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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE CITY AND COUNTY OF ALAMEDA

16 **James V. Lacy**; United States Justice
17 Foundation; and California Public Policy
18 Foundation; Jim Eyer,

19 Plaintiffs and Petitioners;

20 vs.

21 **Asha Reed**, in her official capacity as
22 Oakland City Clerk;
23 **Tim Dupuis**, in his official capacity as
24 Registrar of Voters for Alameda County;
25 and DOES 1 through 25, inclusive;

26 Respondents;

27 **Oakland City Council**, and
28 ROES 1 through 25, inclusive;

Real Parties in Interest.

Case No.:

Priority Matter

Immediate Action Required

Elec. Code § 13314

CCP §§ 35

Verified Complaint & Petition for

1. Writ of Mandate (Elec. Code § 13314)
2. Writ of Mandate (CCP § 1085)
3. Declaratory Relief (CCP § 1060)
4. Injunction (CCP § 526a)

1 Plaintiffs and Petitioners allege as follows:

2 1. The City of Oakland proposes a ballot measure that would allow noncitizens to vote in
3 elections for the Oakland Unified School District (OUSD). This measure is plainly
4 unconstitutional because it violates a constitutional mandate allowing only United States citizens
5 to vote in California elections. This requirement applies to every election in the state, even those
6 conducted by charter cities. Oakland's noncitizen voting measure should be removed from the
7 ballot because it will be a waste of public resources to spend money to consider to submit a
8 measure to voters that can never be enacted, and allowing a vote on an unconstitutional measure
9 will undermine the integrity of the initiative process.

10 2. This action is brought in the public interest on behalf of every citizen of the City of
11 Oakland as well as the State of California. Oakland residents have an undeniable interest in
12 ensuring that their elections are conducted in accordance with controlling state law and that their
13 interests are represented by persons elected in accordance with those laws. Oakland's electorate
14 has a fundamental constitutional right in avoiding the vote dilution that flows from extending
15 voting privileges to those not authorized to vote in the state.

16 3. These interests extend to everyone in the state because integrity of elections is a matter of
17 statewide concern. Additionally, school districts are funded with the taxes paid by each of the
18 state's taxpayers into the state's general fund. When OUSD spends taxpayer funds, it is not
19 spending local taxpayer funds; it is spending state taxpayer funds. In this regard, everyone in the
20 state has an interest in OUSD. From that interest, everyone in the state also has an interest in
21 ensuring that OUSD's governing board is elected in accordance with state law.

22 PARTIES

23 4. Plaintiff and Petitioner **United States Justice Foundation (USJF)** is a nonprofit public
24 benefit corporation organized under the laws of the State of California. Enforcing state law as it
25 relates to the claims in this case is within the scope of USJF's purpose. USJF and its members
26 have public interest standing on this basis. (See, *e.g.*, *Rialto Citizens for Responsible Growth v. City*
27 *of Rialto* (2012) 208 Cal.App.4th 899, 912.) On behalf of its members, USJF has membership
28

1 standing because its members pay income taxes to the state of California, sales, use, and property
2 taxes in the City of Oakland, and are interested in the conduct of OUSD. USJF also has
3 individual standing because it has (through an agent) paid Oakland sales taxes within the past
4 year.

5 5. Plaintiff and Petitioner **California Public Policy Foundation (CPPF)** is a nonprofit
6 public benefit corporation organized under the laws of the State of California. Enforcing state law
7 as it relates to the claims in this case is within the scope of CPPF's purpose. CPPF has public
8 interest standing on this basis. (See, e.g., *Rialto Citizens for Responsible Growth*, supra, 208
9 Cal.App.4th at p. 912.) On behalf of its members, CPPF has membership standing because its
10 members pay income taxes to the state of California, sales, use, and property taxes in the City of
11 Oakland, and are interested in the conduct of OUSD.

