

Board Office Use: Legislative File Info.	
File ID Number	22-2129
Introduction Date	9/14/2022
Enactment Number	22-1700
Enactment Date	9-28-2022 CJH



**OAKLAND UNIFIED  
SCHOOL DISTRICT**  
Community Schools, Thriving Students

# Board Cover Memorandum

**To** Board of Education

**From** Sam Davis, Board Vice President  
Natalie Gallegos-Chavez, Student Board Director  
Linh Le, Student Board Director

**Meeting Date** September 14, 2022

**Subject** Resolution No. 2223-0029 - Endorsing Measure S on the November 8, 2022 General Election Ballot

**Ask of the Board** Introduction of Resolution No. 2223-0029 - Endorsing Measure S on the November 8, 2022 General Election Ballot as a new legislative matter

**Background** Measure S has been placed on the November 8, 2022 Oakland Municipal Election ballot by a vote of the Oakland City Council. If adopted by voters, Measure S would permit the City Council, by adoption of an ordinance, to authorize Oakland noncitizen residents who are the parents, legal guardians, or legally recognized caregivers of a child residing in Oakland to vote for the Office of Director of Education for the Oakland Unified School District Board of Education.

**Discussion** If adopted by the Board, the proposed Resolution would endorse Measure S on behalf of the Board.

**Fiscal Impact** N/A

**Attachment**

- Resolution No. 2223-0029 - Endorsing Proposition 28 on the November 8, 2022 General Election Ballot
- Measure S

**RESOLUTION OF THE  
BOARD OF EDUCATION OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT**

**Resolution No. 2223-0029**

**Endorsing Measure S on the November 8, 2022 Statewide Ballot**

**WHEREAS**, Measure S has been placed on the November 8, 2022 Oakland Municipal Election ballot by a vote of the Oakland City Council;

**WHEREAS**, if adopted by the voters, Measure S would permit the City Council, by adoption of an ordinance, to authorize Oakland noncitizen residents who are the parents, legal guardians, or legally recognized caregivers of a child residing in Oakland to vote for the Office of Director of Education for the Oakland Unified School District Board of Education;

**WHEREAS**, noncitizens make up 14% of Oakland's population;

**WHEREAS**, noncitizens include documented immigrants, lawful permanent residents on work visas, and undocumented immigrants;

**WHEREAS**, according to the City of Oakland, there are over 13,000 noncitizen parents, guardians, and caregivers who send their children to school in Oakland;

**WHEREAS**, in 2021-22, there are over 3,000 newcomer students enrolled in OUSD, most of who have noncitizen parents, guardians, and caregivers;

**WHEREAS**, currently, thousands of Oakland families are currently disenfranchised and cannot vote for the elected officials that make the key decisions impacting their children's education, while other Oakland residents, including those without children, do have a vote in school board elections;

**WHEREAS**, the involvement of families in their children's schools correlates with the academic performance of children, and research shows that noncitizen familial involvement in school matters can increase students' academic performance;

**WHEREAS**, noncitizen residents are required to pay local, state, and federal taxes;

**WHEREAS**, noncitizen voting has existed at the local level in the United States in many different forms - e.g., New York City permitted noncitizens to vote in school board elections from 1968 through 2003 and a June 2014 report from the Colin Powell School for Civic and Global Leadership at the City College of New York notes that "[n]oncitizen voting was widespread during the colonial and Civil War eras, and it was legal in 22 states in 1875";

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

**WHEREAS**, a growing coalition of Oakland individuals, families, 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 reside in Oakland and who have children in school - regardless of their citizenship status - should have an equal say in school board elections;

**WHEREAS**, citywide support for a noncitizen voting measure is strong, with 68% of voters expressing support for such a measure;

**WHEREAS**, many localities across the country - such as Chicago, San Jose, and San Francisco - are exploring measures to restore or grant the right for noncitizens to vote;

**NOW, THEREFORE, BE IT RESOLVED**, the Board of Education hereby endorses and is in full support of the passage of Measure S.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District this \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

**PREFERENTIAL AYE:** None

**PREFERENTIAL NOE:** None

**PREFERENTIAL ABSTENTION:** Student Director Natalie Gallegos Chavez, Student Director Linh Le

**PREFERENTIAL RECUSE:** None

**AYES:** Aimee Eng, Kyra Mungia, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Gary Yee

**NOES:** None

**ABSTAINED:** VanCedric Williams

**RECUSED:** None

**ABSENT:** Mike Hutchinson

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at the Meeting of the Board of Education of the Oakland Unified School District held on \_\_\_\_\_, 2022.

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By:	

**OAKLAND UNIFIED SCHOOL DISTRICT**



9-29-2022

Gary Yee  
President, Board of Education



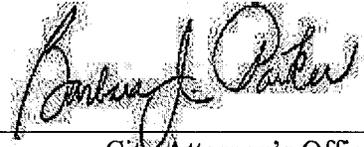
9-29-2022

Sondra Aguilera  
Acting Superintendent and Secretary, Board of  
Education

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

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**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><b>Measure ____.</b> 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>	<b>YES</b>	
	<b>NO</b>	

; 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

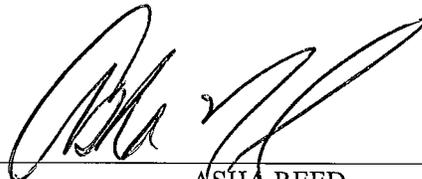
NOES - 0

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

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## 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.