



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Northern
California

VIA ELECTRONIC MAIL

August 30, 2023

Melvin E. Levey
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RE: July 2023 Draft Election Administration Plan

Dear Merced County Elections Office:

We write on behalf of the American Civil Liberties Union of Northern California (“ACLU NorCal” or “we/us”) regarding the Merced County 2023 Election Administration Plan Draft 1, dated July 2023 (“July 2023 EAP Draft”). ACLU NorCal is committed to seeing the successful implementation of the Voter’s Choice Act (“VCA”) across the state and ensuring that the administration of elections works for all, including voters with limited English proficiency (“LEP”), voters with disabilities, voters of color, low-income voters, and other underrepresented communities.

We therefore submit the following comments and suggestions to the Merced County Elections Office (“Elections Office” or “you”) regarding the July 2023 EAP Draft. The comments track the order of the different sections of the July 2023 EAP Draft.

A. Vote By Mail

We appreciate that the Elections Office provided a description of the ballot tracking program, “Where’s My Ballot?” We suggest that the Elections Office add information on how to sign up for “Where’s My Ballot?” alongside the appropriate link to sign up. This link leads to a webpage on the Secretary of State’s website which contains information on how to sign up for “Where’s My Ballot?”: <https://www.sos.ca.gov/elections/ballot-status/wheres-my-ballot>.

B. Voting Locations and Hours

We applaud the Elections Office for providing one vote center open for 29 days before the election and exceeding the minimum required number of vote centers open 10 days and 3 days before the election. In the ‘Budget and Fiscal Impact’ section of the July 2023 EAP Draft, the Election Office noted that the Voting Assistance Centers (VACs) “will be open longer.” We ask that the Elections Office specify the hours of operation for each vote center¹ on days other than Election Day and whether each vote center is inside or outside. We also request that the Elections Office provide maps

¹ Cal. Elec. Code § 4005(a)(10)(I)(vi)(VI).

American Civil Liberties Union Foundation of Northern California

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depicting the location of each vote center.²

We appreciate that the Elections Office considered factors required by state law in determining its vote center locations, such as proximity to public transportation routes and various communities.³ In the July 2023 EAP Draft, it is noted that “the need for mobile VACs” was also considered when choosing locations for vote centers and ballot drop boxes. We request that you please clarify how many mobile vote centers will be established and where their anticipated locations/areas will be. A roving or mobile vote center will give voters in rural or hard-to-reach areas and voters with disabilities a greater chance to vote in person.

We also ask the Elections Office to consider whether its vote centers are located in places where voters trust and feel comfortable. We appreciate that no vote centers (or ballot drop box locations) were placed in public-facing areas of sheriffs’ offices or police departments because of the significant potential for these sites to have an intimidating impact for some voters.⁴ At the same time, the Elections Office can increase access to system-impacted voters who have no other in-person voting options by establishing vote centers inside local jails. For example, Los Angeles County established a vote center inside the Century Regional Detention Facility in February 2020, utilized it for the March 2020 and June 2022 primary elections, and added a second vote center inside a detention facility during the November 2022 statewide general election.⁵

We appreciate that the Elections Office provided a list of the proposed VAC locations in Exhibit A of the July 2023 EAP Draft. We request that the Elections Office also provide a map of each VAC location. After reviewing each address in Google Maps, we also request the Elections Office correct the following addresses:

- Del Hale Hall
 - ‘931 Center Street’ should be ‘931 Center Avenue’
- Department of Child Support Services
 - ‘3368 N. Highway 59, Suite I’ should be ‘3368 N. State Hwy 59, Suite A’

Finally, we ask that you consider whether the planned vote center locations are near unhoused populations. Establishing vote centers near service centers, shelters, and/or public libraries can improve access for these voters. For example, following feedback that the first VCA election in Sacramento County in 2018 was not accessible to many unhoused voters, that county added a vote center in 2020 in an area of central Sacramento with a high density of unhoused people, shelters, and

² *Id.* § 4005(a)(10)(I)(vi)(V).

