

1 DEANNA KITAMURA, SBN 162039  
NICOLE GON OCHI, SBN 268678  
2 ASIAN AMERICANS ADVANCING  
JUSTICE – LOS ANGELES  
3 1145 Wilshire Boulevard  
Los Angeles, CA 90017  
4 Telephone: (213) 977-7500  
Facsimile: (213) 977-7595  
5 Email: dkitamura@advancingjustice-la.org  
nochi@advancingjustice-la.org

6 *Attorneys for Petitioner/Plaintiff*  
7 *Asian Americans Advancing Justice –*  
8 *Los Angeles*

9 JONATHAN T. STEIN, SBN 294313  
WINIFRED V. KAO, SBN 241473  
10 ASIAN AMERICANS ADVANCING  
JUSTICE – ASIAN LAW CAUCUS  
55 Columbus Avenue  
11 San Francisco, CA 94111  
Telephone: (415) 848-7736  
12 Facsimile: (415) 896-1702  
Email: jonathans@advancingjustice-alc.org  
13 winifredk@advancingjustice-alc.org

14 *Attorneys for Petitioner/Plaintiff*  
15 *Asian Americans Advancing Justice – Asian*  
16 *Law Caucus*

LINDA LYE, SBN 215584  
WILLIAM S. FREEMAN, SBN 82002  
RAUL MACIAS, SBN 293208  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN  
CALIFORNIA  
39 Drumm Street, 2nd Floor  
San Francisco, CA 94111  
Telephone: (415) 621-2493  
Facsimile: (415) 255-8437  
Email: llye@aclunc.org  
wfreeman@aclunc.org  
rmacias@acluca.org

*Attorneys for Petitioner/Plaintiff*  
*American Civil Liberties Union of Northern*  
*California*

17 [Additional Counsel Listed on Following Page]

18  
19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 COUNTY OF SAN FRANCISCO

21 ASIAN AMERICANS ADVANCING JUSTICE )  
22 – LOS ANGELES; )  
23 ASIAN AMERICANS ADVANCING JUSTICE )  
– ASIAN LAW CAUCUS; )  
24 AMERICAN CIVIL LIBERTIES UNION OF )  
NORTHERN CALIFORNIA, )

25 Petitioners/Plaintiffs, )

26 v. )

27 ALEX PADILLA, in his official capacity as )  
Secretary of State of the State of California, )

28 Respondent/Defendant. )

CASE NO.: CPF-18-516155

**PETITION FOR A WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

ENDORSED  
FILED  
San Francisco County Superior Court

APR 23 2018

CLERK OF THE COURT  
BY: ROSSALY DE LA VEGA

Deputy Clerk

1 STEVEN M. SCHATZ, SBN 118356  
DAVID J. BERGER, SBN 147645  
2 DYLAN G. SAVAGE, SBN 310452  
WILSON SONSINI GOODRICH & ROSATI  
3 Professional Corporation  
650 Page Mill Road  
4 Palo Alto, CA 94304  
Telephone: (650) 493-9300  
5 Facsimile: (650) 493-6811  
Email: sschatz@wsgr.com  
6 dberger@wsgr.com  
dsavage@wsgr.com

7 *Attorneys for Petitioners/Plaintiffs*  
8 *Asian Americans Advancing Justice –*  
9 *Los Angeles, Asian Americans Advancing*  
10 *Justice – Asian Law Caucus, and American*  
*Civil Liberties Union of Northern California*

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1 Petitioners/Plaintiffs allege as follows:

## 2 INTRODUCTION

3 1. This case seeks to protect the right of limited English proficient Californians to  
4 language assistance when voting. Defendant Secretary of State (“Secretary”) recently issued a  
5 directive to county elections officials that deprives eighty thousand limited English proficient  
6 Californians of the language assistance to which they are entitled under state law. Voters who  
7 speak thirty-four languages are adversely affected. Some of the most severely impacted  
8 populations speak Spanish, Farsi, Arabic, Japanese, and Russian.

9 2. The Legislature intended that “non-English-speaking citizens, like all other  
10 citizens, should be encouraged to vote.” Elec. Code § 14201(h). It therefore enacted California  
11 Elections Code § 14201 (“Section 14201”) with the express purpose of requiring “appropriate  
12 efforts [to] be made on a statewide basis to minimize obstacles to voting by citizens who lack  
13 sufficient skill in English to vote without assistance.” *Id.*

14 3. In particular, Section 14201 imposes on the Secretary a mandatory duty to identify  
15 each county or precinct in which “3 percent or more of the voting-age residents” “are members of  
16 a single language minority, and . . . lack sufficient skills in English to vote without assistance.”  
17 Elec. Code § 14201(b)(1). County elections officials, in turn, are required to provide specified  
18 language assistance in all “affected polling places” in each such county or precinct identified by  
19 the Secretary of State. *Id.*

20 4. Although California law clearly prescribes the counties and precincts in which  
21 language assistance must be provided, past Secretaries of State have, for many years, used an  
22 unauthorized and improper methodology to determine the counties and precincts in which  
23 language assistance must be provided. Defendant Secretary repeated this error in a memorandum  
24 issued by his office to all county clerks and registrars of voters on December 29, 2017, titled  
25 “County Clerk/Registrar of Voters (CC/ROV) Memorandum #17148” (“CC/ROV 17148”). In  
26 particular, in determining the counties and precincts that are required to provide state-law  
27 mandated language assistance, the Secretary improperly confined the universe of languages  
28 covered by *state* law to the small group of languages covered under a more restrictive and

1 inapplicable *federal* statute. In addition, the Secretary improperly required language assistance  
2 only in the *precincts* where the three percent trigger was met, even though the statute requires  
3 language assistance throughout each *county* where the three percent trigger is met.

4 5. The Secretary's improper determination in CC/ROV 17148 has resulted in the  
5 denial of language assistance to an estimated 80,141 Californians who are entitled to receive such  
6 assistance under Elections Code § 14201. Expedited judicial intervention is required to compel  
7 the Secretary to issue an amended CC/ROV to correct this manifest injustice and allow tens of  
8 thousands of citizens the opportunity to meaningfully exercise their right to vote in the upcoming  
9 elections.

#### 10 JURISDICTION AND VENUE

11 6. This Court has jurisdiction over Plaintiffs' request for a writ of mandate under  
12 Code of Civil Procedure § 1085. The Court has jurisdiction over Plaintiffs' claims for declaratory  
13 and injunctive relief under Article VI § 10 of the California Constitution and Code of Civil  
14 Procedure §§ 410.10, 526, 526a, and 1060.

15 7. Venue is proper in the City and County of San Francisco under Code of Civil  
16 Procedure § 401(1) because the Secretary of State is an officer of the State of California and the  
17 California Attorney General maintains an office in the City and County of San Francisco.

#### 18 PARTIES

19 8. Plaintiff Asian Americans Advancing Justice – Los Angeles (“Advancing Justice –  
20 LA”) is the largest civil rights organization in the nation working in the Asian American, Native  
21 Hawaiian, and Pacific Islander (AANHPI) communities. Advancing Justice – LA has a voting  
22 rights unit focused on access to the polls, including language access, and systems that dilute the  
23 voting strength of the AANHPI communities. Advancing Justice – LA has historically conducted  
24 poll monitoring focused on counties' language assistance requirements.

25 9. Plaintiff Asian Americans Advancing Justice – Asian Law Caucus (“Advancing  
26 Justice – ALC”) is the nation's first legal and civil rights organization serving low-income Asian  
27 Pacific American communities. Advancing Justice – ALC has long advocated for the expansion  
28 and protection of voting rights for all immigrant communities, including on language access

1 issues, to ensure full participation of all eligible voters in the electoral process. Advancing Justice  
2 – ALC’s voting rights advocacy has included legislative efforts and poll monitoring, as well as  
3 litigation.

4 10. Plaintiff American Civil Liberties Union of Northern California (“ACLU – NC”),  
5 founded in 1934 and based in San Francisco, California, is one of the largest ACLU affiliates, with  
6 approximately 169,000 members, many of whom pay California state income taxes, and many of  
7 whom live and pay property taxes in the City and County of San Francisco. Plaintiff ACLU – NC  
8 has long been dedicated to protecting the rights of its members and of all Californians, including  
9 their rights to participate fully in the electoral process.