12 6. Plaintiff and Petitioner **James V. Lacy** is a California resident, voter/elector, and
13 taxpayer, residing in the County of Orange, State of California. He pays taxes into the state's
14 general fund, which are allocated to OUSD. Mr. Lacy is President of USJF and Chairman of
15 CPPF. Mr. Lacy has individual standing based on (1) his association with USJF and CPPF
16 (*Citizens for Amending Proposition L v. City of Pomona* (2018) 28 Cal.App.5th 1159, 1172-1173), and
17 (2) the public right of everyone in the state to bring actions in the public interest, as described in
18 *Green v. Obledo* (1981) 29 Cal.3d 126 and its progeny; and (3) his status as a taxpayer in this state.

19 7. Together, Plaintiffs and Petitioners James V. Lacy, USJF, and CPPC were plaintiffs in
20 *Lacy v. City and County of San Francisco* (Super. Ct. S.F. County, 2022, No. CPF-22-517714). In
21 this case, a judge of the San Francisco County Superior Court struck down a similar ordinance in
22 San Francisco and permanently enjoined San Francisco from allowing noncitizen voting in
23 elections for the San Francisco Unified School District. Lacy, USJF, and CPPC's involvement in
24 this action is demonstrative of their interest in ensuring fair school district elections throughout
25 the state.

26 8. Plaintiff and Petitioner **Jim Eyer** is a resident, voter/elector, and taxpayer in the City of
27 Oakland, County of Alameda. He is directly affected by measure because, if it is enacted, his vote
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1 will be diluted by voters who are not constitutionally authorized to vote. He is otherwise
2 impacted and subject to the authority of a school board whose members will be unlawfully elected
3 by noncitizen voters if this measure is adopted. Furthermore, as an Oakland taxpayer, Mr. Eyer
4 pays taxes that will be unlawfully used to allow for unlawful voting by noncitizens in the City and
5 subject to spending by a OUSD governing board elected in an election where noncitizens were
6 allowed to vote.

7 9. Defendant and Respondent **Asha Reed**, is the City Clerk for the City of Oakland. In this
8 capacity, she is the elections official for the City of Oakland. As such, she is charged with
9 administering elections in Oakland's jurisdiction and should be ordered to comply with applicable
10 state law when she carries out those duties. She is sued in her official capacity.

11 10. Defendant and Respondent **Tim Dupuis**, is the Registrar of Voters for Alameda County.
12 In this capacity, he is the county's elections official. As such, he is charged with administering
13 county elections. Plaintiffs and Petitioners are informed and believe that Mr. Dupuis administers
14 elections for the City of Oakland pursuant to an agreement with the City and will be
15 administering the election at issue in this case. (See Exh. A, *infra*, p. 4.) He is sued in his official
16 capacity.

17 11. The true names of Defendant and Respondent DOES 1 through 25, inclusive, are
18 unknown to Plaintiffs and Petitioners, who therefore bring this action against DOES 1 through 25,
19 inclusive, by such fictitious names and will seek leave of this Complaint and Petition to show their
20 true names, identities, and capacities when they have been ascertained.

21 12. Real Party in Interest **Oakland City Council** is the legislative body of the City of
22 Oakland, a charter city organized under the laws of the State of California. The Oakland City
23 Council placed the charter amendment at issue in this case on the ballot and is presumably
24 interested in defending the measure.

25 13. The true names of Real Party in Interest ROES 1 through 25, inclusive, are unknown to
26 Plaintiffs and Petitioners, who therefore bring this action against ROES 1 through 25, inclusive,
27
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1 by such fictitious names and will seek leave of this Complaint and Petition to show their true
2 names, identities, and capacities when they have been ascertained.

3 14. For convenience, Plaintiffs and Petitioners are described only as Plaintiffs. Likewise, the
4 Defendants and Respondents are described as Defendants. Likewise, this Complaint and Petition
5 is referred to as the Complaint.

6 **JURISDICTION AND VENUE**

7 15. The California Superior Court for the County of Alameda is the proper venue because the
8 acts complained of which are the subject of this Complaint, have all occurred or will all occur in
9 the City Oakland, County of Alameda.

10 16. Real Party in Interest Oakland City Council is the legislative body of a political
11 subdivision of the state of California, wholly located in this court's jurisdiction.

12 17. Defendant Asha Reed is sued in her official capacity as an agent of the City of Oakland,
13 which is located in Alameda County.

