



Northern  
California

May 18, 2022



*Sent via e-mail*

Darlene E. Ingersoll, Registrar of Voters  
Merced County Elections  
2222 M Street  
Merced, CA 95340  
[elections@countyofmerced.com](mailto:elections@countyofmerced.com)

**Re: Section 203 Compliance for the June 2022 Primary**

Dear Registrar Ingersoll:

Under Section 203 of the federal Voting Rights Act (VRA), 52 U.S.C. § 10503, your county must provide all election-related materials in Spanish. We reviewed your election website and identified several deficiencies, highlighted below. We urge that you immediately correct these deficiencies and request that all election materials you send by mail be in English and in Spanish.

**Background**

All communities, regardless of their ability to speak English proficiently, deserve equitable access to the ballot box. The importance of equitable access is particularly pronounced in California which is home to 6.43 million limited-English proficient (LEP) individuals over the age of five.<sup>1</sup> The 2020 Census also shows sharply growing numbers of Latine and Asian American residents in California—a growth that accounts for nearly all of the state’s population gains.<sup>2</sup> These two populations are the least likely to vote and the most likely to have limited-English proficiency.<sup>3</sup> While there are several reasons and obstacles contributing to lower turnout at the polls of Latine and Asian American voters, lack of language assistance is a significant factor.

To address the needs of LEP residents and facilitate voting, Section 203 states that a jurisdiction subject to the section is required to provide “registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots . . . in the language of the applicable minority group as well as in the English language.”<sup>4</sup> Information provided in English must be available in the minority language “so that all citizens will have an effective opportunity to register, learn the details of the elections, and cast a free and effective ballot.”<sup>5</sup>

Providing California voters with language assistance is especially critical in an era experiencing an all-out assault on voting rights. We must continue to lead and take bold steps to protect voting rights and remove barriers to the ballot box for all eligible voters, including voters who are members of language minority groups.

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<sup>1</sup> 2020 5-year American Community Survey data.

<sup>2</sup> Andrea Briseño and Phillip Reese, *California Latino Population Grew in the Last Decade While Number of Whites Fell, Census Shows*, THE SACRAMENTO BEE (Aug. 24, 2021), <https://bit.ly/3rApffP>.

<sup>3</sup> Asian Americans Advancing Justice – California, *Voices of Democracy: The State of Language Access in California’s November 2016 Elections* at 9 (2017), <https://bit.ly/3w2S461>.

<sup>4</sup> 52 U.S.C. § 10503(c).

<sup>5</sup> Department of Justice, Civil Rights Division, *About Language Minority Voting Rights* (last updated Jan. 4, 2022), <https://bit.ly/3EPzzGu> [hereinafter “DOJ on Language Minority Rights”] (section on legal requirements).

Your office can help by ensuring that all election materials are accessible to both English proficient and LEP voters.

### **Website Requirements**

Section 203 requires that any election material provided to voters in English, including material provided on the county election website or via mail by county election officials, should also be provided in the county's Section 203 language.<sup>6</sup> The Department of Justice (DOJ) has interpreted the language requirements of Section 203 to “apply to all stages of the electoral process . . . including, for example the issuance, at any time during the year, of notifications, announcements, or other informational materials concerning the opportunity to register, the deadline for voter registration, the time, places and subject matters of elections, and the absentee voting process.”<sup>7</sup>

Our team reviewed your county's election website and found that critical election information available to English speakers is unavailable in Spanish.<sup>8</sup> Although there is a Google Translate tool that translates the English website into Spanish, important linked documents on the translated page are only available in English. For example, links on the translated website to election-related forms and information direct a reader to the English version of the forms or information.<sup>9</sup> The embedded videos on the translated website with instructions on how to return a completed vote-by-mail ballot and how to use remote-access vote-by-mail are also only available in English.<sup>10</sup> Overall, there is critical election-related information that is not accessible to LEP voters on the Merced County election website.

**We request that your office or the administrator of your county's election website immediately correct these deficiencies in order to comply with Section 203.** We also request that you notify us when you have made these corrections. People are increasingly relying on election websites for election-related information: from finding their polling location to voter registration information. To ensure that LEP voters also have access to critical election information, your office must provide the information in Spanish.

### **Election Materials via Mail**

The language requirements of Section 203 also apply to materials provided by mail.<sup>11</sup> The best way to comply with Section 203 requirements is to mail all registered voters materials in both English and Spanish. However, when materials “provided by mail . . . generally to residents or registered voters are not all provided in the applicable minority language” the DOJ “will consider whether an effective targeting system has been developed” to determine Section 203 compliance.<sup>12</sup> “For example, a separate mailing of materials in the minority language to persons who are likely to need them or to residents of neighborhoods in which such a need is likely to exist, supplemented by a notice of the availability of minority language materials in the general

<sup>6</sup> DOJ on Language Minority Rights, *supra* note 5 (noting that, when investigating language minority cases, the DOJ looks at website information and other election information provided in English “to determine whether that same information is being made available to each language minority community”); County Clerk/Registrar of Voters (CC/ROV) Memorandum #21204 (Dec. 10, 2021), <https://bit.ly/3MbDmjI> (directing election officials to review DOJ guidance on Section 203).

