



Northern  
California



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JUSTICE  
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October 20, 2022

*Sent via e-mail*

Tulare County Registrar of Voters  
5951 S. Mooney Blvd.  
Visalia, CA 93277  
[AVI@tularecounty.ca.gov](mailto:AVI@tularecounty.ca.gov)

## Re: Section 203 Compliance for the November 2022 General Election

Dear Tulare County Registrar of Voters:

On April 19, 2022, we sent a letter to your office reminding you of your obligations under Section 203 of the federal Voting Rights Act (VRA), 52 U.S.C. § 10503, to provide available election-related materials in Spanish. We also flagged Section 203 deficiencies with your elections website. For your reference, we have attached the April 2022 letter as Exhibit A. To date, your office has not made key election materials on your website available in Spanish even though Tulare County has already begun early voting and sent out Vote-by-Mail (VBM) ballots. This is not only disservice to limited English proficient (“LEP”) voters in Tulare County but is also contrary to federal law. We again urge that you immediately correct these deficiencies ahead of the November 8, 2022 election to ensure that no additional important election dates (e.g., close of registration) pass without access to adequate translations.

### Continued Deficiencies

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>1</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 processes.”<sup>2</sup>

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<sup>1</sup> Department of Justice, Civil Rights Division, *About Language Minority Voting Rights* (last updated Jan. 4, 2022), <https://bit.ly/3EPzzGu> (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>2</sup> 28 C.F.R. § 55.15.

American Civil Liberties Union Foundation of Northern California

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Our team again reviewed your county's election website and found that *all* important election information available in English continues to be unavailable in Spanish,<sup>3</sup> with the exception of a handful of title links.<sup>4</sup> Not only are there insufficient title links translated to Spanish, but those links also only link to English webpages and PDFs. Several of these missing translations are for crucial election information documents. In practice, LEP voters are unable to navigate your elections website and, as such, your county's election website is not in compliance with Section 203 requirements. The following are a few examples of crucial English documents that are not provided in Spanish:

- Polling Places and Election Officers Publications<sup>5</sup>
- Local Candidate List<sup>6</sup>
- Candidate's Guide<sup>7</sup>
- Calendar<sup>8</sup>
- Local Measures Information<sup>9</sup>

**We request that your office or the administrator of your county's election website immediately correct these deficiencies to comply with Section 203.** We also request that you notify us when you have made these corrections and again reiterate the urgency of these changes in light of important upcoming election dates.

### **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 Google Translate widget to translate the County's election website. The U.S.

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<sup>3</sup> See Registrar of Voters, County of Tulare, <https://tularecoelections.org/elections/>.

<sup>4</sup> Current Election Information, November 8, 2022 General Election, <https://tularecoelections.org/elections/registrar-of-voters/current-election-information/november-8-2022-general-election-elecciones-generales-del-8-de-noviembre-de-2022/> (last accessed October 20, 2022).

<sup>5</sup> Polling Places and Election Officers Publications, County of Tulare, <https://tularecoelections.org/elections/registrar-of-voters/current-election-information/november-8-2022-general-election-elecciones-generales-del-8-de-noviembre-de-2022/election-officer-list-lista-de-oficiales-electorales/> (last accessed October 20, 2022).

<sup>6</sup> Contest/Candidate Proof List, County of Tulare, <https://tularecoelections.org/elections/registrar-of-voters/current-election-information/november-8-2022-general-election-elecciones-generales-del-8-de-noviembre-de-2022/local-candidate-list-lista-de-candidatos-locales/> (last accessed October 20, 2022).

<sup>7</sup> Candidate's Guide, County of Tulare, <https://tularecoelections.org/elections/registrar-of-voters/current-election-information/november-8-2022-general-election-elecciones-generales-del-8-de-noviembre-de-2022/candidate-resources-nomination-portal-recursos-para-candidatos-y-portal-de-nominaciones/candidates-guide/> (last accessed October 20, 2022).

<sup>8</sup> Calendar, Gubernatorial General Election, County of Tulare, <https://tularecoelections.org/elections/registrar-of-voters/current-election-information/november-8-2022-general-election-elecciones-generales-del-8-de-noviembre-de-2022/calendar-calendario/> (last accessed October 20, 2022).

<sup>9</sup> Local Measures Information, Tulare County Elections, <https://tularecoelections.org/elections/registrar-of-voters/current-election-information/november-8-2022-general-election-elecciones-generales-del-8-de-noviembre-de-2022/local-measures-information/> (last accessed October 20, 2022).

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>10</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>11</sup> For this reason, the EAC notes that “[h]uman translation is of much higher quality than electronic translation software,”<sup>12</sup> and even Google Translate’s disclaimer states that “no automated translation is perfect nor is it intended to replace human translators.”<sup>13</sup> Please confirm with us that your office will not be relying solely on Google Translate to translate your website into Spanish.

\* \* \*

The November 2022 general election 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 October 27, 2022.

Sincerely,



Brandee Calagui  
Democracy & Civic Engagement Program  
Legal Policy Assistant  
ACLU Foundation of Northern California



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



Allison Lim  
Democracy & Civic Engagement Program  
Legal Fellow  
ACLU Foundation of Northern California

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<sup>10</sup> U.S. Election Assistance Commission, *Language Accessibility* at 5 (April 2019), <https://bit.ly/3838X8k> [hereinafter “EAC on Language Accessibility”].

