



October 17, 2024

Via email and U.S. Mail

Frank LaRose
Ohio Secretary of State
180 Civic Center Drive
Columbus, OH 43215
flarose@ohiosos.gov

Dear Secretary LaRose:

We are writing to call your attention to an urgent problem. Specifically, we write with regard to the instruction on your website¹ prohibiting the use of driver's licenses bearing "noncitizen" notations as voter ID. You state that "Ohio NONCITIZEN IDENTIFICATION, also known as Non Renewable/Non Transferable credential" is an unacceptable form of voter ID. Your instruction is incorrect. While pursuant to Ohio H.B. 458, a "nonrenewable" driver's license is not acceptable as voter ID, a license bearing a "noncitizen" notation is *not* the same thing.

As explained below, a "noncitizen" notation does not render an Ohio driver's license an unacceptable voter ID. Because it is not always possible for a naturalized citizen to quickly update their license, naturalized citizens may indeed have a "noncitizen" notation on their current drivers' license. Your incorrect instructions are thus putting the voting rights of some individuals at risk.

¹ See Ohio Sec'y of State, Identification requirements, <https://www.ohiosos.gov/elections/voters/id-requirements>, (which says "Ohio Noncitizen Identification", and Ohio Sec'y of State, Examples of Unacceptable Forms of Identification, https://www.ohiosos.gov/globalassets/elections/eoresources/pol-loc-resources/unacceptable_id_poster.pdf. Neither of these documents provide any clarification that permanent residents would have this "noncitizen" notation on their ID but do not have a nonrenewable driver's license.

In addition to posting this incorrect instruction on your website, you provided the same incorrect instruction to local boards of elections in Directive 2024-09.² We request that you immediately correct your website and provide immediate notification to all local boards that a person with a renewable driver’s license (which if the holder is a recently naturalized citizen, still may bear a “noncitizen” notation) must be permitted to use that license as their voter ID. Since early voting is underway, these corrective actions must be taken immediately.

H.B. 458 REQUIREMENTS

H.B. 458 prohibits the use of a *nonrenewable* driver’s license for voter ID purposes.

Prior to H.B. 458, there were no citizenship markings on driver’s licenses. H.B. 458 now requires that driver’s licenses include a “noncitizen” notation if the licensee is a noncitizen (e.g., a temporary or permanent resident). R.C. 4507.13(A)(2)(j). This notation appears on the back of the license. Here is how it looks (see upper right quadrant):



H.B. 458 also amended the types of acceptable ID for voting, in part by redefining “driver’s license” to include all driver’s licenses issued under Chapters 4506 and 4507 of the Revised Code, except for nonrenewable licenses issued under R.C. 4507.09. *See* R.C. 3501.01(BB). Such nonrenewable licenses are issued *only* to temporary residents—they are not issued to permanent residents or U.S. citizens. R.C. 4507.09 and O.A.C. 4501:1-1-37. In

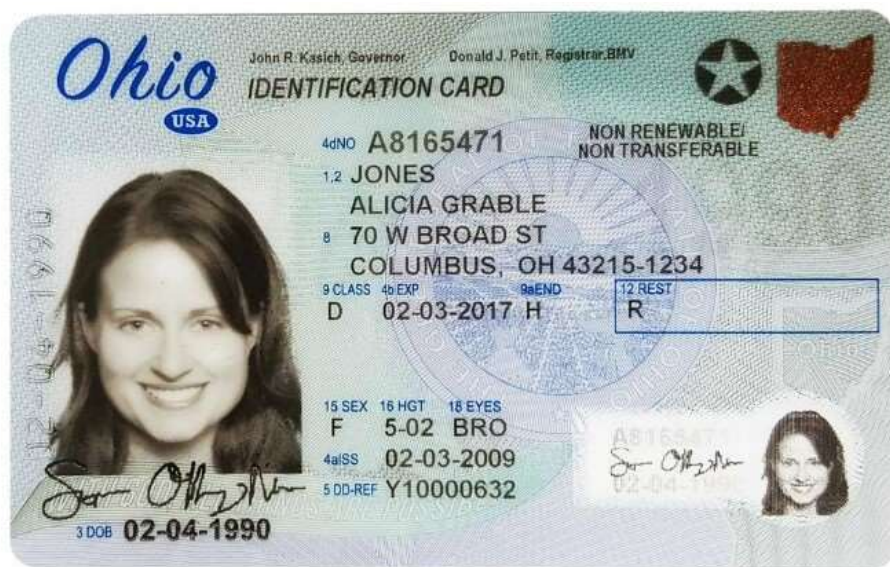
² Ohio Sec’y of State, Directive 2024-09 (June 21, 2024), <https://www.ohiosos.gov/globalassets/elections/directives/2024/directive-2024-09-november-readiness-election-administration.pdf>. This document merely explains to election officials that the “noncitizen” notation has been added to driver’s licenses but does not provide any guidance about the correct application of the new provisions of H.B 458.