14 18. Defendant Tim Dupuis is sued in his official capacity as an agent of the Alameda County
15 government.

16 19. The relief sought is within the jurisdiction of this Court.

17 20. Additionally, because this matter raises issues concerning voter registration, it is entitled
18 to priority under section 35 of the Code of Civil Procedure. It is also entitled to priority under
19 section 13314 of the Elections Code.

20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 21. On June 21, 2022, the Oakland City Council adopted Resolution Number 89281. A true
22 and correct copy of that resolution, obtained from the City's website, is attached as **Exhibit A** to
23 this Complaint.

24 22. The purpose of the resolution was to submit a charter amendment to City voters at the
25 November 8, 2022 general election. The charter amendment would add section 1107 to article XI
26 to "allow noncitizen residents, who are the parents, legal guardians, or legally recognized
27 caregivers of a child residing in Oakland, to vote for the office of school board director on the
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1 Oakland Unified School district Board of Education.” (Exh. A, pp. 1 [title], 2 [new section 1107 &
2 ballot label].)

3 23. As a basis of supporting the measure, the Resolution refers to New York and San
4 Francisco as examples of jurisdictions where noncitizen voting is permitted. Courts have
5 invalidated both the New York and San Francisco measures.

6 24. Section 2 of article II of the California Constitution establishes who may vote in the state.
7 It provides: “A United States citizen 18 years of age and resident in this State may vote.” The
8 plain language of this provision does not allow the Legislature, any charter city, or any other body
9 to establish voting rights for anyone who is not a United States citizen, 18 years of age, or resident
10 of the state.

11 25. Even if article II, section 2 is interpreted as allowing the Legislature to create new voting
12 rights, charter cities do not have that power. Extending noncitizen voting rights is not within a
13 charter city’s “home rule” powers under section 5 of article XI nor is it within the scope a
14 charter city’s authority to regulate the manner of a school board member’s election (see Cal.
15 Const., art. IX, § 16).

16 26. Oakland’s “home rule” powers do not allow it to create noncitizen voting rights because,
17 *inter alia*, (1) school board elections are not a municipal affair, and (2) voter qualifications is an
18 issue of statewide concern, not subject to local regulation by a charter city.

19 27. As to section 16 of article IX, courts have concluded that establishing voter qualifications
20 is not the same as providing for the “manner of election.” (See *People ex rel. Devine v. Elkus*
21 (1922) 59 Cal.App. 396, 405.) Just as above, authority to determine voter qualifications is
22 reserved to the state.

23 28. Alternatively, to the extent that section 2 of article II limits the Legislature but not charter
24 cities, Oakland’s extension of voting rights violates the fundamental voting rights of Oakland
25 citizens by unconstitutionally diluting the impact of their votes. (See *Bush v. Gore* (2000) 531 U.S.
26 98, 105 [voting is fundamental right]; *City of Mobile v. Bolden* (1980) 446 U.S. 55, 113-114 (dis.
27
28

1 opn. of Marshall, J.) [discussing the authorities that are the basis for a conclusion that voters are
2 entitled to protection against vote dilution.]

3 29. For these reasons, Oakland does not have the power to grant voting rights to noncitizens.
4 Therefore, every dollar spent on the election is a dollar that is wasted because no matter how
5 voters decide the election, the noncitizen voting measure will never be implemented.

6 CAUSES OF ACTION

7 **I. FIRST CAUSE OF ACTION:** Writ of Mandate (Elec. Code § 13314) by Plaintiff Jim Eyer
8 against all Defendants

9 30. Plaintiffs reallege and incorporate paragraphs 1 through 29 as if fully set forth herein.

10 31. Elections Code section 13314 allows an elector to seek a writ of mandate alleging, among
11 other things, that “an error or omission has occurred, or is about to occur, in the placing of a
12 name on, or in the printing of, a ballot, county voter information guide.” (Elec. Code § 13314,
13 subd. (a)(1).)

14 32. Under this section, a writ of mandate shall issue if (A) “the error, omission, or neglect is
15 in violation of this code or the Constitution” and (B) the “issuance of the writ will not
16 substantially interfere with the conduct of the election.” (Elec. Code § 13314, subd. (a)(2).)

