

DRAFT

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ 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, AN AMENDMENT TO ARTICLE XI (ELECTIONS) OF THE CHARTER OF THE CITY OF OAKLAND TO ADD SECTION 1107 TO PROVIDE FOR VOTING BY 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, 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 is correlated with the academic performance of children. 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 citizens of the United States 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' decision 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, who would otherwise be eligible to vote under state law, to vote for the office of School Board Director; 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 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; 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 ____**

Measure ____. Shall a measure amending the City of Oakland Charter to authorize the City Council, by adoption of an ordinance, to authorize noncitizen residents who are the parents, legal guardians, or legally recognized caregivers of a child, who are otherwise eligible to vote under state and local law, to vote for the Office of School Board Director, be adopted?	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

FURTHER RESOLVED: That this resolution shall be effective immediately upon approval by the City Council.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the City
of Oakland, California