³ *Id.* § 4005(a)(10)(B).

⁴ League of Women Voters of Cal. Educ. Fund, *The Voter’s Choice Act Toolkit* (Feb. 2022), <https://docs.google.com/document/d/1LO3pedU6lW5HfEilQgHEDvvLyi1hMq9tTfkIrBbpO-o/edit> (stating that even locating vote centers at city halls near police departments or having the presence of police officers nearby may disincentivize voting).

⁵ See Naila Awan, *Jail-based Polling Locations: A Way to Fight Voter Disenfranchisement*, Prison Policy Initiative (Oct. 25, 2022), https://www.prisonpolicy.org/blog/2022/10/25/jail_voting/; Naila Awan & Wanda Bertram, *Jail-Based Polling Places are Key to Expanding Ballot Access*, Law360 (Jun. 23, 2023, 3:25 PM), <https://www.law360.com/articles/1690482/jail-based-polling-places-are-key-to-expanding-ballot-access>; Assemb. Elections on A.B. 544, Assemb. 2023-24 Reg. Sess. (Cal. Apr. 17, 2023). Note that vote centers should be placed inside jails for voters without other options and not near sheriffs’ offices or police departments to ensure comfort and avoid intimidation for system-impacted voters.

service centers and committed to partnering with specific service providers to reach unhoused voters.⁶

In regard to the number of election board members staffing each vote center, we ask that the Elections Office specify the number of workers who will staff each vote center. Please also include the number of bilingual staff and languages spoken at each vote center.⁷ In the ‘Budget and Fiscal Impact’ section of the July 2023 EAP Draft, the Elections Office noted that the “total number of poll workers will [] [be] less compared to a traditional polling place.” Can the Elections Office address this comparison and specify the difference in the total number of poll workers?

Additionally, the ‘Budget and Fiscal Impact’ section of the July 2023 EAP Draft states that the Elections Office “anticipate[s] that Voting Assistance Centers will require additional training to manage the complexity and technology requirements.” We ask that the Elections Office provide a specific plan for training vote center staff members. Trainings should include a live instruction at a model vote center and not rely solely on videos or written manuals. Additionally, the Elections Office should consider staff members’ scheduling needs (e.g., holding virtual segments of trainings after work hours and on weekends) to facilitate greater access. The Elections Office should ensure that back-up staff members also receive adequate training to avoid disenfranchising voters.⁸

To ensure trainings are accessible to vote center staff with disabilities, the Elections Office should consider making the layout of training spaces accessible for individuals who use mobility devices and that any training materials or presentations use large, plain font for staff members with vision impairments. Can you also please clarify if vote center staff members will be trained on the purpose and proper handling of facsimile ballots, prepared to inform voters of the existence of facsimile ballots, and made aware that if a voter requests a facsimile ballot, the worker must provide it to the voter and not have the voter find it themselves?⁹

Regarding recruitment, we request that the Elections Office provide a specific plan for recruiting bilingual staff members. This plan should specify the time, location, and frequency of recruitment efforts. The Elections Office can also reach out to the Secretary of State for assistance in recruitment of bilingual vote center workers. Lastly, can you please confirm (1) whether you will conduct any recruitment efforts at community events, and (2) whether bilingual staff will receive compensation for their additional language skills?

Finally, we ask the Elections Office to describe how the design, layout, and placement of equipment of each vote center ensures casting of private and independent ballots.¹⁰ To ensure each vote center is accessible to voters with disabilities, could you please provide in the EAP the type and number of reasonable modifications at each vote center, if any?¹¹

⁶ See County of Sacramento Election Administration Plan: January 2020, <https://elections.saccounty.net/VoteCenters/Pages/Previous-Versions-Election-Administration-Plan.aspx>.

⁷ Cal. Elec. Code § 4005(a)(10)(I)(vi)(IX).