10 11. Given their longstanding commitment to voting rights, all of the Plaintiffs have a  
11 beneficial interest in ensuring that all Californians who are entitled to receive assistance in voting  
12 are provided such assistance. All of the Plaintiffs seek to vindicate the important public interest in  
13 enforcing the public duty of the Secretary of State to provide language assistance to those  
14 Californians who are entitled by law to receive them.

15 12. Defendant Alex Padilla is the Secretary of State of the State of California. He is  
16 named in his official capacity only.

#### 17 **FACTUAL AND LEGAL BACKGROUND**

18 13. Voting language assistance must be provided under both federal and California  
19 law. However, there are critical differences between the two statutory schemes. Specifically, the  
20 federal Voting Rights Act of 1965, 52 U.S.C. § 10301 *et seq.* (“VRA”), and Section 14201 require  
21 different types of language assistance, and use parallel, but not identical, sets of criteria for  
22 determining the jurisdictions in which such assistance must be provided.

23 14. In general terms, the criteria for determining those jurisdictions that are covered  
24 (“covered jurisdictions”) by the VRA’s language assistance requirements are more stringent than  
25 the criteria for determining covered jurisdictions under Section 14201; but once these more  
26 stringent criteria are met, the language assistance required by the VRA is more robust and  
27 comprehensive than the assistance required under California law.  
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*The State Framework Under Elections Code § 14201*

15. State law requires the Secretary to make determinations every four years as to the jurisdictions that must provide language assistance. *See* Elec. Code § 14201(f). County elections officials are required to comply with the Secretary’s determination. *See id.* § 14201(a).

16. California law imposes a *mandatory* duty on the Secretary to direct county elections officials to provide the language assistance in “affected polling places” whenever the number of residents of voting age in any county or precinct who are members of any “single language minority, and who lack sufficient skills in English to vote without assistance . . . equals 3 percent or more of the voting-age residents” of the county or precinct. Elec. Code. § 14201(b).

17. State law also grants the Secretary *discretion* to order county elections officials to provide language assistance in additional counties and precincts if he finds “a significant and substantial need.” Elec. Code § 14201(a).

18. A jurisdiction need not provide state law language assistance in any language for which it is required to provide assistance under the federal VRA. Elec. Code § 14201(g).

19. County elections officials directed by the Secretary to provide language assistance must:

- (a) provide at polling places facsimile ballots, which are translated copies of the ballot in the voter’s preferred language that the voter may use as a reference when voting on an English-language ballot (Elec. Code § 14201(b)(1));
- (b) provide a facsimile ballot to a vote by mail voter who is registered in a covered precinct and has requested a facsimile ballot (*id.* § 13400(a));
- (c) train precinct board members to properly use facsimile ballots and to inform voters of the existence of facsimile ballots (*id.* § 14201(c)(1));
- (d) post in the polling place signage (in English and in the language of the facsimile ballots available at the polling place) informing voters of the existence of facsimile ballots (*id.* § 14201(c)(3));
- (e) post on the county elections official’s internet website (in English and in all languages in which the county provides facsimile ballots) information identifying

1 all polling places in the county and the languages of facsimile ballots that will be  
2 available to voters at each polling place (*id.* § 14201(d)); and

3 (f) include in the text of the county voter information guide (in English and in all  
4 languages in which the county provides facsimile ballots) text referring voters to  
5 the portion of the county elections official's internet website containing  
6 information set forth in (e) above (*id.* § 14201(e)).

7 20. The need for this assistance is real. For example, a general election exit survey of  
8 Los Angeles County voters in 2008 found that 30 percent of Chinese voters, 33 percent of Filipino  
9 voters, 60 percent of Korean voters, and 50 percent of Vietnamese voters used bilingual voting  
10 assistance.<sup>1</sup> Similarly, another survey of Los Angeles County voters in 2015 found that 46 percent  
11 of Chinese voters and 50 percent of Korean voters use bilingual voting assistance.<sup>2</sup>

12 21. Language assistance has dramatic impacts on voter participation. For example,  
13 after a settlement with the federal government required San Diego County to improve its language  
14 access efforts, voter registration rates among Latinos and Filipino Americans increased by more  
15 than 20 percent and the voter registration rate among Vietnamese Americans registration increased  
16 by 40 percent.<sup>3</sup> Academic research has also found that language assistance increases turnout for  
17 limited English proficient voters.<sup>4</sup>

18 *The Federal Framework Under Section 203 of the Voting Rights Act*

19 22. Under § 203 of the VRA, language assistance must be provided in "covered  
20 jurisdictions," which are defined as *states or counties* in which, *inter alia*, more than *five percent*,

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22 <sup>1</sup> Asian Americans at the Ballot Box: The 2008 General Election in Los Angeles County,  
[https://advancingjustice-la.org/sites/default/files/APALC\\_BallotBox\\_LA2008\\_FINAL.pdf](https://advancingjustice-la.org/sites/default/files/APALC_BallotBox_LA2008_FINAL.pdf).

23 <sup>2</sup> Poll of Asian American registered voters in Los Angeles County, Asian Americans  
24 Advancing Justice – Los Angeles and the Pat Brown Institute at California State University, Los  
Angeles, 2016.

25 <sup>3</sup> Alberto R. Gonzales, U.S. Attorney General, "Prepared Remarks at the Anniversary of the  
26 Voting Rights Act, Lyndon B. Johnson Presidential Library, Austin, Texas," Aug. 2, 2005,  
<https://www.justice.gov/archive/ag/speeches/2005/080205agvotingrights.htm>.

27 <sup>4</sup> *See, e.g.*, Daniel J. Hopkins, Translating into Votes: The Electoral Impacts of Spanish-  
28 Language Ballots, *American Journal of Political Science*, 813-829 (2011),  
<https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1540-5907.2011.00534.x>.

1 or more than 10,000 in the case of a county, of the *citizens* of voting age “are members of a single  
2 language minority and are limited-English proficient” and “the illiteracy rate of the citizens in the  
3 language minority as a group is higher than the national illiteracy rate.” 52 U.S.C. §  
4 10503(b)(2)(A)(i)-(ii); 28 C.F.R. § 55.1. Even if a state is a “covered jurisdiction” under the  
5 VRA, language assistance is not required to be provided within counties having less than five  
6 percent or 10,000 citizens of voting age who are limited English proficient. 52 U.S.C. §  
7 10503(b)(2)(B)).

8         23. In contrast, California law requires language assistance to be more broadly  
9 provided than federal law, as the coverage requirements under Section 14201 are triggered if *three*  
10 *percent* of the *residents* of voting age in a *county or precinct* “lack sufficient skills in English to  
11 vote without assistance.”

12         24. In addition, § 203(e) of the VRA, 52 U.S.C. § 10503(e), employs a restrictive  
13 definition of “language minority” that is based on ethnicity, and that is not employed in Section  
14 14201. Section § 203(e) provides: “For purposes of this section, the term ‘language minorities’ or  
15 ‘language minority group’ means persons who are American Indian, Asian American, Alaskan  
16 Natives, or of Spanish heritage.” Section 14201 is not so confined and does not contain or refer to  
17 a definition of the term “language minority.”

18         25. While the coverage thresholds in the federal statute lead to fewer language  
19 communities being covered than under the California statute, the assistance required under the  
20 VRA when its provisions are triggered is more robust than what is required under California law.  
21 For example, jurisdictions required to provide coverage under the VRA must translate *all* election  
22 related materials and provide voter assistance in the relevant language(s). *See* 52 U.S.C. §  
23 10503(c); *see also* 28 C.F.R. § 55.19 (must translate “all materials distributed to or provided for  
24 the use of the electorate generally”). This includes sample ballots, votable ballots (the ballots on  
25 which the voter actually votes), notices, signs, voter registration cards, and so on. In contrast,  
26 California law only requires the provision of a nonvotable “facsimile ballot” and the translation of  
27 certain posted notices.