17 33. Plaintiff Jim Eyer is an elector in the City of Oakland and has standing to bring this
18 petition, under Elections Code section 13314, on that basis.

19 34. Defendants are Oakland and Alameda County elections officials. In this capacity, they
20 have a duty to comply with the Elections Code and the State and Federal Constitutions when
21 conducting elections in Oakland.

22 35. Under both the Elections Code and the State and Federal Constitutions, Oakland may not
23 allow noncitizens to vote in elections for the SFUSD governing board.

24 **II. SECOND CAUSE OF ACTION:** Writ of Mandate (CCP § 1085) by All Plaintiffs against
25 all Defendants

26 36. Plaintiffs reallege and incorporate paragraphs 1 through 29 as if fully set forth herein.
27
28

1 37. Under Code of Civil Procedure section 1085, “[a] writ of mandate may be issued by any
2 court to any inferior tribunal, corporation, board, or person, to compel the performance of an act
3 which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel
4 the admission of a party to the use and enjoyment of a right or office to which the party is
5 entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation,
6 board, or person.” (*Id.* at subd. (a).)

7 38. As to this Court, Defendants are inferior persons.

8 39. Writ relief is appropriate to determine the constitutionality of a measure. Here, it is
9 appropriate to remove the measure in question from the ballot because its unconstitutionality is
10 without question. There is no rational justification to go incur the expense of calling an election
11 on a measure that can never be enacted.

12 40. A writ of mandate may issue when there is no plain, speedy, and adequate remedy in the
13 ordinary course of law. (Code Civ. Proc. § 1086.) This relief is pled as an alternative to the other
14 remedies requested. If those other remedies are unavailable for any reason or do not otherwise
15 serve to enforce the state law as to voter qualifications, then Plaintiffs would have no other plain,
16 speedy, or adequate remedy in the ordinary course of law and this writ relief would be
17 appropriate.

18 41. A writ of mandate must issue “upon the verified petition of the party beneficially
19 interested.” (Code Civ. Proc. § 1086.)

20 42. This complaint and petition is verified.

21 43. Plaintiffs are beneficially interested and have standing as set forth under the heading
22 “Parties,” *supra*.

23 **III. THIRD CAUSE OF ACTION: Declaratory Relief (CCP § 1060) by All Plaintiffs against**
24 **all Defendants**

25 44. Plaintiffs reallege and incorporate paragraphs 1 through 29 as if fully set forth herein.
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27
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1 45. Plaintiffs contend that the City of Oakland does not have the power to extend voting
2 rights to noncitizens.

3 46. Plaintiffs are informed and believe that Defendants contend otherwise.

4 47. There is an actual controversy between the parties, which is ripe for adjudication.

5 48. Plaintiffs request a declaratory judgment from this Court that the Oakland measure, as
6 presented, is unconstitutional on its face and is not the proper subject of a ballot measure.

7 49. Plaintiffs have standing as set forth under the heading “Parties,” *supra*.

8 **IV. FOURTH CAUSE OF ACTION: Injunctive Relief (CCP § 526a) by All Plaintiffs against**
9 **all Defendants**

10 50. Plaintiffs reallege and incorporate paragraphs 1 through 29 as if fully set forth herein.

11 51. Under section 526a of the Code of Civil Procedure, certain taxpayers may obtain an
12 injunction to prevent the “any illegal expenditure of, waste of, or injury to, the estate, funds, or
13 other property of a local agency.”

14 52. As set forth above, under the heading “Parties,” Plaintiffs and their members have paid
15 taxes that fund the City of Oakland and OSUD within the past year.

16 53. As set forth above, an expenditure of public funds on a ballot measure that is plainly
17 unconstitutional and can never be implemented is a waste of public funds that can be restrained
18 by section 526a.

19 //

20 //

21 //

1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiffs pray that the Court enter judgment in their favor with orders for the
3 following:

- 4 1. A writ of mandate directing Defendants’ to remove the Oakland noncitizen voting
5 measure from the November 8, 2022 ballot;
- 6 2. Declaratory judgment that Oakland does not have the power to extend voting privileges to
7 noncitizens;
- 8 3. Temporary, preliminary, and/or permanent injunctive relief prohibiting Defendants’
9 from placing the Oakland noncitizen voting measure on the ballot;
- 10 4. Plaintiff’s costs of suit and reasonable attorneys’ fees; and
- 11 5. Such other and further relief as the Court deems proper.

