# Immigrant Voting and the Movement for Inclusion in San Francisco

## Appendix 2. Common Objections by Opponents and Responses by Advocates

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Opponents to immigrant voting (IV) raise several common objections:[1]

- IV is illegal or improper
- If immigrants want to vote, they should becoming citizens
- IV reduces incentives for immigrants to naturalize
- IV diminishes the value and meaning of citizenship, blurs the lines between citizens and noncitizen, creates divided loyalties
- IV dilutes the votes of citizens
- Immigrants need time to learn American culture; IV would create a less informed voting public
- IV would lead to increased vote fraud or administrative challenges
- IV would put immigrants at risk; immigrants might mistakenly register and vote in a state or federal election, potentially jeopardizing their status and could lead to their detention
- IV give conservatives ammunition to attack immigrants, and can negatively affect other goals important to immigrants and exacerbate contentious public policy debate

Advocates have attempted to address these objections and concerns by responding in the following ways.

### Legal Issues

Advocates contend that immigrant voting is legal and feasible. They note that the U.S. Constitution does not preclude voting by noncitizens, and both state and federal courts have

[1] Stanley Allen Renshon. *Noncitizen voting and American democracy.* Rowman & Littlefield, 2009.

upheld noncitizen voting. The decision about who holds the franchise — with the exception of voting in federal elections which is barred by 1996 legislation — rests with states and localities. In jurisdictions where a change to state law is required — or approval by the state of a local change is needed (e.g. Massachusetts) — campaigns have been less successful. State constitutional provisions prohibiting voting by noncitizens create the biggest obstacle to advocates. Although, at the time of writing, recent court rulings have blocked the implementation of immigrant voting laws in San Francisco and New York, appeals have been filed that may yet prevail, as occurred in Vermont.

The San Francisco City Attorney — and advocates and academics who submitted amicus briefs in support of the city's appeal — refute claims made by James Lacy's lawsuit, arguing that San Francisco has the legal authority to implement an immigrant voting law. Specifically, they contend the California Constitution authorizes charter cities to allow immigrant voting in school board elections. Nothing in the California Constitution's plain language conflicts with San Francisco's Immigrant Voting (IV) program, because persons identified in Article II, section 2 "may vote" in all San Francisco elections, including School Board elections. Without detracting from the voting rights of those persons identified in Article II, section 2, San Francisco provides, in addition, that noncitizen parents may *also* vote solely in local School Board elections. In fact, the California Constitution has been amended several times, including in November 1972 when the Constitution was amended to eliminate the express prohibition against immigrant voting. Moreover, the California Constitution expressly authorizes charter cities to provide for the "manner" in which school board members are elected or appointed, including the electors. Finally, they argue, there is no conflict between San Francisco's program and state law in the Elections Code or Education Code. If there is, San Francisco's home rule power overrides any contrary state law because San Francisco's IV program fully protects election integrity and voting rights. In sum, IV in school board elections strengthens families, schools, and the entire community; promotes inclusion and integration; improves the education experience for all students, not only the children of immigrants. San Francisco's IV program fully protects election integrity and voting rights.

## Citizenship Before Voting Rights

In response to opponents who argue immigrants should get in line and become citizens in order to be able to vote, advocates point out that historically noncitizens voted before obtaining citizenship, which was intended and in fact functioned to facilitate immigrant attachment to their new home and promote their eventual citizenship. Historically IV helped increase civic engagement and citizenship. These two processes were not mutually exclusive but rather complementary. Advocates ask for the same opportunities to newer immigrants. Advocates argue that we can and should do both — we can increase pathways to citizenship AND we can expand local democracy at the same time.

Moreover, advocates point out that many current immigrants are ineligible to obtain formal legal citizenship or face daunting obstacles to obtain formal legal citizenship, unlike earlier times when it was easy, fast and cheap for Europeans to obtain U.S. citizenship.[2] Although technically

[2] Historically, citizenship was limited for many immigrants from Asia, Mexico, and other regions. Mae Ngai. *Impossible Subjects*. Princeton University Press, 2014; Randy Capps and Carlos Echeverría-Estrada. "A Rockier Road to U.S. Citizenship? Findings of a Survey on Changing Naturalization Procedures,"

many immigrants who obtain legal permanent residency (green cards) can apply for citizenship after five years, advocates point out that the average time it takes to naturalize is 7-8 years or longer, according to the U.S. Citizenship and Immigration Services (USCIS), and 12.5 years for immigrants born in Mexico.[3] Many Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) recipients have lived in the U.S. for decades but have no pathway to obtain citizenship. Thus, it is not only undocumented immigrants who are not eligible for citizenship, but also the millions of documented immigrants who may possess any one of the nearly two dozen types of visas (including employment-based visas and student visas) who are precluded from becoming citizens. Like policies and processes that determine citizenship, what makes someone documented versus undocumented has changed overtime, affecting people's life chances.