<sup>11</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>12</sup> EAC on Language Accessibility, *supra* note 10 at 5.

<sup>13</sup> Google, *Attribution Requirements*, <https://bit.ly/3vKrO0a>.

# **EXHIBIT A**



Northern  
California

April 19, 2022

*Via Electronic Mail*

Tulare County Registrar of Voters  
5951 S. Mooney Blvd.  
Visalia, CA 93277  
[AV1@tularecounty.ca.gov](mailto:AV1@tularecounty.ca.gov)

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

Dear Tulare County Registrar of Voters:

We write on behalf of the American Civil Liberties Union Foundation of Northern California to remind your office of requirements under Section 203 of the federal Voting Rights Act (VRA) and to request that all election materials on your website and that you send by mail be in both English and Section 203 languages. Under Section 203, your county must provide all election-related materials in English and Spanish.

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 6.55 million limited-English proficient (LEP) individuals over the age of five.<sup>1</sup> The 2020 Census also reveals sharply growing numbers of Latinx and Asian Americans 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 Latinx and Asian Americans, lack of language assistance is a significant factor.

To address the needs of LEP residents and facilitate voting, Section 203 of the VRA states that a jurisdiction subject to the section is required to provide all election material, including “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

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<sup>1</sup> 2019 5-year American Community Survey (“ACS”) 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/3voYqwp>.

<sup>4</sup> 52 U.S.C.A. § 10503 (c).

**American Civil Liberties Foundation of Northern California**

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

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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. Your office can help by ensuring that all election materials are accessible to both English 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 the county election officials, should also be provided in the county’s Section 203 language.<sup>6</sup> We are concerned that your election website currently does not provide *any* election materials in your county’s Section 203 language, Spanish.

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> Information provided on the county’s election website is covered by these requirements.<sup>8</sup>

Our team reviewed your county’s election website and found that *all* of the importation election information available to English speakers is unavailable in Spanish.

**We request that your office or the administrator of your county’s election website immediately correct this deficiency to ensure that all elections information is also available in Spanish.** 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 your county’s Section 203 language.

### **Election Materials via Mail**

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<sup>5</sup> Department of Justice, Civil Rights Division, *Voting Section, Legal Requirements: About Language Minority Voting Rights*, (April 8, 2022), <https://bit.ly/37UJtdn>.

<sup>6</sup> *Voting Rights Act Amendments of 2006, Determinations Under Section 203* (Dec. 8, 2021), <https://bit.ly/3xxdECd>; CA Secretary of State, CC/ROV Memorandum No. 21204 (Dec. 10, 2021), <https://bit.ly/3MbDmjI>.

<sup>7</sup> 28 C.F.R. § 55.15.

<sup>8</sup> When DOJ investigates language minority cases, it “looks at the full range of information provided by covered jurisdictions to voters in English,” including “website information.” See U.S. Department of Justice, *supra* note 5.



The language requirements of Section 203 also apply to materials provided by mail.<sup>9</sup> The best way to comply with Section 203 requirements is to mail all registered voters materials in both English and Section 203 languages. 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>10</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 mailing (in English and in the applicable minority language) and by other publicity regarding the availability of such materials may be sufficient.”<sup>11</sup>

As your office prepares and starts to mail out election-information materials, please keep in mind these critical language requirements. **Specifically, we ask that any election information and mailers sent by your county to registered voters be sent in both English and your required Section 203 language, Spanish.**

### **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, including websites. 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>12</sup> Using automatic electronic translations for election websites, however, means that the information will likely to be error-filled because these services and web widgets are not designed to parse nuance.<sup>13</sup> For this reason, the EAC notes that “[h]uman translation is of much higher quality than electronic translation software,”<sup>14</sup> and even Google Translate’s disclaimer states that “no automated translation is perfect nor is it intended to replace human translators.”<sup>15</sup>

### **Conclusion**

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 meaningfully participate in the election. We urge you to update your website and provide all election materials sent via mail in your county’s Section 203 language. Without these resources, LEP voters will not have equal access to crucial and

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<sup>9</sup> *Id.*

<sup>10</sup> 28 C.F.R. § 55.18 (a).

<sup>11</sup> *Id.*; see also Complaint, *United States v San Diego County*, No. 04CV1273JEG (S.D. Cal. June 23, 2004) (in its complaint against San Diego County in 2004, the Department of Justice cited 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>12</sup> U.S. Election Assistance Commission, *Language Accessibility* (April 2019), pg.5, <https://bit.ly/3838X8k>.

<sup>13</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>14</sup> U.S. Election Assistance Commission, *Language Accessibility* (April 2019), pg.5, <https://bit.ly/3838X8k>.

<sup>15</sup> Google, *Attribution Requirements*, <https://cloud.google.com/translate/attribution>.

*Letter regarding Section 203 Languages*

*April 19, 2022*

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accurate information such as important registration deadlines, different voting options, ballot drop off information, voting locations, and how to vote by mail.

We appreciate and understand the pressures your office faces in the weeks leading up to the election. We look forward to a response by **April 30, 2022**. If you have any questions, please contact us at [asalceda@aclunc.org](mailto:asalceda@aclunc.org).

Sincerely,



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

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