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14 DATE: August 16, 2022

Respectfully Submitted,
LAW OFFICE OF CHAD D. MORGAN

15
16 By: _____ /s/
17 Chad D. Morgan Esq.
18 Attorney for all Plaintiffs

VERIFICATION

1 I, Chad D. Morgan declare that I am counsel for the Plaintiffs and Petitions in this action.
2 I have read the foregoing **Verified Complaint and Petition** and know the contents thereof to be
3 true to my own knowledge, except as to those statements made upon information and belief, and
4 as to them, I believe them to be true. I make this declaration on Plaintiffs' behalf because my
5 office is absent from the county in which they are located.
6

7
8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct.

10 Executed on Aug. 16, 2022.



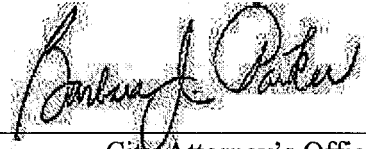
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13 Chad D. Morgan

**EXHIBIT
A**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

22 JUL 13 PM 1:51

Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 89281 C.M.S.

INTRODUCED BY COUNCILMEMBERS KALB AND REID

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION, A MEASURE THAT WOULD AMEND OAKLAND CITY CHARTER ARTICLE XI (ELECTIONS) TO ADD SECTION 1107 WHICH WILL ALLOW NONCITIZEN RESIDENTS, WHO ARE THE PARENTS, LEGAL GUARDIANS, OR LEGALLY RECOGNIZED CAREGIVERS OF A CHILD RESIDING IN OAKLAND, TO VOTE FOR THE OFFICE OF SCHOOL BOARD DIRECTOR ON THE OAKLAND UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION, AND DIRECTING THE CITY CLERK TO TAKE ALL ACTIONS NECESSARY UNDER LAW TO SUBMIT THIS ITEM TO THE NOVEMBER 8, 2022 GENERAL ELECTION

WHEREAS, non-citizens make up 14% of Oakland's population;

WHEREAS, non-citizens include documented immigrants, lawful permanent residents, residents on work visas, and undocumented immigrants; and

WHEREAS, there are over 13,000 non-citizen parents who send their children to school in Oakland; and

WHEREAS, there are over 3,000 newcomer students enrolled in OUSD alone, with students from dozens of countries around the world speaking a multitude of languages; and

WHEREAS, 1 in 3 OUSD students is classified as an English Language Learner; and

WHEREAS, currently, thousands of non-citizen students and families do not have representation in key decisions that impact their education and lives, while other voters, including those without children, have a vote; and

WHEREAS, the involvement of parents in their children's schools correlates with the academic performance of children; and research shows that non-citizen parent involvement in school matters can increase students' academic performance; and

WHEREAS, bringing immigrant parents into conversations about curriculum, staff, and language used in class can lead to better academic outcomes for students; and

WHEREAS, thousands of Oakland students and parents are currently disenfranchised and do not have representation in key decisions that impact their education and lives; and

WHEREAS, despite paying taxes and sending their children to public school current law prohibits noncitizens from voting in school board elections; and

WHEREAS, the current exclusion of non-citizens from the electorate is rooted in racism and xenophobia, not unlike poll taxes, voter intimidation, grandfather clauses, felon disenfranchisement laws, and restrictive voter registration; and

WHEREAS, federal law does not prohibit noncitizens from voting in state or local elections, and in some states, local governments have the power to allow non-citizens to vote in local elections; and

WHEREAS, a growing coalition of Oakland individuals, parents, teachers, immigrants, community members and community-based organizations, spanning the immigrant rights and educational justice community, have come together with the shared belief that all families who have children in school - regardless of their citizenship status - should have an equal say in school board elections; and

WHEREAS, citywide support for a non-citizen voting measure is currently strong, with 68% of voters expressing support for such an initiative; and

