

Arizona proof-of-citizenship voting requirement clarified

By Tyler J. Carrell



The avalanche of campaign signs, mailers and television advertisements, which began in early summer, marked the advent of the election season for most of us. The barrage of information will continue in the coming months, culminating with the general election on Tuesday, November 4, 2014. Americans know voting to be a privilege and responsibility, and recognize that the right to vote has a long and complicated history in our country. Issues surrounding a person's right to vote continue to pervade our politics, legislatures and courtrooms, with direct implications for this November's election.

In Arizona, legislation passed in the last decade and the simmering immigration issue has impacted the voting requirements for the 2014 election. Generally, to be a qualified voter in Arizona, a person must: (1) be a citizen of the United States; (2) be at least 18 years old on or before the date of the next regular general election following his or her registration; (3) be a resident of the state for the 29 days preceding the election, except as provided in A.R.S. §16-126; (4) be able to write his or her name or make his or her mark, unless prevented from doing so by physical disability; (5) not have been convicted of treason or a felony, unless civil rights have been restored; and (6) not have been adjudicated an incapacitated person as defined in A.R.S. §14-5101.

The first requirement, that a voter must be a U.S. citizen, has gotten particular attention over the past decade. In 2004, Arizona voters passed Proposition 200, which required every person who is registering to vote, or re-registering to vote in a different county to provide proof of citizenship. Acceptable forms of identification for proving citizenship can be found in A.R.S. §16-166, and include forms such as a birth certificate, driver's license or a Bureau of Indian Affairs Card Number.

But in 2006, two groups of plaintiffs, Gonzalez and Inter Tribal Council of Arizona (ITCA), filed separate lawsuits against the State of Arizona to prevent officials from requiring proof of citizenship. The cases were eventually consolidated, and in 2013, the U.S. Supreme Court affirmed the decision of the Ninth Circuit Court of Appeals and held that Arizona could not require information that is not required by the National Voter Registration Form ("Federal Form") itself, including proof of citizenship. Following this decision, the Federal District Court entered its final judgment and further specified that a person who submits a Federal Form and does not provide proof

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of citizenship or any other information required by state law is eligible to vote in elections for federal office.

For the November 2014 election, the bottom line is this: If you registered to vote using the Federal Form and did not provide proof of citizenship, you are eligible to vote for federal offices only, and will receive a ballot that only lists federal offices such as U.S. House of Representatives. These voters will not vote for state offices such as governor, secretary of state or state representative or for statewide propositions, school boards or county offices. Voters who registered using either the Federal Form or the State Form and provided proof of citizenship pursuant to Proposition 200 are considered a "Full Ballot Voter" and may cast his or her vote this November for any federal or state office or proposition appearing on the ballot.

This issue is far from over. In 2013, Arizona and Kansas sued the Elections Assistance Commission (EAC) to require the EAC to add the respective states' proof-of-citizenship requirement to the Federal Form instructions. On March 19, 2014, the Federal District Court ruled in favor of the states, but the case has been appealed. While the appeal is pending and until the EAC issues a state-specific instruction, the rules for this upcoming election remain in effect and Arizonans will just have to stay tuned.

For more information on voter registration requirements, please visit: azsos.gov/election.

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