

MEASURE S - NON-CITIZEN VOTING

THE QUESTION

Shall the measure to amend the City Charter 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 be adopted?



THE SITUATION

To vote in OUSD School Board elections, Oakland residents must be U.S. citizens and at least 18-years-old. Noncitizens, who constitute 14% of Oakland's population, may not vote. Noncitizens include documented noncitizens, such as legal permanent residents and people with work visas, and undocumented noncitizens. There are over 13,000 noncitizen parents who send their children to school in Oakland.

By contrast, San Francisco authorized noncitizens as well as citizens residing in San Francisco to vote in school board elections in 2016.

On July 29, the San Francisco Superior Court declared the San Francisco law to be in violation both of the California Constitution and of other state laws regarding voter eligibility. Implementation of that decision has been stayed while the case is on appeal. Since then, a lawsuit has been filed to remove Measure S from the Oakland ballot, but the court dismissed the suit saying that questions of constitutionality should be decided after the election.

THE PROPOSAL


Measure S amends the Charter to allow, but not require, the City Council to adopt an ordinance permitting noncitizen residents to vote in Oakland's school board elections if they are the parents, guardians, or legal caregivers of qualifying children and are otherwise eligible to vote. If Measure S passes and the City Council then enacts an ordinance, the ordinance would set the qualifications and criteria of eligibility for noncitizen voters. The City Council could amend the ordinance to comply with state and federal laws.

FISCAL EFFECT


The City of Oakland would incur an estimated \$21,000 - \$28,000 additional costs to administer elections. Oakland also would incur unspecified costs for maintaining an additional database within the current voter registration system.



REASONS TO SUPPORT

- Measure S would allow all parents and others responsible for children in Oakland to influence the direction of the school board's policies. 
- Allowing noncitizens to vote would promote educational policy that considers the needs of marginalized communities and encourage participation in civic process.
- Municipalities should enfranchise individuals who are affected by local government and who have both the ability and the incentive to make informed choices about their elected leaders.

REASONS TO OPPOSE

- Immigration laws are specific and strictly interpreted. Noncitizens would risk significant legal consequences if they overstepped regulations even unintentionally or if their information were shared with other government agencies.
- Implementation will be difficult and costly. A separate voter registration system would be required. Effective public outreach would be critical for the program to work for residents who speak multiple languages and who may move frequently because of insecure housing situations.
- In light of the recent court decision that a nearly identical law in SF was unconstitutional, Oakland should wait until the law is settled and avoid unnecessary legal challenges and expenses. 

A YES VOTE MEANS

the Charter would be amended to permit the City Council to adopt an ordinance allowing noncitizens to vote in school board elections.

A NO VOTE MEANS

the Charter would not be amended.