<sup>7</sup> 28 C.F.R. § 55.15.

<sup>8</sup> See County of Merced Registrar of Voters, <https://bit.ly/3Pu4o8C> (last accessed May 16, 2022) (Spanish version of the Merced County election website under Google Translate “Spanish”).

<sup>9</sup> County of Merced Registrar of Voters, Merced County Vote-by-Mail Ballot Application, <https://bit.ly/3sEvG2h> (last accessed May 16, 2022); Application for Official Permanent Vote-by-Mail Ballot, <https://bit.ly/3FWVQCz> (last accessed May 17, 2022); June 7, 2022 Primary Election Guide, <https://bit.ly/3NjbY3Y> (last accessed May 17, 2022).

<sup>10</sup> County of Merced Registrar of Voters, How to Return Your Completed Vote-by-Mail Ballot in California, <https://bit.ly/3slhaXf> (last accessed May 17, 2022) (video available on the “Votar Por Correo” page, <https://bit.ly/3NoLZrT>); Secure Select Video User Guide, <https://bit.ly/3lBrbBH> (last accessed May 17, 2022) (video available on the “Voto Accessible Remoto por Correo” page, <https://bit.ly/3FOYjP7>).

<sup>11</sup> DOJ, Civil Rights Division, *Language Minority Citizens: Section 203 of the Voting Rights Act*, <https://bit.ly/3Mxz4TN> (requiring that mailed materials such as sample ballots, voter information pamphlets, and absentee ballots be translated to Section 203 languages).

<sup>12</sup> 28 C.F.R. § 55.18(a).

mailing (in English and in the applicable minority language) and by other publicity regarding the availability of such materials may be sufficient.”<sup>13</sup>

As your office prepares and starts to mail out election-information materials, please continue to keep in mind these critical language requirements. **Specifically, we ask that any election information and mailers sent by the County to registered voters be sent in both English and Spanish.** We understand from a past conversation with your office that you plan to send all mailers in both English and Spanish and we appreciate this commitment.

### **Best Practices for Translating Election Materials**

Accuracy of election information is of utmost importance, and we urge your office to avoid relying on software such as Google Translate to translate election materials. This includes avoiding the use of the Google Translate widget to translate the County’s election website. The U.S. Election Assistance Commission (EAC) recommends that translators have plain language, linguistic, and cultural expertise to support the review of translations for accuracy and dialectical nuances.<sup>14</sup> Using automatic electronic translations for election websites, however, means that the information will likely be error-filled because these services and web widgets are not designed to parse nuance.<sup>15</sup> For this reason, the EAC notes that “[h]uman translation is of much higher quality than electronic translation software,”<sup>16</sup> and even Google Translate’s disclaimer states that “no automated translation is perfect nor is it intended to replace human translators.”<sup>17</sup> Please confirm with us that your office will not be relying solely on Google Translate to translate your website into Spanish.

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The June 2022 primary is only a few weeks away. Eligible voters in your county are looking to your office for the information they need to participate meaningfully in the election. We urge you to update your website and provide all election materials sent via mail in Spanish. Without these resources, LEP voters will not have equal access to crucial and accurate information such as important registration deadlines, different voting options, ballot drop off information, voting locations, and how to vote by mail.

We understand the pressures your office faces in the weeks leading up to the election. We look forward to a response by May 27, 2022.

Sincerely,



Angélica Salceda  
Democracy and Civic Engagement, Director  
ACLU Foundation of Northern California



Julia Marks  
Staff Attorney and Program Manager, Voting Rights  
Asian Americans Advancing Justice – Asian Law Caucus

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<sup>13</sup> *Id.*; see also Complaint, *United States v. San Diego Cnty.*, No. 04CV1273JEG (S.D. Cal. June 23, 2004) (citing as a Section 203 violation San Diego’s failure “to translate into Spanish and Tagalog certain election-related information, including but not limited to information contained in legal notices publicizing elections and materials available to the general public on the Internet website of the Registrar of Voters.”)

<sup>14</sup> U.S. Election Assistance Commission, *Language Accessibility* at 5 (April 2019), <https://bit.ly/3838X8k> [hereinafter “EAC on Language Accessibility”].

<sup>15</sup> See, e.g., Yeganeh Torbati, *Google Says Google Translate Can’t Replace Human Translators. Immigration Officials Have Used it to Vet Refugees*, PROPUBLICA, Sept. 26, 2019, <https://bit.ly/3869ari>.

<sup>16</sup> EAC on Language Accessibility, *supra* note 12 at 5.

<sup>17</sup> Google, *Attribution Requirements*, <https://bit.ly/3vKrO0a>.