


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Vincent C. Matthews, Ed.D., Superintendent, San Francisco Unified
School District
John Arntz, Director, Department of Elections

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: March 6, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Yee on February 27, 2018:

File No. 180193

Ordinance amending the Municipal Elections Code to implement Proposition N, adopted at the November 8, 2016, election, by requiring the Department of Elections to develop a voter registration affidavit for certain non-United States citizens to vote in School Board elections; to include a notice on voter materials informing non-United States citizens that any information provided to the Department may be obtained by the federal government; and to create other documents related to non-United States citizens voting in School Board elections, as defined herein.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Viva Mogi, San Francisco Unified School District
Esther Casco, San Francisco Unified School District
Danielle Houck, San Francisco Unified School District

1 [Municipal Elections Code - Noncitizen Voting in School Board Elections]

2
3 **Ordinance amending the Municipal Elections Code to implement Proposition N,**
4 **adopted at the November 8, 2016, election, by requiring the Department of Elections to**
5 **develop a voter registration affidavit for certain non-United States citizens to vote in**
6 **School Board elections; to include a notice on voter materials informing non-United**
7 **States citizens that any information provided to the Department may be obtained by the**
8 **federal government; and to create other documents related to non-United States**
9 **citizens voting in School Board elections, as defined herein.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. The Municipal Elections Code is hereby amended by adding Article X,
19 consisting of Sections 1001 through 1005, to read as follows:

20 **ARTICLE X: NON-UNITED STATES CITIZEN VOTING IN SCHOOL BOARD**

21 **ELECTIONS**

22 **SEC. 1001. DEFINITIONS.**

23 *Whenever the following terms are used in this Article X, the following definitions shall apply:*

24 *"Department" means the San Francisco Department of Elections.*

1 “Director” means the Department’s Director of Elections, or his or her designated agent or
2 representative.

3 “School Board Election” means an election for one or more members of the Board of
4 Education of the San Francisco Unified School District.

5
6 **SEC. 1002. VOTER REGISTRATION FOR SCHOOL BOARD ELECTIONS.**

7 (a) Voter Registration Affidavit. The Department shall create a voter registration affidavit,
8 which shall be the exclusive means by which a non-United States citizen may register to vote in School
9 Board Elections.

10 (b) Contents. The voter registration affidavit described in subsection (a) shall, in addition to
11 any other information required by the Department, require the individual to attest under penalty of
12 perjury that:

13 _____ (1) the individual is not a United States citizen;

14 _____ (2) the individual is a San Francisco resident, and intends to remain a San Francisco
15 resident until the next School Board Election;

16 _____ (3) the individual is the parent, legal guardian, or caregiver (as defined in California
17 Family Code Section 6550 or any successor legislation) of a child who, at the time of the next School
18 Board Election, will be under age 19 and resides in the San Francisco Unified School District;

19 _____ (4) at the time of the next School Board Election, the individual will be the minimum
20 age required under the City Charter to vote in a municipal election; and,

21 _____ (5) the individual is not disqualified from voting under Article II, Section 4 of the
22 California Constitution or any implementing State statute.

23 The voter registration affidavit described in subsection (a) of this Section 1002 shall also state
24 that it does not entitle an individual to vote in elections other than School Board Elections.

1 (c) Notice. The voter registration affidavit described in subsection (a) of this Section 1002
2 shall include the notice described in Section 1003 of this Article X.

3 (d) Validity. An individual's voter registration affidavit shall be valid for one School Board
4 Election. An individual must submit a new voter registration affidavit prior to voting in each School
5 Board Election.

6
7 **SEC. 1003. NOTICE.**

8 (a) The Department shall place the following notice in the locations described in subsection (c)
9 of this Section 1003:

10 "IMPORTANT NOTICE FOR NON-UNITED STATES CITIZENS. Any information you provide
11 to the Department of Elections, including your name and address, may be obtained by Immigration and
12 Customs Enforcement (ICE) and other agencies, organizations, and individuals. In addition, if you
13 apply for naturalization, you will be asked whether you have ever registered or voted in a federal, state,
14 or local election in the United States. You may wish to consult with an immigration attorney, an
15 organization that protects immigrant rights, or other knowledgeable source before providing any
16 personal information to the Department of Elections and before registering to vote in San Francisco
17 Board of Education Elections. You can find on the Department of Elections' website a list of nonprofit
18 organizations and lawyers that specialize in protecting the rights of immigrants."

19 (b) The notice described in subsection (a) of this Section 1003 shall appear in conspicuous type
20 in contrast by typography, layout, or color with all other words on each document or website where the
21 notice appears. The words "IMPORTANT NOTICE FOR NON-UNITED STATES CITIZENS" shall
22 appear in capital letters. The Director may replace the words "Department of Elections' website" in
23 the notice with the exact web address where the list described in subsection (d) of this Section 1003
24 appears.

1 (c) The notice described in subsection (a) of this Section 1003 shall appear on the voter
2 registration affidavit described in Section 1002 of this Article X and on any other written materials
3 mailed to non-United States citizen voters by the Department. The notice shall also appear on pages of
4 the Department's website that include information as to how non-United States citizens may register to
5 vote in School Board Elections. The Department may also include the notice on additional materials
6 related to School Board Elections.