WHEREAS, many localities across the country, such as New York City, Chicago, San Jose, and San Francisco (school board only), are exploring similar measures to restore the right for non-citizens to vote; and

WHEREAS, the Oakland Unified School District Board is comprised of seven (7) School Board Directors who are elected by Oakland voters in the City's municipal general election held in November in even-numbered years; and

WHEREAS, currently, Oakland voters must be United States citizens to vote in School Board elections, therefore, noncitizen parents whose children are under the jurisdiction of the Oakland School District Board cannot vote for School Board Directors despite the impact School Board Directors' decisions have on these noncitizen parents and their children; and

WHEREAS, the Oakland City Council has elected to submit to the voters at the November 8, 2022 election, a measure to add Section 1107, to Article XI of the Oakland Charter to allow persons who are not citizens of the United States to vote for the office of Oakland Unified School Board Director; now, therefore be it

RESOLVED: That the Oakland City Council finds and determines the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That the City Council intends for this proposed amendment to Article XI of the Charter to authorize the City Council, by adoption of an ordinance, to allow persons who are not citizens of the United States, to vote for the office of School Board Director if they otherwise would be eligible to vote under state law; and be it

FURTHER RESOLVED: That upon approval by the voters, the City Charter will be amended, to add, delete, or modify sections as set forth below (section numbers and titles are indicated in capitalized **bold type**; additions are indicated by underscoring, deletions are indicated by strike-through type; portions of the provisions not cited or not shown in underscoring or strike-through type are not changed); and be it

FURTHER RESOLVED: That upon approval by the voters, the proposed Charter amendment text shall be added to read as follows:

Section 1107. Noncitizen Voting In School Board Elections. Notwithstanding anything to the contrary in this Charter, the City Council, by adoption of an ordinance, may authorize Oakland noncitizen residents who are the parents, legal guardians, or legally recognized caregivers of a minor child as defined by the California Family Code who have completed an affidavit, of a qualifying minor child with such qualifications to be determined by City Council ordinance, residing in Oakland, who are otherwise eligible to vote under state law, to vote for the Office of School Board Director. The City Council may expand said authorization to include noncitizen residents who are not parents, legal guardians, or legally recognized caregivers of a minor child only to the extent required by law; and be it

FURTHER RESOLVED: That each ballot used at said election shall have printed therein, in addition to any other matter required by law, the following:

**PROPOSED CHARTER AMENDMENT
MEASURE ____**

Charter Amendment Regarding Noncitizen Voting in Oakland Board of Education Elections

<p>Measure ____. Shall the City Charter be amended to allow the City Council by adopting an ordinance, to authorize voting by noncitizen residents, who are the parents, legal guardians, or legally recognized caregivers of a child, for the Office of Oakland School Board Director if they are otherwise eligible to vote under state and local law?</p>	YES	
	NO	

; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 8, 2022 General Election, to file with Alameda County certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

FURTHER RESOLVED: That the City Council does hereby request that Board of Supervisors of Alameda County permit the Registrar of Voters to perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That in accordance with applicable law, the City Clerk shall fix and determine a date for submission of arguments for or against said ballot item and rebuttals and is hereby directed to cause the posting, publication and printing of notices; and be it

FURTHER RESOLVED: That the City Administrator and City Clerk are hereby authorized and directed to take all actions necessary under the law to prepare and submit this item for the November 8, 2022 election; and be it

3171460v3

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

JUN 21 2022

AYES - ~~WILLIAMS, WILSON~~, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS - 6

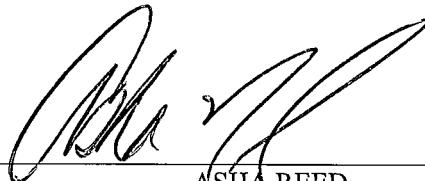
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - File, Orato - 2

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the City
of Oakland, California

22 JUL 11 AM 11:47

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE _____

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

BALLOT TITLE:

A Proposed Charter Amendment Authorizing the City Council to Adopt an Ordinance Allowing Noncitizen Residents, who are the Parents, Legal Guardians, or Legally Recognized Caregivers of a Qualified Child, to Vote for the Office of School Board Director if they are Otherwise Eligible to Vote Under State and Local Law.