In the meantime, immigrants work in every sector of the economy, own businesses, send their kids to school, revitalize neighborhoods, contribute billions of dollars in taxes each year, serve in the military, and even die defending the country, but they do not have a say in electing representatives who make policies that affect them on a daily basis, which advocates contend is undemocratic. In short, immigrants today are asking for the same opportunities previously afforded to millions of European immigrants, albeit only at the local level.

Excluding such a significant portion of the population from political participation closes off a proven pathway to promote civic education and citizenship. Worse, it undermines the health and legitimacy of our laws and public policies. Rather than undermining democracy, as some argue, resident voting could lead to more robust democratic politics and policy making.[4]

## Reducing Incentives to Naturalize

Opponents argue that providing voting rights before citizenship will provide disincentives for immigrants to naturalize. Advocates respond by pointing out that immigrant voting does not in fact reduce incentives to naturalize because there are a dozen rights and privileges that immigrants gain when they naturalize, including access to certain benefits and jobs, traveling outside the U.S., petitioning relatives, and more; voting is only one.[5] Moreover, nearly every immigrant voting law and proposal is only for local elections, not state and federal elections, leaving plenty of incentives to naturalize.

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*Migration Policy Institute.* 2020. https://www.migrationpolicy.org/sites/default/files/publications/MPI-Naturalization-Changes_Final.pdf ; Hainmueller, Jens, Duncan Lawrence, Justin Gest, Michael Hotard, Rey Koslowski, and David D. Laitin. "A randomized controlled design reveals barriers to citizenship for low-income immigrants." *Proceedings of the National Academy of Sciences* 115, no. 5 (2018): 939-944.

[3] USCIS, "Naturalization Statistics." https://www.uscis.gov/citizenship-resource-center/naturalization-statistics

[4] Motomura, Hiroshi. *Americans in waiting: The lost story of immigration and citizenship in the United States.* Oxford University Press, 2006.

[5] National Academies of Sciences, Engineering, and Medicine, and Committee on Population. *The integration of immigrants into American society.* National Academies Press, 2016. https://nap.nationalacademies.org/catalog/21746/the-integration-of-immigrants-into-american-society; National Academies of Sciences, Engineering, and Medicine. *The economic and fiscal consequences of immigration*. National Academies Press, 2017. https://nap.nationalacademies.org/catalog/23550/the-economic-and-fiscal-consequences-of-immigration; Chen, Ming Hsu. *Pursuing Citizenship in the Enforcement Era.* Stanford University Press, 2020.

## The Meaning and Practice of Citizenship

Citizenship is about more than legal status and voting power. Citizenship offers protection, freedom to travel, access to services such as healthcare and jobs that are not afforded to noncitizens, the ability to run for specific public offices, and many other benefits. Permitting immigrant voting does not reduce the benefits of obtaining citizenship. Nor does granting immigrants voting rights deter from the need to expand pathways for the undocumented to obtain citizenship and reform U.S. immigration laws.

Advocates contend that merely focusing on formal legal citizenship is a limited and narrow way to think about citizenship. Rather, advocates and immigrant parents argue, citizenship should be seen in broader terms — as being an active member of one's community and participating in the life of one's city, from working and paying taxes to sending kids to school and attending parent-teacher association (PTA) meetings, to working with neighbors to solve issues together, to voting to elect local representatives or on ballot measures.[6]

Studies show increased civic engagement is associated with a greater sense of community, and better health and mental health outcomes.[7] Voting turnout and political engagement among future generations are positively impacted by family voting habits. Parent voting creates a society where children learn about the importance of voting and are more likely to be civically engaged when they grow up.[8] In short, cities benefit overall when more people participate in democratic processes.

## Vote Dilution

Opponents to immigrant voting argue immigrants' votes would dilute the votes of citizens. Nearly every lawsuit challenging immigrant voting laws in CA, New York City, VT, and Washington D.C. — as well as state bans on immigrant voting (FL, AZ, CO, AL, LA, OH, ND) — makes the claim that noncitizens' votes would dilute the value of citizens' votes. An African American city council member in New York City expressed concerns that enacting immigrant voting rights would "dilute" the voting power of African Americans in her district.[9] Such objections are akin to those made opponents who have brought lawsuits, which divide racial and ethnic group solidarity by "triangulating" newcomers from "deserving" groups (i.e. Black citizens).[10]

Advocates argue instead of diluting citizenship, IV enriches citizenship by encouraging all residents to participate in the political life of their communities and cities. Rather than