⁸ Inadequate training and incorrect information provided to backup poll workers who were called to serve at the last minute resulted in voter disenfranchisement in Alameda County during the November 2020 election. See Jose Feroso, *Alameda County's Election was Marred by Systemic Problems, Say Voting Rights Groups*, The Oaklandside (Nov. 18, 2020), <https://oaklandside.org/2020/11/18/alameda-countys-election-was-marred-by-systemic-problems-say-voting-rights-groups/>.

⁹ Cal. Elec. Code § 14201(c)(1)-(2).

¹⁰ *Id.* § 4005(a)(10)(I)(vi)(XI).

¹¹ *Id.* § 4005(a)(10)(I)(vi)(X).

C. Drop Box Locations and Hours

We applaud the Elections Office for providing more than the minimum required number of drop boxes and ensuring that all drop boxes will be open for 12-hours each day. We ask that the Elections Office specify the hours of operation for each drop box location¹² and whether each drop box location is inside or outside.¹³ We also request that the Elections Office provide maps depicting the location of each ballot drop box.¹⁴ We appreciate that the Elections Office has made steps to promote accessibility by keeping at least one drop box accessible 24 hours each day.

We appreciate that the Elections Office considered factors required by state law in determining its drop box locations, such as proximity to public transportation routes and various communities.¹⁵ We encourage you to consider proximity to voter populations not expressly mentioned by the VCA, such as system-impacted voters, students and youth (i.e., proximity to college or university campuses), unhoused voters, and tribal voters.

D. Budget & Fiscal Impact

We appreciate the Elections Office's description of expected short-term and long-term costs and savings from adoption of the VCA. We appreciate seeing the estimates of these short-term and long-term costs and savings, along with a cost comparison to recent elections in Merced County conducted prior to VCA implementation.¹⁶

We see that the budget is highlighted in yellow in the July 2023 EAP Draft. Please confirm whether or not the projected budgets for the March 2024 Primary Election and the November 2024 General Election are in development.

E. Ensuring Access to VBM and Voting Locations

We commend the Elections Office for your commitment to providing and improving accessibility in the electoral process. We especially appreciate that all vote centers will be equipped with accessible marking devices to provide voters with disabilities the ability to vote privately and independently. We request the Elections Office to specify the number of devices that will be provided at each vote center location. Each vote center should have at least 3 machines accessible to voters with disabilities.¹⁷

We are glad to see that RAVBM will be available to all voters. We suggest that the Elections Office clarify (1) how a voter may request a RAVBM or a replacement ballot and (2) if RAVBM will be available in all covered languages?¹⁸

F. Voter Education and Outreach Plan

¹² *Id.* § 4005(a)(10)(I)(vi)(VII).

¹³ *Id.* § 4005(a)(10)(I)(vi)(IV).

¹⁴ *Id.* § 4005(a)(10)(I)(vi)(V).

¹⁵ *Id.* § 4005(a)(10)(B).

¹⁶ *Id.* § 4005(a)(10)(I)(v).

¹⁷ *Id.* § 4005(a)(2)(B)

¹⁸ *Id.* § 4005(a)(5)

- a. *1-A Use of media, including social media, newspapers radio and television for purposes of informing voters of the availability of a vote-by-mail ballot in an accessible format and the process for requesting such a ballot.*

We appreciate that the Elections Office specified a variety of media channels, including newspapers, radio, television, and social media, for its voter education and outreach plans. We especially applaud the Elections Office for including voter education and outreach plans for bilingual and LEP voters, voters with disabilities, and students in the July 2023 EAP Draft. We ask the Elections Office to elaborate on the voter education and outreach plan for the student population in Merced County. We also encourage the Elections Office to further expand their voter education and outreach plans to reach system-impacted voters, unhoused voters and tribal voters.