28



1           26.     The Census Bureau is required to make coverage determinations for the language  
2 assistance mandated by the VRA. 52 U.S.C. § 10503(b)(2). The Census Bureau’s most recent  
3 coverage determination was made in 2016. Applying the federal VRA criteria, the Census Bureau  
4 determined that language assistance mandated by the VRA is required in California for seven  
5 *ethnicities*: Hispanic, Chinese, Vietnamese, Filipino, Cambodian, Korean, and American Indian.  
6 Because the federal determination covers “language minority group[s],” rather than languages, “it  
7 is the responsibility of the covered jurisdiction to determine what languages, form of languages, or  
8 dialects will be effective.” 28 C.F.R. § 55.11. Under the VRA, only states and counties specified  
9 by the Census Bureau must provide the federally required language assistance. *See* 81 Fed. Reg.  
10 87532.

11   *Data Collected by Census Bureau*

12           27.     One of the questions collected by the Census Bureau is: “Does this person speak a  
13 language other than English at home?” If so, the question goes on to ask: “What is this  
14 language?” and “How well does this person speak English?” with the potential responses listed as  
15 “Very well,” “Well,” “Not well,” and “Not at all.”<sup>5</sup>

16           28.     The consistent and longstanding practice of the Census Bureau has been to treat a  
17 response with any answer other than “Very well” as indicating limited English proficiency.

18           29.     Thus, the Census Bureau already collects data that identifies persons who speak a  
19 language other than English at home; the language they speak; and their proficiency in English.  
20 Such data is readily available to the Secretary.

21   *CC/ROV 17148*

22           30.     As noted above, the Secretary is required to determine once every four years the  
23 jurisdictions that must provide language assistance under state law. The Secretary made his most  
24 recent determination on December 29, 2017, in CC/ROV 17148. The determinations made under  
25 CC/ROV 17148 remain in effect through December 31, 2021. A copy of CC/ROV 17148 is  
26 appended to this Complaint as Exhibit 1.

27 \_\_\_\_\_  
28 <sup>5</sup> American Community Survey Questionnaire, <https://www2.census.gov/programs-surveys/acs/methodology/questionnaires/2017/quest17.pdf>.

1           31.     In CC/ROV 17148, the Secretary made two fundamental errors in determining  
2 what language minority groups must receive language assistance under Section 14201.

3           32.     *First*, the Secretary focused his coverage determinations exclusively at the *precinct*  
4 level even though Section 14201 requires the Secretary to determine that coverage is necessary in  
5 “affected polling places” “in *each county* and precinct” in which the number of voting age  
6 residents who lack sufficient skills in English to vote without assistance equals three percent or  
7 more. Elec. Code § 14201 (emphasis added).

8           33.     The decision to not make coverage determinations at the county level has an  
9 enormous impact on the number of voters who will get language assistance, as shown in  
10 Appendix A. For example, Spanish speakers accounted for at least three percent of voting age  
11 residents in 18 counties,<sup>6</sup> but the Secretary only required coverage in Spanish in *particular*  
12 *precincts* within those counties that also hit the three percent threshold. Similarly, Punjabi  
13 speakers accounted for at least three percent of voting age residents in 1 county (Sutter County),  
14 but the Secretary only required coverage in Punjabi in the particular precincts within that county  
15 that also hit the three percent threshold. Spanish or Punjabi speakers who live in these counties  
16 and who require assistance to vote in English but who live in precincts that failed to meet the three  
17 percent threshold at the precinct level are therefore left uncovered. But under the plain language  
18 of Section 14201, language assistance should have been provided to them because they live in a  
19 county in which the three percent threshold was met. The Secretary’s failure to properly discharge  
20 his mandatory duty to require coverage at all affected polling places in counties that meet the three  
21 percent threshold will deprive nearly 6,400 Spanish- and Punjabi-speaking Californians of the  
22 language assistance to which they are entitled under state law.

23           34.     *Second*, in making his mandatory coverage determinations (as opposed to his  
24 discretionary coverage determinations), the Secretary limited his analysis to include *only* the  
25 “language minority groups expressly identified in the most recent 2016 [VRA] Section 203  
26 language access determinations.” CC/ROV 17148, Section 14201 Data Methodology at 3. In

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27           <sup>6</sup> The 18 counties are Del Norte, Inyo, Lake, Lassen, Marin, Mendocino, Modoc, Mono,  
28 Napa, San Luis Obispo, Santa Cruz, Sierra, Solano, Sonoma, Sutter, Tehama, Yolo, and Yuba.

1 other words, the Secretary limited the universe of languages in his mandatory coverage  
2 determinations to only the languages spoken by the seven ethnicities that the Census Bureau  
3 determined in 2016 should be covered somewhere in California under the ethnicity based  
4 definition of “language minority” in § 203 of the VRA. He thus extended mandatory coverage  
5 only to Spanish, Chinese, Mandarin, Cantonese, Tagalog, Ilocano, Korean, Khmer, and  
6 Vietnamese, i.e., the languages spoken by the seven ethnicities designated by the Census Bureau  
7 in 2016 as requiring Section 203 mandated language assistance, while failing to provide coverage  
8 to speakers of numerous additional languages who should have been covered under  
9 Section 14201, as shown in Appendix B.

10         35.     The Secretary’s determination to limit language assistance to the languages spoken  
11 by the seven ethnicities covered in California under the federal VRA was wholly improper and  
12 lacks any basis in the statute’s text or purpose. Nothing in Section 14201 suggests or requires the  
13 language limitation that the Secretary has applied. Further, the diversity of California’s population  
14 means that many citizens speak languages other than those spoken by the seven ethnicities covered  
15 in California under the federal VRA. The Secretary’s improper determination means that  
16 Californians who speak such languages—which include Arabic, Farsi, Russian, Ukrainian, Syriac,  
17 and Amharic—have been automatically and improperly excluded from the Secretary’s mandatory  
18 coverage determination under Section 14201.

19         36.     Attempting to apply the federal definition of “language minority” to California  
20 makes no sense, as it is both over- and under-inclusive. For example, the federal definition, which  
21 focuses on certain ethnicities, excludes many groups of limited English proficient persons who  
22 live in California, including persons of African, Middle Eastern and Eastern European descent. At  
23 the same time, the federal definition includes groups of non-English speaking persons with (at  
24 best) a minimal presence in California, such as Alaskan Natives. The Secretary’s decision to  
25 apply the federal definition to California was illogical, arbitrary and contrary to the language and  
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1 legislative intent of Section 14201, which explicitly does not adopt the federal definition of  
2 “language minority.”<sup>7</sup>

3         37. The Secretary’s decision was also erroneous because coverage under the federal  
4 VRA is calculated under the more restrictive criteria of *five percent* or *10,000 citizens* of voting  
5 age in a *state or county*, as opposed to *three percent* of *residents* of voting age in a *county or*  
6 *precinct*, as provided under Section 14201. In addition to excluding limited English proficient  
7 persons who speak languages outside of the federal definition of “language minority,” as  
8 discussed above, the Secretary’s reliance on the federal coverage formula excluded many groups  
9 of limited English proficient persons who fall within the “language minorities” covered under  
10 federal law but who do not meet the more restrictive federal coverage criteria. Thus, the Secretary  
11 failed to include in his mandatory coverage determinations Asian languages such as Japanese and  
12 Hindi.

13         38. Instead of restricting the analysis for purposes of his mandatory coverage  
14 determinations to only the languages spoken by the seven ethnicities that the Census Bureau  
15 determined in 2016 should be covered somewhere in California under § 203 of the VRA, the  
16 Secretary should have defined a member of a “language minority” for purposes of Section 14201  
17 to be anyone who speaks a language other than English at home. This population is readily  
18 identifiable based on Census data already within the possession of, or available to, the Secretary.

19         39. The Secretary should also have defined a person who “lack[s] sufficient skills in  
20 English to vote without assistance” as anyone who speaks English other than “[v]ery well.” This  
21 population is readily identifiable based on Census data already within the possession of, or  
22 available to, the Secretary.