7 (d) The Department shall maintain a devoted page on its website that includes a list of lawyers,
8 law firms, and organizations with tax exempt status under 26 United States Code Section 501(c)(3) or
9 501(c)(4) and with a primary mission of protecting the rights of immigrants. To be included on that
10 list, an organization must certify, on a form to be developed by the Department, that it meets the
11 criteria set forth in the previous sentence.

12 (e) The Department shall translate the notice described in subsection (a) of this Section 1003
13 into the following languages: Amharic, Arabic, Armenian, Assyrian, Bengali, Burmese, Cantonese,
14 Cebuano (Visayan), Chaozhou, Dutch, Farsi (Persian), Tagalog, French, German, Greek, Gujarati,
15 Hebrew, Hindi, Hmong, Hungarian, Ilocano, Indonesian, Italian, Japanese, Khmer (Cambodian),
16 Korean, Lao, Mandarin, Mien (Yao), Pashto, Polish, Portuguese, Punjabi, Rumanian, Russian,
17 Samoan, Serbo Croatian (Bosnian), Serbo Croatian (Croatian), Spanish, Taiwanese, Thai, Tigrinya,
18 Toishanese, Tongan, Turkish, Ukrainian, Urdu, and Vietnamese. The Department shall post these
19 translated notices on its website.

20
21 **SEC. 1004. OTHER DOCUMENTS**

22 (a) The Department shall, upon request, provide a letter stating the criteria set forth in Charter
23 Section 13.111(a)(1) for non-United States citizens to vote in School Board Elections, and indicating
24 whether a particular person voted in a particular School Board Election.

1 *(b) The Department shall develop a checklist of all criteria for non-United States citizens to*
2 *vote in School Board Elections. This checklist shall include the notice described in subsection (a) of*
3 *Section 1003. This checklist shall state that registering to vote in School Board Elections does not*
4 *entitle a person to vote in other elections. In drafting this checklist, the Department shall achieve the*
5 *closest proximity to the sixth-grade level of readability as possible. The Department shall translate this*
6 *checklist into Spanish, Chinese, Tagalog, Vietnamese, and Arabic. The Department shall endeavor to*
7 *provide this checklist to each person who receives the voter registration affidavit described in Section*
8 *1002. The Department shall post this checklist on its website, including the translations of this*
9 *checklist.*

10
11 **SEC. 1005. USE OF CITY FUNDS FOR IMMIGRATION ENFORCEMENT.**

12 *In conducting School Board elections, the Department shall comply with Administrative Code*
13 *Chapter 12H, which provides, inter alia, that “No department, agency, commission, officer, or*
14 *employee of the City and County of San Francisco shall use any City funds or resources to assist in the*
15 *enforcement of Federal immigration law . . .” Nothing in this Section 1005 prohibits the Department*
16 *from sending to, or receiving from, a Federal agency charged with enforcement of Federal immigration*
17 *law information regarding an individual’s citizenship or immigration status, lawful or unlawful.*
18 *Nothing in this Section 1005 requires the Department to send or receive from a Federal agency*
19 *charged with enforcement of Federal immigration law information regarding an individual’s*
20 *citizenship or immigration status, lawful or unlawful. “Information regarding an individual’s*
21 *citizenship or immigration status, lawful or unlawful” for purposes of this Section 1005, shall be*
22 *interpreted consistent with Section 1373 of Title 8 of the United States Code. This Section 1005 shall*
23 *expire by operation of law if a court of competent jurisdiction enters a judgment ruling 8 U.S.C. §*
24 *1373(a) facially unconstitutional or unconstitutional as applied to the City.*

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

7
8 By:


9 JOSHUA S. WHITE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Municipal Elections Code - Noncitizen Voting in School Board Elections]

Ordinance amending the Municipal Elections Code to implement Proposition N, adopted at the November 8, 2016 election, by requiring the Department of Elections to develop a voter registration affidavit for certain non-United States citizens to vote in School Board elections; to include a notice on voter materials informing non-United States citizens that any information provided to the Department may be obtained by the federal government; and to create other documents related to non-United States citizens voting in School Board elections, as defined herein.

Existing Law

At the November 2016 election, voters adopted Proposition N, which allows non-United States citizen residents of San Francisco who are of legal voting age and the parents, legal guardians or legally recognized caregivers of a child living in the San Francisco Unified School District to vote for members of the Board of Education. Proposition N authorizes the Board of Supervisors to adopt an ordinance implementing Proposition N.

Amendments to Current Law

The proposal would implement Proposition N by requiring the Department of Elections ("Department") to:

- develop a voter registration affidavit for non-United States citizens to register to vote in School Board elections;
- include a notice on voter materials informing non-United States citizens that any information provided to the Department may be obtained by the federal government;
- translate that notice into specified languages and post those translations on its website;
- maintain a devoted page on its website that includes a list of lawyers, law firms, and nonprofit organizations with a primary mission of protecting the rights of immigrants;
- develop a checklist, written at a sixth-grade reading level, of all criteria for non-United States citizens to vote in School Board elections; and
- translate that checklist into specified languages and post those translations on its website.

Background

Since the passage of Proposition N at the November 2016 election, concerns have been raised about whether the City can maintain the confidentiality of voter registration information

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provided to the Department of Elections. For School Board elections at which non-United States citizens can vote, this information would include the names and addresses of non-United States citizens living in San Francisco as well as their children.

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