We commend the Elections Office for utilizing different outlets and methods of outreach to promote voter education in Merced County. We ask the Elections Office to specify when these methods will be utilized. We also ask that the Elections Office specify when it will conduct various media outreach activities and what information it will highlight in each media and public service announcement (“PSA”). How will media be used to inform the public about upcoming elections and to promote the toll-free voter assistance number? We ask that the Elections Office explicitly state in its voter outreach content that the voter assistance hotline (1) will operate at least 29 days before the election; (2) is accessible to voters with hearing disabilities; and (3) is capable of providing assistance to voters in Chinese, Mien, Panjabi and Hmong.¹⁹ We also ask that the Elections Office describe the plan for at least one English PSA to inform voters of relevant dates regarding upcoming elections, describe options for how to vote, and promote the toll-free voter assistance phone line; such PSAs must be accessible for voters who are deaf or hard of hearing and for voters who are blind or visually impaired.²⁰ Additionally, we ask that the Elections Office define what the outreach method listed as ‘Print Messages’ entails.

- b. *1-B Community Presence to Educate Voters on the Voter’s Choice Act*

We applaud the Elections Office’s efforts to utilize community presence to provide Vote Center Model information directly to voters and attendees of a wide variety of events. We appreciate the efforts to engage various audiences through presentations, including language communities and school district boards. We request the Elections Office to further specify (1) when these presentations occur; (2) how outreach is conducted for these presentations; and (3) when these presentations are scheduled.

We think it is great that the Elections Office is planning to have a presence in multiple community events to reach different voter populations and voters at large. We would appreciate the inclusion of the names of the events in the next iteration of Merced County’s EAP.

- c. *1-C Use of Resources for Voter Education and Outreach*

We appreciate the Elections Office for noting that it will “continue to spend the necessary resources to ensure voters are informed about the Vote Center Model voting process.” We especially appreciate the Elections Office for including the amount of money it plans to spend on voter education

¹⁹ *Id.* § 4005(a)(10)(I)(vii).

²⁰ *Id.* § 4005(a)(10)(I)(i)(VIII).

and outreach activities under the ‘Budget & Fiscal Impact’ section.

We urge the Elections Office to consider encouraging voters to update their language and party preferences and to inform voters about same-day voter registration, early voting, and signing up with BallotTrax to track their vote-by-mail (“VBM”) ballots.

- d. I-D Direct contacts with voters providing information on the upcoming election and promoting the toll-free assistance hotline*

We appreciate the specification of the content and the times for the Elections Office’s two direct contacts with voters. We request the Elections Office to specify when each direct contact will be conducted.

- e. I-E Postage-paid postcard for requesting materials in an alternate language or an accessible format VBM*

We commend the Elections Office for the planned outreach to reach out to all voters on requesting materials in languages other than English and on requesting a VBM ballot in an alternate format. We especially appreciate that instructions on completing and returning the postcard will be included. Can the Elections Office confirm and specify whether the bilingual Voter Information Guide is compiled in one document that is in English and Spanish?

Regarding the Elections Office website accessibility, we appreciate the inclusion of accessible voter resources on the Merced County Elections website. We also appreciate that the website has been designed with accessibility guidelines in mind. We want to flag that in the July 2023 EAP Draft under Section I-E, webpages on the Merced Elections website are referenced individually. We suggest the Elections Office include the links to each specific webpage reference for ease of information. For example, instead of stating that the Merced County Registrar of Voters website “has a page dedicated to information about the Voter’s Choice Act,” that specific webpage be linked.

We further applaud the Elections Office for making information about the VCA and its implementation clear and easy to find. We appreciate that the website contains information and links regarding the VCA and the July 2023 EAP Draft. We are glad to see that the Elections Office hosts Language Accessibility Advisory Committee (“LAAC”) and Voting Accessibility Advisory Committee (“VAAC”) meetings. We request that the dates and details for joining the upcoming meetings be clearly stated on the website, along with a timeline for the VCA implementation steps.