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24  
25 <sup>7</sup> The failure of the Legislature to refer to or incorporate the definition of “language  
26 minority” from the federal VRA into Section 14201 is clearly deliberate, as the Legislature knew  
27 how to refer to the VRA when it wanted to. *Compare* Elections Code § 14026(d), part of a  
28 chapter of that Code that prohibits the use of at-large elections to dilute the voting rights of  
members of protected classes, which states that “[a]s used in this chapter . . . ‘protected class’  
means a class of voters who are members of a race, color, or *language minority group, as this*  
*class is referenced and defined in the federal Voting Rights Act of 1965* (52 U.S.C. Sec. 10301 et  
seq.)” (Emphasis added).

1           40.     The Secretary has stated that his approach “followed the previous practice” of his  
2 predecessors (CC/ROV 17148 at 2), but has offered no other explanation for restricting the  
3 languages included in his mandatory coverage determinations under Section 14201 to those  
4 included in the Census Bureau Section 203 VRA determinations for California.

5           41.     Through the exercise of his discretionary authority, the Secretary in CC/ROV  
6 17148 also determined that county elections officials should provide language assistance in  
7 additional precincts and in additional languages. CC/ROV 17148 states that the Secretary’s  
8 discretionary coverage determinations were based on consideration of “whether a sufficient  
9 number of precincts within a county included limited English proficient populations compared to  
10 the total number of precincts in the county.” CC/ROV 17148, Section 14201 Data Methodology  
11 at 3.

12           42.     The Secretary’s discretionary coverage determinations, however, still leave  
13 uncovered many precincts and languages that were required to be covered under his mandatory  
14 determinations. *See* Appendix B. His discretionary coverage determinations do not cure or  
15 excuse the Secretary’s failure to properly discharge his mandatory duties under Section 14201.

16           43.     The Secretary’s failure to properly discharge his mandatory duties to require  
17 coverage in all precincts in which three percent of the voting age residents are members of a  
18 language minority and lack sufficient skills in English to vote without assistance adversely  
19 deprives tens of thousands of voters the language assistance to which they are entitled under state  
20 law.

21           44.     Based upon the data relied upon by the Secretary in making his coverage  
22 determinations under the CC/ROV, as shown in Appendix C, it is evident that:

- 23           (a)     On 3,349 occasions, the Secretary declined to cover a precinct for a language in  
24                    which at least three percent of the residents of voting age belong to a language  
25                    minority and lack sufficient skills in English to vote without assistance;
- 26           (b)     73,767 limited-English proficient, voting-age Californians live in a precinct that the  
27                    Secretary declined to cover, even though at least three percent of the residents of  
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1 voting age in that precinct belong to a language minority and lack sufficient skills  
2 in English to vote without assistance; and

3 (c) There were 34 languages that met the three percent threshold in at least one  
4 precinct that the Secretary declined to cover, including Russian (1,120 precincts);  
5 Portuguese (224); Arabic (195 precincts); Laotian (65); Syriac (105 precincts);  
6 Hebrew (105 precincts); and Farsi (94 precincts).

7 **FIRST CAUSE OF ACTION:**  
8 **VIOLATION OF CALIFORNIA ELECTIONS CODE § 14201**  
9 **(All Plaintiffs Against Defendant Secretary)**

10 45. Plaintiffs repeat and reallege each of the preceding paragraphs as though set forth  
11 fully herein.

12 46. Under Section 14201, the Secretary has a mandatory duty to require county  
13 elections officials to provide language assistance in all affected polling places in each county or  
14 precinct in which more than three percent of the residents of voting age are members of any one  
15 language minority and lack sufficient skills in English to vote without assistance.

16 47. In issuing CC/ROV 17148, the Secretary has failed to comply with that mandatory  
17 duty in two ways.

18 48. First, he improperly limited his analysis to the precinct level and failed to require  
19 coverage at all polling places throughout *counties* in which three percent of the residents of voting  
20 age are members of any one language minority and lack sufficient skills in English to vote without  
21 assistance.

22 49. Second, he improperly limited his analysis of the language minorities covered by  
23 state law to the languages spoken by the seven ethnicities that the Census Bureau determined in  
24 2016 should be covered in California under Section 203 of the federal VRA.

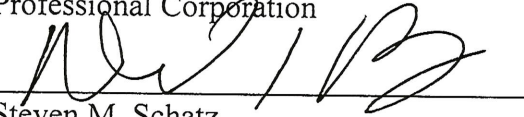
25 50. Plaintiffs seek a writ of mandate pursuant to Code of Civil Procedure § 1085 from  
26 this Court directing the Secretary to reissue his coverage determinations consistent with his  
27 mandatory duties under Section 14201.  
28



- 1 D. Order the Secretary to pay Plaintiffs' costs and attorney's fees pursuant to Code of  
2 Civil Procedure § 1021.5 and other applicable statutes; and  
3 E. For such other and further relief as the Court deems just and proper.

4 Dated: April 23, 2018

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

6   
7 Steven M. Schatz  
8 David J. Berger  
9 Dylan G. Savage  
10 650 Page Mill Road  
11 Palo Alto, CA 94304  
12 Telephone: (650) 493-9300  
13 Facsimile: (650) 493-6811

14 *Attorneys for Petitioners/Plaintiffs*  
15 *Asian Americans Advancing Justice –*  
16 *Los Angeles, Asian Americans Advancing*  
17 *Justice – Asian Law Caucus, and American*  
18 *Civil Liberties Union of Northern*  
19 *California*

20 ASIAN AMERICANS ADVANCING  
21 JUSTICE – LOS ANGELES  
22 Deanna Kitamura  
23 Nicole Gon Ochi  
24 1145 Wilshire Boulevard  
25 Los Angeles, CA 90017  
26 Telephone: (213) 977-7500  
27 Facsimile: (213) 977-7595

28 *Attorneys for Petitioner/Plaintiff Asian*  
*Americans Advancing Justice – Los Angeles*

ASIAN AMERICANS ADVANCING  
JUSTICE – ASIAN LAW CAUCUS  
Jonathan T. Stein  
Winifred V. Kao  
55 Columbus Avenue  
San Francisco, CA 94111  
Telephone: (415) 848-7736  
Facsimile: (415) 896-1702

*Attorneys for Petitioner/Plaintiff Asian*  
*Americans Advancing Justice – Asian Law*  
*Caucus*



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AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN  
CALIFORNIA

Linda Lye  
William S. Freeman  
Raul Macias  
39 Drumm Street, 2nd Floor  
San Francisco, CA 94111  
Telephone: (415) 621-2493  
Facsimile: (415) 255-8437

*Attorneys for Petitioner/Plaintiff American Civil  
Liberties Union of Northern California*



# **APPENDIX A**

**APPENDIX A**

<b>County</b>	<b>Percentage of LEP Spanish Speaking Voting Age Residents in the County</b>	<b># of LEP Spanish Speaking Voting Age Residents Who Live in a Precinct Not Covered by CC/ROV</b>
Del Norte	4%	70
Inyo	5%	52
Lake	5%	94
Lassen	5%	59
Marin	6%	504
Mendocino	9%	98
Modoc	6%	7
Mono	10%	38
Napa	15%	57
San Luis Obispo	6%	834
Santa Cruz	12%	882
Sierra	4%	0
Solano	7%	1,748
Sonoma	9%	1,113
Sutter	10%	80
Tehama	7%	179
Yolo	9%	333
Yuba	8%	64
<b>Total</b>		<b>6,212</b>
<b>County</b>	<b>Percentage of LEP Punjabi Speaking Voting Age Residents in the County</b>	<b># of LEP Punjabi Speaking Voting Age Residents Who Live in a Precinct Not Covered by CC/ROV</b>
Sutter	7%	161
<b>Total All Counties (Spanish and Punjabi)</b>		<b>6,374</b>



