

The State of Texas

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Jane Nelson
Secretary of State

ELECTION ADVISORY

NO. 2024-30

TO: All Election Officials
FROM: Christina Worrell Adkins, Director of Elections *CWA*
DATE: October 8, 2024
RE: Limited-Term Driver's License and Identification Card

The purpose of this advisory is to provide guidance to election officials regarding an individual's presentation of a limited-term driver's license or identification card as a form of identification when attempting to vote in person during early voting or on election day.

All statutory references in this advisory are to the Texas Election Code, unless otherwise indicated.

Limited-Term Driver's License and Identification Card and Eligibility Requirements

Federal regulations provide that a state may issue only "a temporary or limited-term" driver's license or ID card to an individual who has temporary lawful status in the United States but who is not a United States citizen. 6 C.F.R. § 37.21. The limited-term driver's license or identification card "must clearly indicate on the face of the license" that it is issued for a temporary or limited term. 6 C.F.R. § 37.21(e). Consistent with those regulations, the Texas Department of Public Safety issues temporary or limited-term driver's licenses or ID cards to noncitizens. TEX. TRANSP. CODE § 521.001(a)(3)(A); Tex. Dep't of Public Safety, *Driver Licenses and ID Cards for Temporary Visitors*, <https://www.dps.texas.gov/section/driver-license/driver-licenses-and-id-cards-temporary-visitors> (last visited Oct. 8, 2024).

Only eligible United States citizens may register to vote in the State and cast ballots in Texas elections. Noncitizens who knowingly make false statements or claim that they are a citizen in order to register to vote are subject to fines and could be imprisoned up to five years. 18 U.S.C. § 1015. A noncitizen who votes in any federal election may be deemed inadmissible and subject to deportation. 8 U.S.C. § 1182. See Advisory 2024-19 - Citizenship Requirements for Texas Elections. State law, likewise, provides that "to be eligible to vote in an election in this state," a person must be "a United States citizen." TEX. ELEC. CODE §§ 11.001(a)(1), 11.002(a)(2), 13.001(a)(2). In Texas, it is a state jail felony to lie about citizenship status when registering to vote, and it is a second-degree

felony for a noncitizen to cast a vote. TEX. ELEC. CODE §§ 276.018, 64.012. It is also a crime for an election officer to knowingly permit a noncitizen to vote in Texas. TEX. ELEC. CODE § 63.012.

It is possible for a noncitizen who was previously issued a limited-term driver's license or ID card to subsequently become a naturalized citizen and then fail to obtain an updated, permanent driver's license or ID card. But when an individual presents a limited-term driver's license or ID card to vote, the only thing that can be known for certain is that at some time—whether in the past or the present—the individual was a noncitizen who was *not* eligible to vote. Accordingly, our office has consistently made it clear that Texans should not use this type of license to participate in elections, even if it otherwise constitutes a valid form of ID.

Individual Presents a Limited-Term Driver's License or Identification Card and Appears on the List of Registered Voters

If an individual who appears on the list of registered voters possesses a limited-term driver's license or identification card but also possesses another acceptable form of photo identification under Section 63.0101(a) of the Texas Election Code ("List A"), it is recommended that the individual present the other form of photo identification because the limited-term driver's license or identification card necessarily denotes that the person was not a United States citizen at the time of its issuance.

However, if an individual with a limited-term driver's license or identification card appears to vote and is listed as registered voter, the election judge or clerk should take the following steps before issuing the individual a regular ballot:

- The election judge or clerk should inform the individual that the identification presented suggests that the individual is not a United States citizen. The election judge or clerk should then inform the individual as to the eligibility requirements to vote in the State of Texas. The election judge or clerk may use the following recommended language when addressing this issue with the individual:

"The limited-term driver's license/identification card you presented suggests that you are not a United States citizen. Per the Texas Election Code, to be eligible to vote in the State of Texas, you must be a qualified voter of this state. A qualified voter is a person who: is a United States citizen; is 18 years of age or older; is a resident of the State of Texas; has not been finally convicted of a felony, or if so convicted, has fully discharged the person's sentence; and has not been determined by a final judgment of a court exercising probate jurisdiction to be totally or partially mentally incapacitated without the right to vote."