BALLOT SUMMARY:

Currently, only United States citizens can vote in Oakland school board elections. This measure would authorize the Oakland City Council to pass an ordinance allowing certain residents of Oakland, who are not United States citizens, to vote for Oakland school board directors. Specifically, the City Council could adopt an ordinance that would allow noncitizens to vote for the Office of School Board Director if they are: 1) residents of Oakland; 2) otherwise eligible to vote under California law; and 3) parents, legal guardians, or legal caregivers of qualified minor children. The City Council would have the authority to establish criteria for qualifying children, and to modify the ordinance if required by federal or state law. This measure would authorize, but not require that the City Council expand the eligibility criteria for voting in Oakland school board elections. This measure would not authorize the City Council to change voter eligibility criteria for any other elections.

This measure was placed on the ballot by the Oakland City Council. Passage of this measure requires an affirmative vote of a majority of voters (i.e., more than 50% of the votes cast). A "yes" vote will approve the measure; a "no" vote will reject the measure.


BARBARA J. PARKER
City Attorney

3186097v3

22 JUL 11 AM 11:47


CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE _____

Currently, only United States citizens can vote in Oakland school board elections. This measure would authorize the Oakland City Council to expand voting eligibility criteria for Oakland school board elections. Specifically, the City Council would be authorized to adopt an ordinance that would allow noncitizens to vote for the Office of School Board Director if they are: 1) residents of Oakland; 2) otherwise eligible to vote under California law; and 3) parents, legal guardians, or legal caregivers of qualified minor children.

The criteria for qualifying children would be established by City ordinance. If state or federal law prohibits the Council from providing that only noncitizens with children are eligible to vote in school board elections, the measure would authorize the City Council to expand eligibility to noncitizens without children, if they are Oakland residents and otherwise are eligible to vote under California law.

This measure would authorize, but not require that the City Council expand the eligibility requirements for voting in Oakland school board elections. This measure would authorize the City Council to expand the voter eligibility requirements only for the Office of School Board Director.

This measure was placed on the ballot by the Oakland City Council. Passage of this measure requires an affirmative vote of the majority of voters who cast votes regarding this measure (i.e., more than 50% of the votes). A "yes" vote will approve the measure; a "no" vote will reject the measure.


BARBARA J. PARKER
City Attorney

3186097v3

22 JUL 29 PM 7:30

OUSD Non-Citizen Voting Ballot Measure November 2022
Impartial Financial Analysis
Office of The City Auditor

Summary

Currently, non-citizen residents are not permitted to vote in Oakland Unified School District's (OUSD) school board elections. This measure, if approved by a majority of the voters, would authorize non-citizen residents, who are the parents, legal guardians, or legally recognized caregivers of a child, to vote in OUSD's school board elections. Specifically, the measure would authorize the Oakland City Council to adopt an ordinance to allow specified non-citizen residents to vote in OUSD school board elections. This measure does not authorize the City Council to change other state voter eligibility requirements.

The Oakland City Charter governs the elections for OUSD's school board directors. OUSD's School Board has seven directors elected to four-year terms by districts corresponding to the seven Oakland City Council districts. Three directors are elected in the general municipal elections in non-presidential election years, and the remaining four directors are elected in the general municipal elections in presidential election years.

Financial Analysis

If the measure passes, and if the City Council adopts such an ordinance in the future, we estimate the City of Oakland (City) would incur costs of \$21,000 to \$28,000 in years in which OUSD school board elections are held. These costs would increase with inflation as the measure, if approved, would not go into effect any earlier than the 2024 general election.

Our estimate is based on the costs of the 2020 general municipal election for the OUSD school board and estimates of the number of non-citizen parents in Oakland reported in the City Council resolution authorizing this measure to be placed on the ballot. Additional costs include a minimal increase in election costs paid to the Alameda County Registrar of Voters and printing costs related to the increase in registered voters.

Besides the above costs, the City would also incur additional ongoing costs for creating and maintaining an additional database within the existing voter registration system. However, we cannot estimate these costs at this time.

Our independent analysis is based on the best information available at this time.