

Noncitizen Voting

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Issue

Summarize the history of noncitizen voting in the United States, including Connecticut law, and provide an overview of other jurisdictions in which it is authorized.

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Summary

Noncitizen voting has a long and varied history in the United States. Although at one point [at least 22](#), and potentially [up to 40](#), states or federal territories permitted noncitizens to vote in local, state, or federal elections, this number decreased until 1926 when Arkansas became the last state to end the practice. Today, no state explicitly authorizes noncitizen voting and several states, including [Alabama](#) (2020), [Arizona](#) (2000), [Colorado](#) (2020), [Florida](#) (2020), and [North Dakota](#) (2018), have adopted constitutional bans on it.

However, noncitizen voting has reemerged as an issue, particularly at the municipal level. For example, New York City authorized noncitizens to vote in school board elections between 1969-2002, and Takoma Park, Maryland has authorized the practice for local elections since 1992.

Two states, Maryland and Vermont, provide a municipal framework for noncitizens to vote in municipal elections. New York City and San Francisco also authorized noncitizens to vote in municipal elections. However, New York and California courts have held that noncitizen voting conflicts with their respective state constitutions and is therefore unconstitutional. Both cities have appealed that determination.

Locally, the Connecticut constitution and state law require voters to be U.S. citizens and thus appear to preclude noncitizens from voting in Connecticut elections. Furthermore, federal law prohibits noncitizens from voting in federal elections and extends that prohibition to state and local elections unless certain measures are implemented.

Federal Law

The federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 prohibits noncitizens, with a limited exception, from voting in federal elections ([18 U.S.C. § 611](#)). This appears to extend to state and local elections unless:

1. the election is partly held for some other purpose (i.e., other than federal offices, such as for state or local elections);
2. the state constitution, state statutes, or local ordinances authorize noncitizens to vote for the other purpose; and
3. voting for the other purpose is conducted independently of federal offices so a noncitizen does not have the opportunity to vote for federal offices (e.g., voting on a separate ballot with only local contests).

In practice, federal elections would require additional measures to ensure noncitizen voters do not violate federal law.

Connecticut Law

Both the state constitution and state law require a voter to have citizenship. The state constitution provides that “[e]very citizen of the United States...who is a bona fide resident of the town in which he seeks to be admitted as an elector and who takes such oath...shall be qualified to be an elector” ([Conn. Const. Art. VI § 1](#)). Furthermore, to register to vote, an applicant, among other requirements, must be a United States citizen ([CGS § 9-12](#)).

Additionally, state law prohibits municipalities from adopting or amending their charters or municipal ordinances concerning the qualification and admission of electors ([CGS § 7-192a](#)). The law also requires holding and conducting municipal elections in the same manner as state elections unless otherwise provided by law ([CGS § 9-228](#)). Beyond these provisions, the Connecticut Supreme Court has ruled that municipalities may exercise only those powers granted to them by the state (*Simons v. Canty*, 195 Conn. 524 (1985)). This presumably includes voter qualifications.

Other Jurisdictions

We have identified at least 13 local jurisdictions in two states (Maryland [11] and Vermont [2]) allowing noncitizens to vote for specified local elections. For the 13 municipalities, the municipal charter or ordinance requires the noncitizen to be of age (i.e., either 16 or 18) and a bona fide resident of the municipality. These jurisdictions vary on whether the noncitizen voter (1) must have some other lawful legal status in the United States, (2) can have a criminal record, and (3) must reside in the town for a certain period before being considered a bona fide resident. We provide a few examples below.

New York City and San Francisco also passed laws allowing noncitizens to vote in municipal elections. In New York, the law has been overturned and is awaiting appeal; in California, it was overturned but later reinstated while under appeal.

Maryland

Municipalities began authorizing noncitizen voting in Maryland in 1992. The Maryland Court of Appeals (the highest state court) has determined that the state constitutional requirement for citizenship ([Md. Const. Art. I, § 1](#)) only applies to federal, state, and Baltimore municipal elections (*Smith v. Stephan*, 66 Md. 381, 7 A. 561 (1887)). The state also implemented statutory authority for municipalities to regulate municipal elections, including voting qualifications ([MD Code, Election Law, § 2-202](#)) ([MD Code, Local Gov. Law, § 4-101](#)).

Vermont

In 2019, the city of [Montpelier, VT](#) voted to amend its municipal charter to authorize noncitizens to vote in municipal elections if they are otherwise qualified to vote under state law. In 2020, [Winooski, VT](#) similarly voted to amend its charter. (Under Vermont law, the Vermont General Assembly must approve amendments to town charters ([17 V.S.A. § 2645](#)). In 2021, the General Assembly approved both amendments and overrode the governor's vetoes of the amendments.)

A lawsuit challenging the amendments was brought after passage. In 2022, state courts ruled [Montpelier's](#) and [Winooski's](#) authorization of noncitizen voting for municipal was constitutional. Specifically, prior case law had interpreted the constitutional requirements on voter qualifications (including requiring U.S. citizenship) applied to state and federal elections, but not to municipal elections (*State v. Marsh*, N. Chip. 28, 1789 WL 103 (Vt.), and *Woodcock v. Bolster*, 35 Vt. 632 (1863)).

New York City

In December 2021, [New York City authorized](#) permanent legal residents and people with U.S. work authorization to vote for municipal offices, among other electoral opportunities. However, in June 2022, a lower New York court [ruled the ordinance unconstitutional](#) as it violated the New York constitution, state election law, and municipal home rule law. Specifically, the court found (1) only citizens could vote in state and local elections and (2) state election law could not be preempted by municipal law. The city appealed the ruling. (Before this authorization, NYC authorized noncitizens to vote in school board elections under state law until 2002, when the city reorganized the school system (N.Y. Educ. Law § 2590-c (2002)).)

San Francisco

In November 2016, [San Francisco](#) voters passed [Proposition N](#) amending the city charter to authorize noncitizen residents who are parents, legal guardians, or legally recognized caregivers of children under the age of 19 to vote in school board elections. The amendment applied to elections beginning January 1, 2017, and ending after the third school board election or December 31, 2022, whichever was later. The amendment authorized the city's Board of Supervisors to make the authorization permanent. The board amended the municipal elections code in 2018 to incorporate the charter amendment and in November 2021 made the codification permanent through ordinance.

In July 2022, a lower California court [ruled the ordinance unconstitutional](#) as it violated the California constitution and state statute. Specifically, the court found the constitution and the state elections code require a voter to be a U.S. citizen. Further, home rule law (1) does not authorize the city to define voters or establish voter qualifications different from state law, nor (2) does not allow a municipality to override state law. The city has appealed the ruling and [an appellate court has reinstated the law](#) for the November 2022 school board election while the appeal is pending.

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