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[6] Bloemraad, Irene. "Claiming membership: boundaries, positionality, US citizenship, and what it means to be American." *Ethnic and Racial Studies* 45, no. 6 (2022): 1011-1033.
[7] Pancer, S. Mark. *The psychology of citizenship and civic engagement.* Oxford University Press, 2014.
[8] https://www.nytimes.com/2016/11/07/well/family/what-really-makes-us-vote-it-may-be-our-parents.html
[9] Erin Durkin, "New York is about to let noncitizens vote. It could reshape local politics forever." *Politico.* March 2, 2022. https://www.politico.com/news/2022/03/02/new-york-noncitizen-voting-00012970
[10] Claire Jean Kim. "The racial triangulation of Asian Americans." *Politics & society* 1999, 27, no. 1: 105-138.

undermining democracy, it produces more democratic political outcomes. Our democracy is strengthened when everyone is able to participate in processes that govern how our systems are run. Advocates argued that everyone should have a voice, particularly historically marginalized groups who have been systematically excluded from enfranchisement for centuries. “No decisions about us, without us!” Advocates point out that an election is the democratic way of reflecting the will of the people. There is nothing about noncitizen voting that circumvents fair and transparent elections.

In contrast to the objection that allowing immigrants to vote will disempower or erase Black votes, allowing immigrants to vote does not preclude Black people from voting. Rather, allowing immigrants to vote can expand the Black vote by allowing Black immigrants to vote.[11] We should work together to end voter suppression and gerrymandering, especially as the Black community has been historically and systematically excluded from voter outreach and voting processes. Immigrant voting can facilitate the implementation of more inclusive elections, and mitigate barriers to voting for all people.

Advocates argue that allowing immigrants to vote is a step toward a more equitable and equal society for all. The public benefits when marginalized people hold decision making power, creating a more inclusive society that responds to and is accountable to broader needs and concerns. Governments and elected representatives should be responsive and accountable to the entire communities they serve, not just those with U.S. citizenship. Marginalized groups including women, young adults, and people of color fought for voting rights throughout history. Access to the ballot box allowed disenfranchised groups to gain access to economic, social, and civil rights and pushed our society to progress.

Furthermore, advocates argue we all have common interests in working to ensure good schools, safe streets, affordable housing, accessible healthcare, and responsive and effective government. Instead of diluting the votes of citizens, noncitizen voters inject important issues into campaigns and help decide who will lead us and what direction we collectively move towards the future. Instead of diluting the concept of citizenship, resident voting enriches citizenship by encouraging immigrants to participate in the political life of their communities.

## Political Knowledge

In response to the objection by opponents who say immigrants lack sufficient knowledge to vote and lack a feeling for American political institutions and culture, and opponents who argue acquiring such knowledge and affinity to American ways takes time, like getting to know someone for marriage, advocates counter that specific knowledge is not a prerequisite for voting. If it were, many native-born citizens would fail tests of even basic political knowledge, as polls indicate. Moreover, such notions come dangerously close to the stated reasons for literacy tests and laws that barred women and African Americans from voting — saying they do not know enough, they need more education, time to acculturate, all of which were patently paternalistic. If a citizen moves from New York City to San Francisco, they would need to learn about the candidates and issues in San Francisco, but they can register and vote in 25 days. Advocates contend that immigrants know their interests and can make informed choices, just

[11] For example, see the Black Alliance for Just Immigration, https://baji.org/

like everyone else.

## Vote Fraud and Election Administration

Opponents argue IV will lead to vote fraud, though allegations of widespread vote fraud have been roundly debunked and are exceedingly rare. Elections officials in municipalities in Maryland and San Francisco, which have been implementing immigrant voting programs, report no instances of vote fraud or administrative problems.

## Potential Impacts on Immigrants' Status and Prospects for Naturalization

Some immigrant advocates worry that IV might put immigrants at risk of detention or deportation, if an immigrant inadvertently registers and votes in a state or federal election instead of a local election, which is a crime that can lead to their detention and deportation or denial of naturalization. Like other election reforms that have posed challenges for elections officials — from the Americans with Disabilities Act (1990) and Language Access requirements to the National Voter Registration Act of 1993 (motor voter) to the Help America Vote Act of 2002 to Ranked Choice Voting — election administrators have adopted new technologies and adapted their practices to effectively implement reforms in ways that are safe and sound. Advocates argue they can undertake similar actions that protect immigrants and insure election integrity.

San Francisco provides a letter verifying the right for immigrants to vote for purposes of naturalization and outlines a process in case information is requested for purposes of immigration enforcement. There can be additional measures taken to ensure that immigrants cannot accidentally register for or vote in local, state, and federal elections for which they are not eligible.

USCIS has updated their policy manual to clarify that legal immigrant voting in municipalities should not serve as a basis for denying naturalization cases.[12] Immigrants who have participated in registration and voting should consult with an immigrant attorney when applying for naturalization.

Ultimately, advocates argue if there is the political will, there is the technological way to safely, fairly, and effectively implement immigrant voting rights.

[12] USCIS Policy Manual, https://www.uscis.gov/policy-manual