# **APPENDIX B**

**APPENDIX B**

County	Currently Covered under Secretary of State's Section 14201 Determinations		Additional Languages, Precincts, and Voting Age Residents that Should Have Been Covered Under Section 14201	
	Languages Covered Pursuant to Mandatory Determination (# of Precincts)	Languages Covered Pursuant to Discretionary Determination (# of Precincts)	Languages <i>Not</i> Covered by CC/ROV (# of Precincts that Meet 3% Threshold)	Languages <i>Not</i> Covered by CC/ROV (# of Voting Age LEP Residents Who Speak a Language Other than English at Home and reside in Precincts that Met the 3% Threshold)
<b>Alameda</b>	Korean (49) Khmer (2)	Punjabi (65)	Amharic (27) Arabic (9) Burmese (12) Farsi (17) Hindi (19) Laotian (4) Mien (5) Mongolian (3) Russian (1) Telugu (8) Turkish (3)	Amharic (822) Arabic (177) Burmese (405) Farsi (553) Hindi (911) Laotian (245) Mien (195) Mongolian (77) Russian (1) Telugu (561) Turkish (36)
<b>Alpine</b>	None	None	None	None
<b>Amador</b>	Spanish (11)	None	None	None
<b>Butte</b>	Spanish (161)	Hmong (68)	None	None
<b>Calaveras</b>	Spanish (15)	None	None	None
<b>Colusa</b>	None	None	None	None
<b>Contra Costa</b>	Korean (13) Tagalog (104) Vietnamese (10)	None	Farsi (12) Hindi (2) Laotian (1) Nepali (3) Portuguese (1) Punjabi (4) Russian (11) Tamil (2) Telugu (6)	Farsi (405) Hindi (102) Laotian (56) Nepali (200) Portuguese (37) Punjabi (220) Russian (488) Tamil (179) Telugu (268)
<b>Del Norte</b>	Spanish (17)	None	None	None
<b>El Dorado</b>	Chinese (2) Spanish (212)	None	Farsi (9)	Farsi (302)
<b>Fresno</b>	Chinese (13) Korean (7) Khmer (2) Tagalog (1) Vietnamese (10)	Hmong (170) Punjabi (171)	Armenian (25) Laotian (36) Portuguese (1)	Armenian (647) Laotian (1,250) Portuguese (1)
<b>Glenn</b>	None	None	None	None
<b>Humboldt</b>	Spanish (72)	None	Hmong (5)	Hmong (135)
<b>Imperial</b>	None	None	None	None
<b>Inyo</b>	Spanish (51)	None	None	None

County	Currently Covered under Secretary of State's Section 14201 Determinations		Additional Languages, Precincts, and Voting Age Residents that Should Have Been Covered Under Section 14201	
	Languages Covered Pursuant to Mandatory Determination (# of Precincts)	Languages Covered Pursuant to Discretionary Determination (# of Precincts)	Languages <i>Not</i> Covered by CC/ROV (# of Precincts that Meet 3% Threshold)	Languages <i>Not</i> Covered by CC/ROV (# of Voting Age LEP Residents Who Speak a Language Other than English at Home and reside in Precincts that Met the 3% Threshold)
<b>Kern</b>	Ilocano (30) Tagalog (43)	Punjabi (46)	None	None
<b>Kings</b>	Tagalog (30)	None	Portuguese (39)	Portuguese (115)
<b>Lake</b>	Spanish (76)	None	None	None
<b>Lassen</b>	Spanish (32)	None	None	None
<b>Los Angeles<sup>1</sup></b>	None	Armenian (2,139) Farsi (1,317)	Amharic (28) Arabic (123) Bengali (5) Burmese (9) Croatian (10) French (1) Gujarati (13) Hebrew (105) Hindi (21) Indonesian (10) Japanese (666) Mongolian (6) Portuguese (36) Romanian (10) Russian (762) Syriac (10) Telugu (31) Thai (139)	Amharic (461) Arabic (1,298) Bengali (219) Burmese (115) Croatian (72) French (2) Gujarati (99) Hebrew (848) Hindi (295) Indonesian (139) Japanese (7,952) Mongolian (111) Portuguese (424) Romanian (102) Russian (11,782) Syriac (84) Telugu (335) Thai (2,164)
<b>Madera</b>	None	Panjabi (26)	None	None
<b>Marin</b>	Spanish (196) Vietnamese (4)	None	Russian (1)	Russian (1)
<b>Mariposa</b>	Spanish (13) Tagalog (1)	None	None	None
<b>Mendocino</b>	Spanish (248)	None	None	None
<b>Merced</b>	Chinese (5)	Hmong (31) Punjabi (19)	Mien (7) Portuguese (40)	Mien (107) Portuguese (939)
<b>Modoc</b>	Spanish (20)	None	None	None
<b>Mono</b>	Spanish (8)	None	None	None
<b>Monterey</b>	Korean (2) Tagalog (8) Vietnamese (6)	None	None	None

<sup>1</sup> Los Angeles County currently voluntarily covers Japanese, Hindi, and Thai for language assistance under Section 203 of the federal Voting Rights Act. However, nothing ensures continued coverage in the future.



County	Currently Covered under Secretary of State's Section 14201 Determinations		Additional Languages, Precincts, and Voting Age Residents that Should Have Been Covered Under Section 14201	
	Languages Covered Pursuant to Mandatory Determination (# of Precincts)	Languages Covered Pursuant to Discretionary Determination (# of Precincts)	Languages <i>Not</i> Covered by CC/ROV (# of Precincts that Meet 3% Threshold)	Languages <i>Not</i> Covered by CC/ROV (# of Voting Age LEP Residents Who Speak a Language Other than English at Home and reside in Precincts that Met the 3% Threshold)
<b>Napa</b>	Spanish (151) Tagalog (14)	None	None	None
<b>Nevada</b>	Spanish (32)	None	None	None
<b>Orange</b>	Tagalog (63)	Farsi (71)	Arabic (33) Gujarati (4) Hindi (1) Japanese (22) Russian (2)	Arabic (1,250) Gujarati (240) Hindi (32) Japanese (1,153) Russian (120)
<b>Placer</b>	Korean (3) Spanish (104) Tagalog (3)	None	Punjabi (4)	Punjabi (185)
<b>Plumas</b>	Spanish (20)	None	None	None
<b>Riverside</b>	Chinese (43) Mandarin (18) Korean (26) Tagalog (34) Vietnamese (36)	None	Arabic (7)	Arabic (178)
<b>Sacramento</b>	Korean (20) Tagalog (103) Vietnamese (182)	Hmong (93) Punjabi (59)	Arabic (2) Armenian (6) Farsi (5) Hindi (16) Japanese (4) Laotian (3) Mien (17) Russian (196) Telugu (4) Ukrainian (83) Urdu (5)	Arabic (60) Armenian (265) Farsi (89) Hindi (783) Japanese (91) Laotian (99) Mien (699) Russian (7,271) Telugu (159) Ukrainian (2,967) Urdu (140)
<b>San Benito</b>	None	None	None	None
<b>San Bernardino</b>	Cantonese (3) Chinese (43) Korean (70) Mandarin (26) Tagalog (44) Vietnamese (37)	None	Arabic (11) Farsi (2) Indonesian (6) Thai (5)	Arabic (380) Farsi (115) Indonesian (344) Thai (66)

County	Currently Covered under Secretary of State's Section 14201 Determinations		Additional Languages, Precincts, and Voting Age Residents that Should Have Been Covered Under Section 14201	
	Languages Covered Pursuant to Mandatory Determination (# of Precincts)	Languages Covered Pursuant to Discretionary Determination (# of Precincts)	Languages <i>Not</i> Covered by CC/ROV (# of Precincts that Meet 3% Threshold)	Languages <i>Not</i> Covered by CC/ROV (# of Voting Age LEP Residents Who Speak a Language Other than English at Home and reside in Precincts that Met the 3% Threshold)
San Diego	Korean (37)	Arabic (180)	Amharic (8) Cushite (17) Farsi (6) Japanese (6) Kurdish (1) Laotian (15) Russian (17) Syriac (91)	Amharic (342) Cushite (494) Farsi (197) Japanese (113) Kurdish (1) Laotian (783) Russian (263) Syriac (3,708)
San Francisco	Korean (15) Tagalog (72) Vietnamese (26)	None	Burmese (1) Japanese (5) Russian (64) Samoan (1) Thai (2)	Burmese (40) Japanese (174) Russian (3,544) Samoan (29) Thai (108)
San Joaquin	Cantonese (32) Chinese (41) Ilocano (7) Khmer (52) Tagalog (129) Vietnamese (84)	Punjabi (179)	Farsi (22) Hindi (2) Hmong (10) Laotian (5) Portuguese (34) Urdu (6)	Farsi (172) Hindi (65) Hmong (521) Laotian (104) Portuguese (180) Urdu (203)
San Luis Obispo	Spanish (232) Tagalog (8)	None	None	None
San Mateo	Korean (12) Tagalog (129)	None	Arabic (7) Burmese (15) Hindi (1) Japanese (21) Russian (15) Tongan (13)	Arabic (199) Burmese (1,124) Hindi (56) Japanese (656) Russian (416) Tongan (673)
Santa Barbara	Chinese (11) Korean (2) Tagalog (3)	None	None	None
Santa Clara	Korean (105) Khmer (6)	None	Farsi (21) Gujarati (2) Hindi (13) Japanese (15) Nepali (2) Portuguese (10) Punjabi (21) Russian (28) Syriac (4) Tamil (3) Telugu (12)	Farsi (503) Gujarati (130) Hindi (555) Japanese (708) Nepali (64) Portuguese (401) Punjabi (851) Russian (1,114) Syriac (219) Tamil (130) Telugu (334)