contrast, permanent residents are issued the same license as U.S. citizens who are Ohio residents; but now, under H.B. 458, these licenses have a “noncitizen” notation.³

As a result, a “noncitizen” notation will be found on both:

- 1) A nonrenewable driver’s license for a temporary resident, which is a prohibited form of voter ID; and
- 2) A driver’s license for a permanent resident, which is *not* a nonrenewable license and therefore is *not* a prohibited form of voter ID.

Thus, a “noncitizen” notation on the back of a license cannot tell you whether the license is renewable (and permissible to use as voter ID) or nonrenewable (and impermissible to use as voter ID). One must look instead at the *front* of the license to see whether or not it is “nonrenewable”. Here is how a “nonrenewable” designation appears on a license (see upper right quadrant):



SECRETARY OF STATE INSTRUCTIONS

The instructions on your website and Directive 2024-09 incorrectly advise naturalized citizens who still possess unexpired driver’s licenses with a “noncitizen” notation that they cannot use their license as voter ID. But the law does not prohibit a naturalized citizen who is registered to vote from using a license they received as a permanent resident, even if that license is marked “noncitizen.”

³ See O.A.C. 4501:1-1-35 and 1-1-37; *see also* Ohio Bureau of Motor Vehicles, Driver License & ID Cards for Non-U.S. Citizens, <https://www.bmv.ohio.gov/dl-non-permanent-resident.aspx>, and H.B. 458, Final Analysis, 11, 134th General Assembly (Apr. 7, 2023).

To reiterate, the “noncitizen” notation is *not* the determinative factor of whether a driver’s license is an acceptable form of voter ID; rather, the determinative factor is *only* whether the license is marked “NONRENEWABLE/NONTRANSFERABLE.”

Please **immediately** correct your incorrect instruction on your website and Directive 2024-09 and instruct boards of election to make it clear (1) that the *only* type of unacceptable driver’s license is one marked “NONRENEWABLE/NONTRANSFERABLE” on its face, and (2) that the “noncitizen” notation on the back of the license should be disregarded as immaterial.

Please do not hesitate to contact us if you have any questions.

Sincerely,

/s/ Freda J. Levenson

Freda J. Levenson
AMERICAN CIVIL LIBERTIES UNION OF OHIO
FOUNDATION
4506 Chester Avenue
Cleveland, OH 44103
flevenson@acluohio.org
(216) 541-1376

/s/ Alice Clapman

Alice Clapman
BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW
1140 Connecticut Avenue NW
Suite 1150
Washington, DC 20036
clapmana@brennan.law.nyu.edu
(202) 249-7190

/s/ Sarah Brannon

Sarah Brannon
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th Street, NW
Washington, DC 20005
sbrannon@aclu.org
(202) 210-7287

/s/ Kayla Griffin Green

Kayla Griffin Green
ALL VOTING IS LOCAL
PO Box 33727
Washington, DC 20033
kayla@allvotingislocal.org
(330) 402-2427

/s/ Jen Miller

Jen Miller
LEAGUE OF WOMEN VOTERS OF OHIO
471 E Broad Street, Suite 1630
Columbus, OH 43215
director@lwvohio.org
(614) 469-1505

/s/ Kelly Dufour

Kelly Dufour
COMMON CAUSE OHIO
PO Box 20799
Columbus, OH 43220
kdufour@commoncause.org
(614) 285-6019