plaintiffs would succeed on the merits of their complaint that the EO unlawfully usurped authority over elections, as the EO's provisions could be most plausibly [read](#) as orders and not suggestions. With regard to Section 2(a), which directed the EAC to implement a documentary proof of citizenship requirement on the Federal Form, the plaintiffs [argued](#) that “neither the Constitution nor [federal election law] grants the President the authority to direct the EAC to change the content of the Federal Form.” The court agreed that the EO's provision was essentially *ultra vires*, or outside the President's authority, and granted a preliminary injunction on the implementation of this section. [Observing](#) an “absence of any clear grant of authority,” the court held that the President's power is ““at its lowest ebb”” (quoting *Youngstown Sheet & Tube Co. v. Sawyer* (Jackson, J., concurring)), because the order to add such a requirement to the Federal Form is “contrary to the manifest will of Congress, as expressed in the text, structure, and context of the NVRA and HAVA.”

The court also [enjoined](#) the enforcement of Section 2(d) of the EO, which required that federal voter registration agencies assess citizenship prior to providing federal voter registration forms to enrollees of public assistance programs. The court held that that the EO's instruction to agencies to “assess citizenship” before providing the Federal Form is irreconcilable with the [NVRA's requirement](#) that covered federal agencies shall provide the Federal Form to each voter who receives their services unless the voter declines in writing. The court agreed with the plaintiffs that this statutory mandate from Congress leaves no discretion to federal agencies to assess citizenship before providing the form.

Finding that all of the plaintiffs were likely to succeed on the merits of their challenges to Section 2(a) and the Democratic Party plaintiffs were likely to succeed in their challenge to Section 2(d), the court further held that the plaintiffs were also likely to suffer irreparable harm without relief, that the balance of equities tipped in their favor, and that an injunction against implementation of both sections was in the public interest. Accordingly, the court issued an injunction blocking the EAC from implementing Section 2(a) and blocking the Departments of Defense, Veterans Affairs, and the Interior, together with the U.S. Small Business Administration—agencies designated by certain states as “federal voter registration agencies”—from implementing Section 2(d).

Regarding 2(b), 7(a), and 7(b), the district court did not reach the merits of the factors for injunction, instead denying injunctive relief based on the threshold argument that the plaintiffs lacked standing. According to the [court](#), “[o]n the present record, challenges to those provisions are premature or properly

presented not by these plaintiffs but by the States themselves.” The court further acknowledged that state plaintiffs have already brought challenges to these and other provisions of the EO, which are discussed below. Since the April order, the plaintiffs in *LULAC* have [filed motions](#) for partial summary judgment on their claims regarding Section 2(a).

## State Challenges

In addition to the *LULAC* litigation, nineteen state plaintiffs filed a similar challenge in the U.S. District Court for the District of Massachusetts in *State of California v. Trump*. The Massachusetts district court [agreed](#) with the *LULAC* decision that Sections 2(a) and 2(d) addressing new citizenship documentation requirements for registration were likely outside the President’s power to impose. With regard to Section 7, the court found that the states had [standing](#) to challenge the provisions (unlike the plaintiffs in *LULAC*) and [agreed](#) with prior [cases](#) that the text of the Election Day statutes require only that all votes are cast by Election Day, not that they are received by that date. The court [further noted](#) that, “[e]ven if the Election Day statutes could be read to bar states from counting ballots received after Election Day, they do not authorize the President to enforce those statutes” via civil and criminal enforcement actions; although the court acknowledged there are other actions the executive branch could take to encourage this interpretation, such as sending letters to the plaintiff states promoting the President’s interpretation of the statutes.

The state plaintiffs also challenged Section 3(d), which mandates the Secretary of Defense to require documentary proof of U.S. citizenship and eligibility for members of the military and other U.S. citizens living abroad. The Massachusetts district court [held](#) that the provision appeared to contradict the will of Congress in the Uniform Overseas Citizens Absentee Voting [Act](#) and that “neither the Constitution nor any statute grants the President the authority to enact” such a requirement. Accordingly, on June 13, 2025, the Massachusetts district court issued a [preliminary injunction](#) blocking the implementation of Sections 2(a), 2(d), 3(d), 7(a), and 7(b).

Washington and Oregon separately challenged the EO in the U.S. District Court for the Western District of Washington in *State of Washington v. Trump*. The state plaintiffs have filed a [motion](#) for partial summary judgment arguing that certain provisions of the EO (including Section 4, regarding the EAC’s denial of federal election funding to states that do not comply) are outside the President’s authority. Judgment on the motion is still pending.

## Considerations for Congress

In *LULAC*, the federal district court [reflected](#) that the “Constitution entrusts Congress and the States—not the President—with the authority to regulate federal elections” and that Congress is currently debating legislation that “would effect many of the changes” of the EO. In light of the district court injunctions and constitutional challenges to unilateral executive branch action in U.S. elections, Congress may consider passing similar reforms in statute that might be less likely to be overturned in a federal court. For example, [H.R. 22](#), the [SAVE Act](#), would amend the NVRA to require documentary proof of U.S. citizenship when registering to vote in federal elections, among other reforms. The House passed the SAVE Act on April 10, 2025, and the companion bill, [S.128](#), has been introduced in the Senate.

Alternatively, if Congress seeks to act, Congress may consider legislation expanding voting methods that are not uniformly available under [state laws](#), such as [early voting and mail-in voting](#). Stemming from its authority under the Elections Clause, it seems likely that Congress could broaden or otherwise modify the types of methods and documentation required for [voter registration](#) in federal elections. In that same vein, Congress may also amend the authorities underlying the EAC. Use of voting systems that conform to the EAC’s [Voluntary Voting System Guidelines](#) is currently voluntary under federal law, although states have

incorporated such requirements into their own state laws. Additional information on the EAC and actions by the commission related to the EO may be [found here](#).

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