County	Currently Covered under Secretary of State's Section 14201 Determinations		Additional Languages, Precincts, and Voting Age Residents that Should Have Been Covered Under Section 14201	
	Languages Covered Pursuant to Mandatory Determination (# of Precincts)	Languages Covered Pursuant to Discretionary Determination (# of Precincts)	Languages <i>Not</i> Covered by CC/ROV (# of Precincts that Meet 3% Threshold)	Languages <i>Not</i> Covered by CC/ROV (# of Voting Age LEP Residents Who Speak a Language Other than English at Home and reside in Precincts that Met the 3% Threshold)
<b>Santa Cruz</b>	Spanish (291)	None	None	None
<b>Shasta</b>	Spanish (50)	None	None	None
<b>Sierra</b>	Spanish (20)	None	None	None
<b>Siskiyou</b>	Spanish (34)	None	None	None
<b>Solano</b>	Spanish (362) Tagalog (164)	None	None	None
<b>Sonoma</b>	Spanish (427) Khmer (3) Tagalog (2) Vietnamese (1)	None	Portuguese (1)	Portuguese (1)
<b>Stanislaus</b>	Khmer (12)	Punjabi (40) Syriac (55)	Portuguese (40)	Portuguese (215)
<b>Sutter</b>	Spanish (273) Tagalog (1)	Punjabi (189)	None	None
<b>Tehama</b>	Spanish (68)	None	None	None
<b>Trinity</b>	None	None	None	None
<b>Tulare</b>	Ilocano (17) Tagalog (14)	None	Arabic (1) Burmese (5) Laotian (1) Portuguese (22)	Arabic (2) Burmese (117) Laotian (1) Portuguese (439)
<b>Tuolumne</b>	Spanish (23)	None	None	None
<b>Ventura</b>	Chinese (15) Tagalog (46) Vietnamese (1)	None	Arabic (2) Gujarati (1)	Arabic (73) Gujarati (1)
<b>Yolo</b>	Cantonese (1) Chinese (58) Korean (5) Mandarin (1) Spanish (259)	None	Punjabi (1) Russian (23)	Punjabi (1) Russian (1,120)
<b>Yuba</b>	Spanish (74)	Hmong (11)	None	None
<b>Total</b>	<b>5,774</b>	<b>4,929</b>	<b>3,349</b>	<b>73,767</b>



# APPENDIX C

## APPENDIX C

Language	# of Precincts that Meet 3% Threshold and Were Covered by CC/ROV (Both Mandatory and Discretionary)	# of Precincts that Meet 3% Threshold but Were <i>Not</i> Covered by CC/ROV	# of Voting Age LEP Residents Who Speak a Language Other than English at Home in Precincts that Met the 3% Threshold but Were <i>Not</i> Covered by CC/ROV
<b>Languages Covered Pursuant to Mandatory Determination<sup>1</sup></b>			
Spanish	3,552	0	0
Chinese	231	0	0
Cantonese	36	0	0
Mandarin	45	0	0
Korean	366	0	0
Tagalog	1,016	0	0
Ilocano	54	0	0
Khmer	77	0	0
Vietnamese	397	0	0
<b>Total</b>	<b>5,774</b>	<b>0</b>	<b>0</b>
<b>Languages Covered Pursuant to Discretionary Determination</b>			
Arabic	180	195	3,617
Armenian	2,139	31	1,029
Farsi	1,388	94	2,336
Hmong	373	15	656
Punjabi	794	30	1,257
Syriac	55	105	4,011
<b>Total</b>	<b>4,929</b>	<b>470</b>	<b>12,906</b>
<b>Languages Not Covered by Mandatory or Discretionary Determination</b>			
Amharic	0	63	1,625
Bengali	0	5	219
Burmese	0	42	1,684
Croatian	0	10	72
Cushite	0	17	494
French	0	1	2
Gujarati	0	20	470
Hebrew	0	105	848
Hindi*	0	75	2,799
Indonesian	0	16	483
Japanese*	0	739	10,847
Kurdish	0	1	1

<sup>1</sup> These languages are spoken by the seven ethnicities designated by the Census Bureau pursuant to Section 203 of the Voting Rights Act: Hispanic, Chinese, Vietnamese, Filipino, Cambodian, Korean, and American Indian. See 81 Fed. Reg. 87532.

<b>Language</b>	<b># of Precincts that Meet 3% Threshold and Were Covered by CC/ROV (Both Mandatory and Discretionary)</b>	<b># of Precincts that Meet 3% Threshold but Were <i>Not</i> Covered by CC/ROV</b>	<b># of Voting Age LEP Residents Who Speak a Language Other than English at Home in Precincts that Met the 3% Threshold but Were <i>Not</i> Covered by CC/ROV</b>
<b>Languages Not Covered by Mandatory or Discretionary Determination</b>			
<b>Laotian</b>	0	65	2,538
<b>Mien</b>	0	29	1,001
<b>Mongolian</b>	0	9	188
<b>Nepali</b>	0	5	264
<b>Portuguese</b>	0	224	2,752
<b>Romanian</b>	0	10	102
<b>Russian</b>	0	1,120	26,120
<b>Samoan</b>	0	1	29
<b>Tamil</b>	0	5	309
<b>Telugu</b>	0	61	1,657
<b>Thai*</b>	0	146	2,338
<b>Tongan</b>	0	13	673
<b>Turkish</b>	0	3	36
<b>Ukrainian</b>	0	83	2,967
<b>Urdu</b>	0	11	343
<b>Total</b>	<b>0</b>	<b>2,879</b>	<b>60,861</b>
<b>State Total</b>	<b>10,703</b>	<b>3,349</b>	<b>73,767</b>

\* Los Angeles County currently voluntarily covers Japanese, Hindi, and Thai for language assistance under Section 203 of the federal Voting Rights Act. However, nothing ensures continued coverage in the future.

# **EXHIBIT 1**





**ALEX PADILLA** | SECRETARY OF STATE | STATE OF CALIFORNIA  
ELECTIONS DIVISION

1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor, Sacramento, CA 95814 | **Tel** 916.657.2166 | **Fax** 916.653.3214 | [www.sos.ca.gov](http://www.sos.ca.gov)

December 29, 2017

County Clerk/Registrar of Voters (CC/ROV) Memorandum #17148

**TO:** All County Clerks/Registrars of Voters

**FROM:** /s/ Steve Reyes  
Chief Counsel

**RE:** Language Requirements: 14201, Language Minority Determinations

The Secretary of State, by January 1 of each year in which the Governor is elected, must determine the precincts where 3% or more of the voting-age residents are members of a “single language minority” and lack sufficient skills in English to vote without assistance. (Elections Code § 14201(d).)<sup>1</sup>

For each specified precinct in their county, elections officials are required to:

- Translate a facsimile ballot and related instructions in the designated language(s).
- Post the translation(s) in a conspicuous location in the appropriate polling place.

If a county is already required to provide translations in a particular language under the VRA, they are not required to also post a facsimile ballot and instructions at the polling place in that language.

