

Recommendations Regarding Identity Documents and Verification Procedures for Driver's License and ID Card Applicants

OCTOBER 2019

As states pass new laws authorizing the issuance of driver's licenses to eligible state residents **regardless of their immigration status**,¹ it is critical to ensure that document and document verification requirements do not prevent drivers from obtaining licenses. This issue brief outlines some steps that advocates can pursue to help drivers identify themselves.

Determine whether document lists should be established in legislation or in agency policies.

Advocates face an important decision in choosing between recommending that the document requirements be listed in the driver's license bill or authorizing the appropriate state agency to develop the requirements through regulations or policies. Considerations include which process — the *legislative* process or *rulemaking* — is more likely to yield a better outcome, and whether consensus can be achieved prior to a vote on the bill, or whether further study of technical considerations and other matters is necessary.

Make sure that the list of documents to prove identity and, if applicable, state residence is broad enough to include documents that potentially-eligible drivers are likely to have.

- Documents that prove identity must be inclusive enough to ensure that eligible drivers can obtain a license.
- In addition to consular IDs, passports, and birth certificates, document lists that states have produced include various other documents that can be used to prove identity.
- California provides for a wide range of identity documents, **secondary review**,² and flexibility to approve additional documents. California's list, which is codified in regulations (**13 CCR 2.0 § 16.00 et seq.**),³ is also posted on the **California Department of Motor Vehicles (DMV) website**.⁴

¹ For examples, see *State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status* (NILC), www.nilc.org/state-laws-providing-dl-access/.

² Secondary review consists of an interview with DMV staff when documents used to prove identity and residency need additional review. During the interview, license applicants can present additional documents to prove identity and state residency. *Driver License Secondary Review Referral Process (FFDL 3)* (California DMV), https://www.dmv.ca.gov/portal/dmv/detail/pubs/brochures/fast_facts/ffd103.

³ *Article 2.0. Driver Licenses and Identification Cards, California Code of Regulations* (Thomson Reuters Westlaw), <http://bit.ly/2ASVKLu>.

⁴ *AB 60 User Friendly Guide to Document Options to Obtain a California Driver License* (California DMV, revision of Feb. 07, 2018), https://www.dmv.ca.gov/portal/wcm/connect/11a86d62-f848-4012-bc7d-4192bdef4foo/doc_req_matrix.pdf?MOD=AJPERES.

LOS ANGELES (Headquarters)
3450 Wilshire Blvd. #108 – 62
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax



WASHINGTON, DC
P.O. Box 34573
Washington, DC 20043
202 216-0261
202 216-0266 fax

- The state of Washington provides for a wide range of documents and flexibility in working with applicants who have difficulty presenting listed documents. The list is posted on the [Washington State Department of Licensing website](#).⁵
- The National Immigration Law Center has prepared a [sample list of documents](#) that establish identity, which advocates may want to propose to their states.⁶
- Law- or rule-makers should ensure that translation requirements for foreign documents, such as limiting who is authorized to do translations, do not preclude people from being able to present the identity documents to which they have access.

Consider alternative mechanisms to establish the validity of foreign identity documents

- “Verification” of foreign identity documents can be accomplished not only by electronically tapping into a database but through a range of mechanisms which ensure that documents (a) are authentic and (b) were issued to the person presenting them.
- Consider a range of additional verification methods that provide assurance of a document’s authenticity. These include manual inspection, consulting a manual such as the International Office for Migration’s [Passport Examination Procedure Manual](#) or the [I.D. Checking Guide, International Edition](#),⁷ comparing two or more documents presented by the applicant, checking with the issuing country’s embassy or consulate, or approving documents by determining that the issuance process (or security features underlying those documents) is reliable. Such methods would obviate the need for presentation of an additional document.
- Consider requiring a combination of documents that establish identity.
- Work with local consulates to provide mechanisms to verify the validity of consular IDs and passports.
- Some states (e.g., [California](#) and [Washington](#))⁸ have identified foreign documents, such as consular ID cards, from specific countries that issue verifiable and trustworthy identity documents. NOTE: This may result in applicants from some countries being treated more favorably than applicants from other countries, and some applicants being subjected to secondary review or an exceptions process.

⁵ *Steps to Getting Your First Driver License: Proof of Identity*, <https://www.dol.wa.gov/driverslicense/idproof.html#identity>.

⁶ *Sample List: Documents to Establish Identity/Age & Residence* (NILC, Oct. 2019), www.nilc.org/wp-content/uploads/2019/10/documents-establishing-identity-and-residence-2019-10.pdf.

⁷ *Passport Examination Procedure Manual*: <https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/ibm/16-IOM-IBM-FLYER-Passport-Examination-Procedures-Manual-PEPM.pdf>; *I.D. Checking Guide, International Edition*: <https://www.driverslicenseguide.com/book-intl.html>.

⁸ *California*: https://www.dmv.ca.gov/portal/wcm/connect/11a86d62-f848-4012-bc7d-4192bdef4foo/doc_req_matrix.pdf?MOD=AJPERES; *Washington*: <https://www.dol.wa.gov/driverslicense/idproof.html#identity>.

- Provide a mechanism for agencies, consulates, organizations, or interest groups to suggest additional identity documents that should be added to your state's document list. Washington has a [process and form](#) to accomplish this.⁹

Provide for a robust secondary or exceptions process

Ideally, any document list should include a waiver, exceptions, or secondary process for those who will have trouble obtaining the listed documents (e.g., because their home country is hostile or doesn't issue identity documents in a timely fashion, or due to individual circumstances, such as being homeless, fleeing domestic violence, etc.). Some of this can be done via regulations rather than the statute.

⁹ *Request for Identification Document to Be Considered for DOL's Identity List* (Washington State Department of Licensing), <https://www.dol.wa.gov/driverslicense/docs/id-document-request.pdf>.