We applaud the Elections Office for also providing translated files (the 2021 final election administration plan, the 2024 draft election administration plan)²¹ on the Voter’s Choice Act webpage in addition to the webpage itself. This allows for non-English-language communities to participate in the EAP development process, which is consistent with the VCA’s goal of “accommodating non-English proficient voters . . . as well as requiring extensive community involvement and voter education.”²² We encourage the Elections Office to also translate other linked files (e.g. past meeting minutes, poll worker applications, etc.) in Spanish, Chinese, Mien, Panjabi and Hmong and upload these translated versions. Although there is a Google Translate tool that translates the English website

²¹ *Id.* § 4005(a)(10)(E)(iii).

²² S. Floor Analyses on S.B. 450, S. 2015-16 Reg. Sess. (Cal. Aug. 25, 2016).

into Spanish on the Elections Office's website, important linked documents like past meeting minutes and poll worker applications on the translated page are only available in English. We urge the Elections Office to use human translations for election materials and again, we urge the Elections Office to further translate and upload other linked files in Spanish, Chinese, Mien, Panjabi and Hmong.

f. Education and Outreach with the Language Minority Communities

Thank you for including a distinct section on voter education and outreach for bilingual and non-English language voters. We appreciate these opportunities for public participation and look forward to continuing to participate in LAAC meetings to learn about your accessibility plans. We appreciate the Elections Office's plan for at least one PSA, in language minority communities and in media serving various language minority communities, to provide information on the upcoming election and promote the toll-free voter assistance line.²³ When does the Elections Office plan to settle the television and radio stations that will be used for this outreach? We also recommend that you provide more specificity on the content and timing of your voter education and outreach for language minority communities. Could you please state what information you will highlight in your outreach and when you will conduct the outreach?

We further applaud the Elections Office for holding Voter Education Workshops for Minority Language Voters. We request the Elections Office to specify how they plan to inform the community of these events and when they will be held.

g. Education and Outreach with the Disability Communities

We thank you for including a distinct section on voter education and outreach for voters with disabilities. We appreciate these opportunities for public participation and look forward to continuing to participate in VAAC meetings to learn about your accessibility plans.

We appreciate the Election Office's plan to create a webpage to educate voters about the accessible voting tools available and to ensure that all election information is available in an accessible, text-based format on the website. We suggest the Elections Office to include clear and transparent directions for how to access the accessible information on the website. Can you please clarify if all voting materials will be available in accessible formats as required by the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973?²⁴

Please also include a specific outreach plan with information on the content and timing of your voter education and outreach for voters with disabilities. We appreciate your plans to share information with the disability community, including information about the Vote Center Model, voting options, including RAVBM, and the toll-free voter access hotline for assistance. We also appreciate your office's voter education workshop that will help to increase accessibility and participation of eligible voters with disabilities. We request that the Elections Office specify on how they plan to conduct outreach for this voter education workshop and specify on the content and timing of the workshop.

We are glad to see that the Elections Office considered voter education and outreach for other underserved communities not expressly mentioned in the VCA.

²³ Cal. Elec. Code § 4005(a)(10)(I)(i)(IX).

²⁴ *Id.* § 4005(a)(8)(C).

Regarding students and young voters, we applaud your awareness of this growing population and we applaud your efforts in voter education to these populations moving forward. We encourage the Elections Office to share details about its collaborations and plans for voter education and outreach for students and youth in its next iteration of the EAP.

As previously stated, we urge the Elections Office to further expand their voter education and outreach plans to reach system-impacted voters, unhoused voters, and tribal voters. We would appreciate it if the Elections Office provided more details on education and outreach efforts to these underserved communities moving forward.

G. Security and Contingency Plans

Regarding training content, we are glad to see that vote center staff members will receive instructional, voting equipment, and election management software training, along with training on how to respond to potential disruptions. We request the Elections Office to also offer training on how to respond to natural disasters and emergency situations.

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Thank you for your attention and the opportunity to provide suggestions for further improvement of your office's EAP. We look forward to seeing Merced County continue its VCA implementation and to successful administration of the 2024 elections. If you have any questions regarding the comments in this letter, please do not hesitate to reach out.

Sincerely,



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under the supervision of



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