



# MALDEF

The Latino Legal Voice for Civil Rights in America.

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January 28, 2019

Ms. Jacqueline Callanen  
Elections Administrator  
Bexar County  
1103 S. Frio St.  
Suite 100  
San Antonio, TX 78207

Dear Ms. Callanen:

I write regarding Election Advisory No. 2019-02, released by the Texas Secretary of State on January 25, 2019. This advisory announced that the Secretary of State would send you “actionable information” about registered voters who “provided documentation . . . showing that the person is not a citizen of the United States.” The Office of the Texas Secretary of State further instructed county registrars to use the information for voter roll maintenance.

MALDEF advises you that this list of names is not a list of voters whose current information shows that they are not U.S. citizens. The Texas Secretary of State compiled its list of suspect voters from information provided by the Texas Department of Public Safety about individuals who were non-citizens in the past. These voters obtained drivers licenses or state identification cards years ago when they were non-citizens authorized to live in the United States. Most lawful permanent resident immigrants and other authorized immigrants become eligible to naturalize *after* they secure their Texas drivers licenses. Citizenship information is not updated by DPS until after the driver’s license holder renews the license, which can be years after the individual is naturalized and registers to vote.

The list that you will receive is comprised of individuals who, at the time of voter registration, stated that they were U.S. citizens. The mere fact that these individuals acquired their U.S. citizenship through naturalization, as opposed to birth in the U.S., does not provide a legal basis to challenge their voter registration. In other words, the fact that a permanent resident immigrant lawfully obtains a driver’s license in Texas, and later naturalizes, should not cause you to scrutinize that voter’s eligibility any more than the eligibility of a native-born U.S. citizen.

MALDEF urges you NOT to use this list of names from the SOS to send voter challenge letters, absent additional evidence regarding the current citizenship status of the voter. The overwhelming majority of these voters are naturalized citizens fully qualified to vote who will be deterred from voting by a letter from the county questioning their citizenship status and requiring additional documentation of U.S. citizenship.

As you know, each county determines for itself whether there is sufficient reason to question the eligibility of a voter. See Election Advisory No. 2019-02 (“The registrar, ultimately, is responsible for determining whether or not the information provides the registrar with reason to believe the person is no longer eligible for registration.”). The Texas Election Code authorizes you to investigate the U.S. citizenship of a voter who says he or she is currently not a U.S. citizen after being called for jury duty. Texas Election Code Sec. 16.0332. This provision focuses on the fact that the individual claims not to be a U.S. citizen *after* registering to vote. By contrast, the Secretary of State’s list of registered voters who were not U.S. citizens in the past, when they obtained a driver’s license, does not suggest that the voters are not U.S. citizens today when they appear on the voter rolls. In fact, the Texas Election Code does not authorize registrars to investigate the eligibility of voters who were not U.S. citizens before they registered to vote.

Counties that challenge the eligibility of voters simply because they were not U.S. citizens in the past run the risk of lawsuits under the U.S. Constitution and federal laws. MALDEF urges you to refrain from requiring registered voters to prove their citizenship simply because they are naturalized citizens and to require actionable information about current citizenship status before investigating the voters who appear on the Secretary of State’s list.

Please feel free to contact me at the email address or number below if you have any questions regarding this letter. Thank you.

Sincerely,



Nina Perales  
Vice President of Litigation