- The Secretary of State prescribed and issued a new form, Notice of Voter Eligibility, on September 19, 2024. The form was translated in Spanish and is available in our Forms Manual. As a reminder, election officials may post this form in their respective polling places. The Notice of Voter Eligibility provides information to voters on the eligibility requirements to vote in Texas, as stated in Sections 11.001 and 11.002 of the Texas Election Code. If the county posts this notice in its polling places, the election judge or clerk may also

direct the individual to this notice after verbally describing the eligibility requirements to vote in the State of Texas.

- If the individual has further questions or concerns regarding the eligibility requirements to vote after being presented with the above-referenced information, the individual should be directed to contact their county election officer or the Secretary of State's office before casting a regular ballot. If the individual does not have further questions or concerns and wishes to proceed to vote, the individual should be offered a regular ballot. Please note that it is possible the individual became a naturalized United States citizen after the limited-term license or identification card was issued and has not updated his or her Texas driver's license or identification card since becoming naturalized.

Individual Presents a Limited-Term Driver's License or Identification Card but Does Not Appear on the List of Registered Voters

If the individual does not appear on the list of registered voters and presents a limited-term driver's license or identification card at the polling place as a form of identification per Section 63.0101(a) of the Texas Election Code, the election judge or clerk should take the following steps before issuing the individual a provisional ballot:

- The election judge or clerk should inform the individual that the identification presented suggests that the voter is not a United States citizen. The election judge or clerk should then inform the voter as to the eligibility requirements to vote in the State of Texas. The election judge or clerk may use the following recommended language when addressing this issue with the voter:

"The limited-term driver's license/identification card you presented suggests that you are not a United States citizen. Your name does not appear on the list of registered voters. Per the Texas Election Code, to be eligible to vote in the State of Texas, you must be a qualified voter of this state. A qualified voter is a person who: is a United States citizen; is 18 years of age or older; is a resident of the State of Texas; has not been finally convicted of a felony, or if so convicted, has fully discharged the person's sentence; and has not been determined by a final judgment of a court exercising probate jurisdiction to be totally or partially mentally incapacitated without the right to vote."

- If the county posts the Notice of Voter Eligibility in its polling places, the election judge or clerk may also direct the individual to the notice after describing the eligibility requirements to vote in the State of Texas.
- The election judge or clerk may also show the individual the eligibility requirements which appear on the Affidavit of Provisional Voter. The election judge or clerk should instruct the individual to carefully review the information on the provisional ballot affidavit to ensure that the individual understands the eligibility requirements to vote and is eligible to cast a provisional ballot.

- If the individual has further questions or concerns regarding the eligibility requirements to vote after being presented with the above referenced information, the individual should be directed to contact their county election officer or the Secretary of State's office before casting a provisional ballot. If the individual does not have further questions or concerns and wishes to proceed to vote, the individual should be offered a provisional ballot.

Challenges to Voter Eligibility

If an individual presents a limited-term driver's license or identification card at the polling place, and the election judge or clerk has reason to believe that the voter is not a United States citizen, the election judge or clerk may bring this to the attention of the county voter registrar. The election judge or clerk may also file a sworn statement with the voter registrar under Section 16.092 of the Texas Election Code. The election judge or clerk should also follow the steps previously addressed in this advisory, depending on the facts presented at the polling place. See [Advisory 2024-18 – Required List Maintenance Activities](#) for more details on voter challenges. Election workers are reminded that it is state criminal offense to knowingly allow a noncitizen to vote. TEX. ELEC. CODE § 63.012.

If you have any questions about the information in this advisory, please contact the Elections Division at 1-800-252-VOTE (8683).

CA:HM