Additionally, Elections Code section 12303(c) requires county elections officials to make a good faith effort to recruit bilingual poll workers for any precinct in which 3% or more of the voting-age residents are members of a single language minority. This poll worker recruitment applies even in cases where the entire county is covered for a particular language under the federal Voting Rights Act (VRA).

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<sup>1</sup> Assembly Bill 918 (AB 918) which amends Elections Code sections 14201 and 12303 was signed into law by Governor Brown and becomes effective January 1, 2018. With respect to Section 14201, AB 918 includes additional posting requirements for precincts that meet a 20% single language minority threshold. While that information is contained in the county-specific data that we are providing to you, for your convenience our office will analyze that data and provide it to each county in a separate memorandum. Please note that all code sections referenced in this memo reflect the *current* statutes, not those that become effective in 2018.

These determinations are based upon information and data provided to the Secretary of State from the California Statewide Database (SWDB) at U.C. Berkeley. The SWDB relied upon a special tabulation provided by the Census Data Review Board to determine which precincts met the 3% threshold for single language minorities. As a result of the special tabulation, more precise data is now available in previous years.

As part of this 3% threshold analysis, the Secretary of State has followed the previous practice of interpreting “single language minority,” as used in Section 14201, to encompass language minority groups expressly identified in the most recent 2016 Section 203 language access determinations (28 C.F.R. § 55).<sup>2</sup>

In addition to utilizing the numeric formulaic 3% threshold trigger set forth in section 14201(c), as described above, the Secretary has utilized his discretionary authority to designate additional languages for coverage, when he has determined a “significant and substantial need” exists (See Sec. 14201(b)).

### **Supporting Documentation**

Ballot Translations and Posting Requirements Summary by County: The formula-based and discretionary 14201 language requirements for all 58 counties are listed on the attached chart. Because the obligations set forth in Section 14201 are impacted by whether a county is covered by Section 203, for reference purposes we have also included current Section 203 coverage by county. These requirements will remain in place through December 31, 2021, until a new determination is required to be made, which will be no later than January 1, 2022.

Methodology: A summary of the methodology used to make the language determinations is attached.

Specific County Precinct Data: Individual precinct data listing information for both 14201 and non-14201 languages will be provided to each county via email.

### **Additional Notes**

For Chinese and Filipino minority language groups, the Ballot Translations and Posting Requirements Summary by County includes information identifying specific language data for each language group. For example, for Chinese we have provided data for Cantonese, Mandarin, and Formosan. For Filipino, we have provided data for Tagalog and Ilocano.

Consistent with current practices by many counties for Section 14201 compliance and following guidance provided by the U.S. Department of Justice for implementation of

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<sup>2</sup> Section 203 of the Voting Rights Act defines “language minorities” and “language minority groups” as American Indian, Asian American, Alaskan Natives, or those of Spanish heritage. (52 U.S.C. § 10503(e)).

federal language assistance requirements (28 C.F.R. § 55.11), we have provided this information to permit counties to determine which language is appropriate to provide written translations and/or bilingual assistance.

The precinct level data (provided in the forthcoming Ballot Translations and Posting Requirements Summary by County documentation) that identifies both covered and non-covered languages may provide your county with information helpful in conducting outreach and/or deploying various resources to assist voters in exercising their right to vote.

### **Partnership**

The Secretary of State recognizes that the more precise data has resulted in a significant expansion of languages covered under Section 14201. Our office is committed to working in partnership with counties to assist with implementation efforts. Further, we are committed to working in partnership with counties to assist with implementation. We will also engage the statewide Language Accessibility Advisory Committee to provide additional assistance.

We also strongly recommend counties partner with their local Language Accessibility Advisory Committee (LAAC) and community groups for additional assistance in determining specific needs and resources at the precinct level. For counties without LAACs, we urge them to take steps to form LAACs to assist them.

Our office will conduct a webinar for counties in partnership with the SWDB to discuss any questions regarding the determinations or methodology. Information to participate will be provided at a later date. Additionally, for Voter's Choice Act counties, we will contact you to discuss Section 14201 impacts as well.

Please feel free to contact me directly with any questions by phone at (916) 695-1577 or by email at [Milena.Paez@sos.ca.gov](mailto:Milena.Paez@sos.ca.gov).

Thank you.

**Ballot Translations and Posting Requirements Summary by County**  
**Based on 2016 General Election Precincts**  
**Effective: January 1, 2018**

**KEY**

Asterisked (\*) language minority groups (Chinese and Filipino) include additional languages within that language group.

**Bold** languages under 14201, column (C), are new requirements.

County	Section 203 Covered Languages	14201 Covered Languages	Number of Precincts Meeting 14201 Coverage
Alameda	Chinese		
	Hispanic		
	Filipino		
	Vietnamese		
		Korean	49
		Cambodian/Khmer	2
		<b>Panjabi</b>	65
Alpine		NONE	
Amador		Spanish	11
Butte		<b>Hmong</b>	68
		Spanish	161
Calaveras		Spanish	15
Colusa	Hispanic	NONE	
Contra Costa	Chinese		
	Hispanic		
		Korean	13
		Filipino	104 (Tagalog-104)
		Vietnamese	10
Del Norte	American Indian		
		Spanish	17
El Dorado		<b>Chinese</b>	2
		Spanish	212
Fresno	Hispanic		
		Chinese	13 (Chinese-13)
		<b>Hmong</b>	170
		<b>Korean</b>	7
		Cambodian/Khmer	2
		<b>Panjabi</b>	171
		<b>Filipino</b>	1 (Tagalog-1)
	<b>Vietnamese</b>	10	
Glenn	Hispanic	NONE	
Humboldt		Spanish	72
Imperial	Hispanic	NONE	
Inyo		Spanish	51
Kern	Hispanic		
		<b>Filipino</b>	73 (Ilocano-30; Tagalog-43)
		<b>Panjabi</b>	46

<b>Kings</b>	Hispanic	Filipino	30 (Tagalog-30)
<b>Lake</b>		Spanish	76
<b>Lassen</b>		Spanish	32
<b>Los Angeles</b>	Cambodian		
	Chinese (includes Taiwanese)*		
	Korean		
	Hispanic		
	Filipino*		
	Vietnamese		
		<b>Armenian</b>	2139
		<b>Bengali</b>	5
		<b>Persian</b>	1317
<b>Madera</b>	Hispanic		
		<b>Panjabi</b>	26
<b>Marin</b>		Spanish	196
		Vietnamese	4
<b>Mariposa</b>		Spanish	13
		<b>Filipino</b>	1 (Tagalog-1)
<b>Mendocino</b>		Spanish	248
<b>Merced</b>	Hispanic		
		<b>Chinese</b>	5
		<b>Hmong</b>	31
		<b>Panjabi</b>	19
<b>Modoc</b>		Spanish	20
<b>Mono</b>		Spanish	8
<b>Monterey</b>	Hispanic		
		Korean	2
		Filipino	8 (Tagalog-8)
		Vietnamese	6
<b>Napa</b>		<b>Spanish</b>	151
		Filipino	14 (Tagalog-14)
<b>Nevada</b>		Spanish	32
<b>Orange</b>	Chinese		
	Korean		
	Hispanic		
	Vietnamese		
		Filipino	63 (Tagalog-63)
		<b>Persian</b>	71
<b>Placer</b>		<b>Korean</b>	3
		Spanish	104
		Filipino	3 (Tagalog-3)
<b>Plumas</b>		Spanish	20
<b>Riverside</b>	Hispanic		
		Chinese	61 (Chinese-43; Mandarin-18)
		Korean	26

		Filipino	34 (Tagalog-34)
		Vietnamese	36
<b>Sacramento</b>	Chinese		
	Hispanic		
		<b>Hmong</b>	93
		Korean	20
		<b>Panjabi</b>	59
		Filipino	103 (Tagalog-103)
		Vietnamese	182
<b>San Benito</b>	Hispanic	NONE	
<b>San Bernardino</b>	Hispanic		
		Chinese	72 (Chinese-43; Cantonese-3; Mandarin-26)
		Korean	70
		Filipino	44 (Tagalog-44)
		Vietnamese	37
<b>San Diego</b>	American Indian		
	Chinese		
	Hispanic		
	Filipino		
	Vietnamese		
		<b>Arabic</b>	180
		Korean	37
<b>San Francisco</b>	Chinese		
	Hispanic		
		Korean	15
		Filipino	72 (Tagalog-72)
		Vietnamese	26
<b>San Joaquin</b>	Hispanic		
		Chinese	73 (Chinese-41; Cantonese-32)
		Cambodian/Khmer	52
		<b>Panjabi</b>	179
		<b>Filipino</b>	<b>136 (Tagalog-129; Ilocano-7)</b>
		Vietnamese	84
<b>San Luis Obispo</b>		Spanish	232
		Filipino	8 (Tagalog-8)
<b>San Mateo</b>	Chinese		
	Hispanic		
		<b>Korean</b>	12
		Filipino	129 (Tagalog-129)
<b>Santa Barbara</b>	Hispanic		
		<b>Chinese</b>	11
		<b>Korean</b>	2
		Filipino	3 (Tagalog-3)
<b>Santa Clara</b>	Chinese		
	Hispanic		
	Filipino		
	Vietnamese		
		Korean	105
		Cambodian/Khmer	6
<b>Santa Cruz</b>		Spanish	291
<b>Shasta</b>		Spanish	50

Sierra		Spanish	20
Siskiyou		Spanish	34
Solano		Spanish	362
		Filipino	164 (Tagalog-164)
Sonoma		Spanish	427
		Cambodian/Khmer	3
		Filipino	2 (Tagalog-2)
		Vietnamese	1
Stanislaus	Hispanic		
		Cambodian/Khmer	12
		Panjabi	40
		Syriac	55
Sutter		Spanish	273
		Panjabi	189
		Filipino	1 (Tagalog-1)
Tehama		Spanish	68
Trinity		NONE	
Tulare	Hispanic		
		Filipino	31 (Tagalog-14; Ilocano-17)
Tuolumne		Spanish	23
Ventura	Hispanic		
		Chinese	15
		Filipino	46 (Tagalog-46)
		Vietnamese	1
Yolo		Spanish	259
		Chinese	60 (Chinese-58; Cantonese-1; Mandarin-1)
		Korean	5
Yuba		Hmong	11
		Spanish	74

# Methodology for Section 14201 Data Analysis & Determinations<sup>1</sup>

This document outlines the methodology used to identify precincts covered by the language assistance requirements under California Elections Code section 14201(c).

## California Elections Code Section 14201(c)

Elections Code section 14201(c) outlines state language access requirements for determining which precincts must provide facsimile ballots in non-English languages.

Under Section 14201(c), the Secretary of State must identify (1) the number of residents of voting age in each county and precinct who are (2) members of a single language minority, that (3) lack sufficient skills in English to vote without assistance. If that number equals 3 percent or more of the voting age residents of a particular county or precinct, “the Secretary of State shall find a need to post at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish or other applicable language in the affected polling places.” (Cal. Elec. Code § 14201(c).)<sup>2</sup>

## Data Availability

The Secretary of State contracted with the California Statewide Database (SWDB) to evaluate whether publicly available census data as well as the Census Bureau’s American Community Survey (ACS) data set was sufficient for our needs.

The evaluation concluded that publicly available data from both the U.S. Census Bureau and the ACS had significant limitations that failed to adequately capture the criteria set forth under Section 14201. As such, to complete our assessment under Section 14201(c), SWDB requested a special tabulation<sup>3</sup> from the U.S. Census Bureau.

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<sup>1</sup> Assembly Bill 918 (AB 918), which amends Elections Code sections 14201 and 12303, was signed into law by Governor Brown and becomes effective on January 1, 2018. With respect to Section 14201, AB 918 includes additional posting requirements for precincts that meet a 20% single language minority threshold. While that information is contained in the county-specific data that we are providing to you, for your convenience, our office will analyze that data and provide it to each county in a separate memorandum. Please note that all code sections referenced in this memo reflect the current statutes, not those that become effective in 2018.

<sup>2</sup> Note that Section 14201(c) also provides an alternative method for triggering the facsimile ballot posting requirement by permitting interested citizens or organizations to provide the Secretary of State with information which provides the Secretary of State sufficient reason to believe a need for the furnishing of facsimile ballots in affected polling places exists.

<sup>3</sup> Special tabulations are data sets that the Census compiles, by request, for projects for which the general, publicly available tabulations are not sufficient. Special tabulations are user-defined data requests that are assessed on a case-by-case basis by U.S. Census Bureau staff and the Census Disclosure Review Board to ensure that confidentiality and privacy requirements are maintained.



Late in 2017, the U.S. Census Disclosure Review Board authorized the Secretary of State's special tabulation request with the following restrictions:

1. Data would be included in the special tabulation only if it satisfied the 10,000-person rule as determined by the latest ACS Public Use Microdata Sample (PUMS) classification. In short, the U.S. Census Bureau, due to confidentiality requirements, only tabulated and reported on languages for our request that had 10,000 or more weighted counts<sup>4</sup> nationally. If nationally, a language had less than 10,000 (weighted) respondents, then the entire language was not released to the Secretary of State as part of our special tabulation.
2. Within a Public Use Microdata Area (PUMA), a minimum of 5 census tracts were required to have a non-zero count of at least 1 adult who speaks the language at home, without regard to limited English proficiency. PUMAs are statistical geographic areas that the U.S. Census Bureau uses to report data. Each PUMA contains at least 100,000 people and is comprised of other geographic areas such as counties and census tracts. To prevent the identification of individual survey respondents due to small numbers in the sample, the U.S. Census Bureau did not release languages to the Secretary of State that did not have at least one adult speaker in fewer than 5 census tracts within the PUMA. Census tracts are geographic units that contain between 2,500 and 10,000 people.
3. Each tract/language combination required 3 unweighted limited English proficient adults in 3 different households. Again, for confidentiality reasons, each respective language was only reported in this data set if a minimum of 3 (weighted) adult speakers with limited English proficiency were present in at least 3 different households for each tract.

The U.S. Census Bureau programmed our special tabulation starting with rule 1, followed by 2 and 3. The initial run had 101 languages in it, but after the other restrictions were applied, the number of reported languages dropped to 56. The final special tabulation data set was provided to the SWDB and Secretary of State on the census tract level – a geography smaller in size than a county, but typically, larger in size than a precinct.

Once this data set was received, SWDB aggregated the tract level data to each county's 2016 General Election precincts to create a statewide file. Additionally, tract data were aggregated to the county level for county level results. The precinct level data are derived from merging the tract level estimates to the precincts and then rounding the estimates to the nearest whole number. For this reason, the totals

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<sup>4</sup> The weight for a responding unit in a survey data set is an estimate of the number of units in the target population that the responding unit represents. In general, since population units may be sampled with different selection probabilities and since response rates and coverage rates may vary across subpopulations, different responding units represent different numbers of units in the population. The use of weights in survey analysis compensates for this differential representation, thus producing estimates that relate to the target population.

For more information on how the American Community Survey applies weights, please visit:  
[https://www.census.gov/content/dam/Census/library/publications/2010/acs/Chapter\\_11\\_RevisedDec2010.pdf](https://www.census.gov/content/dam/Census/library/publications/2010/acs/Chapter_11_RevisedDec2010.pdf).

derived from summing the tracts may vary from the totals derived from summing the precinct level estimates. Data are rounded throughout the data set.

The resultant data set provides more precise information than was possible as part of previous determinations under Section 14201.

### Single Language Minority

To further refine the special tabulation data to identify which particular languages are covered under Section 14201, we needed to identify which languages were connected to a "single language minority."

The Secretary of State has followed the previous practice of interpreting "single language minority," as used under Section 14201(c), to encompass language minority groups expressly identified in the most recent 2016 Section 203 language access determinations. (28 C.F.R. § 55.)

### Significant and Substantial Need Determinations

Additionally, Section 14201(b) provides the Secretary of State with the authority to determine if facsimile ballots shall be printed in other languages and posted "if a significant and substantial need" is found. The determinations provided to counties identify which languages require the posting of facsimile ballots, based on the Secretary's Section 14201(b) authority. As part of our review, we considered whether a sufficient number of precincts within a county included limited English proficient populations compared to the total number of precincts in the county.

