Meeting the Needs of California's Diversifying Electorate:

An Implementation Toolkit for New Language Access Requirements in State Law

1. The Importance of Language Access in California's Elections
2. Basics of Federal and State Requirements for Language Access in Elections
   - Federal Law
   - State Law
3. State Requirements for Language Access in Elections
   - Before AB 918
   - After AB 918
4. Content Required in County Voter Information Guide and Elections Website
5. Section 14201 Language Determinations
   - Language Determinations Prior to 2018
   - Language Determinations Starting in 2018
   - Data on Languages and Precincts Covered
6. Frequently Asked Questions
7. Opportunities for Collaboration

The Importance of Language Access in California's Elections

California is home to more limited-English proficient (LEP) voters and more immigrant voters than any other state in the nation. According to the U.S. Census Bureau, 6.8 million Californians over 5 years old have limited-English skills.[i] That number is composed primarily of California's two fastest-growing populations – Latinos and Asian Americans.[ii]

	CA Latinos	CA Asian Americans
Population	15.3 million	5.9 million
Rate of limited English prof'ncy	34%	36%
Speak lang. other than English at home	75%	76%

The language barriers experienced by these groups help drive turnout disparities. In the last midterm general election, in 2014, just 18 percent of eligible Asian Americans and 17 percent of eligible Latinos in California turned out to vote, compared to 40 percent of eligible non-Asian Americans and Latinos.[iii]

We know that LEP communities use language assistance when voting. In the 2008 elections in Los Angeles County, an estimated 60 percent of Korean American voters, 50 percent of Vietnamese American voters, 33 percent of Filipino American voters, and 30 percent of Chinese American voters used some form of language assistance when casting a ballot.[iv]

For some in these rapidly growing segments of the electorate, having adequate language assistance in the voting process may determine whether they are able to cast an effective ballot and exercise their most essential right as Americans.

Basics of Federal and State Requirements for Language Access in Elections

Federal Law

Ten years after its passage in 1965, the Voting Rights Act (VRA) was expanded to include protections for language minorities. For a single language minority to receive "coverage" under Section 203 of the VRA, the following threshold must be met:

- There must be more than 10,000 LEP voting age citizens in the single language minority in the jurisdiction, or the LEP voting age citizens in the single language minority must be more than five percent of all voting age citizens in the jurisdiction; and

- The illiteracy rate among the single language minority must be higher than the national illiteracy rate.[v]

According to the U.S. Department of Justice, if a county is covered for a minority language under Section 203, "All election information that is available in English must also be available in the minority language so that all citizens will have an effective opportunity to register, learn the details of the elections, and cast a free and effective ballot."[vi] This means that everything from voter registration cards, to ballots, to informational signs, to voter guides must be translated accurately into the

covered language. Essentially, Section 203 coverage makes an election fully bilingual.

If a county is covered for a minority language under Section 203, all local elections in that county, including a city election run by a city clerk, need to be bilingual in the covered language.

State Law

In a state as populous, diverse, and geographically large as California, the thresholds needed to receive Section 203's coverage leave some very sizable immigrant communities unprotected.

The California Elections Code has language access requirements that seek to serve the communities that are not large enough to qualify for Section 203 coverage. But while the threshold needed to receive coverage under state law is much lower than the threshold in federal law, the assistance state law guarantees is less robust.

For a language group to receive coverage under the California Elections Code, the following threshold must be met:

- Three percent or more of the voting age residents within a precinct must be members of the language group and have difficulty voting in English without assistance.[vii]

The precincts that reach this three percent threshold are identified and made public by the Secretary of State via CC/ROV by January 1 of each gubernatorial election year.[viii] The Secretary of State undertakes this analysis at the level of base precincts (also known as home or established precincts). It is up to county elections officials to determine how the requirements apply once base precincts have been combined into consolidated precincts (also known as voting or election precincts).

What is offered to LEP communities meeting this three percent threshold has been augmented by AB 918 (Bonta, 2017). The section below explains how.

State Requirements for Language Access in Elections

Below is an explanation of the state Election Code's language access requirements before and after AB 918's passage in 2017. It includes implementation tips in blue boxes, several of which highlight counties that already use those tips. County names are included in the hope that elections officials seeking guidance can reach out to those counties. The lists of counties are *not* exhaustive – elections officials innovate productively in so many ways that we could not possibly include in this toolkit each example of a county modeling implementation best practices.

The CACEO website will be updated to include examples of how counties can comply with AB 918's requirements.

Voter's Choice Act (VCA) counties take note! All of AB 918's requirements that apply to polling places also apply to vote centers. Additionally, AB 918 creates one requirement unique to VCA counties. Please review the final portion of this section of the toolkit.

AB 918 requirements also apply to early voting sites.

Before AB 918

Facsimile ballots: In precincts where a LEP language group exceeds the three percent threshold, a facsimile ballot in that group's language needs to be conspicuously posted in the polling place.

Bilingual poll workers: County elections officials need to make "reasonable efforts" to recruit bilingual poll workers speaking the county's Section 14201 languages (also referred to as three percent languages or state law languages). At least 14 days before an election, elections officials must make available a list of the precincts to which bilingual poll workers are assigned.

Tip: The provisions in the "Before AB 918" section remain unchanged following the passage of AB 918. They are repeated in the "After AB 918" section below.

After AB 918

AB 918 (Bonta) was passed in 2017. It makes California the nationwide leader in ensuring that no eligible voter experiences a barrier to voting because of his or her language skills.

Prior to Election Day re: facsimile ballots

- At least 14 days before an election, the county elections website must list all polling places, including the languages of the facsimile ballots available at each (if any). Text surrounding/explaining the list must be in English and all Section 14201 language(s). Integrating these requirements into a polling place lookup tool suffices. (Sec. 14201(d).)
- The county voter information guide must refer LEP voters to this information on the county elections website. The text in the voter information guide must be in English and all Section 14201 language(s). (Sec. 14201(e).)

Prior to Election Day re: vote-by-mail voters

- A vote-by-mail voter may request a facsimile ballot be sent to him or her if the voter lives in a covered precinct. (Sec. 13400(a).)
  - The request may be submitted by phone, mail, online, or when requesting a vote-by-mail ballot.
  - The requested facsimile ballots may be sent to the voter via mail or email.
  - The requested facsimile ballots must be prepared no later than 10 days before Election Day.
  - Any request submitted within the week before Election Day can be rejected.
- Instructions on how to submit a request for a facsimile ballot must be placed in the county voter information guide and on the county elections website. The instructions must be in English and all Section 14201 language(s). (Sec. 13400(a).)

Prior to Election Day re: bilingual poll workers

- Counties must still make "reasonable efforts" to recruit bilingual poll workers to staff polling places exceeding the three percent threshold. (Sec. 12303(c).) No change from prior law.
- At least 14 days before an election, counties must make available a list of the precincts to which bilingual poll workers are appointed. (Sec. 12303(d).) No change from prior law.
- Poll workers must be trained on the purpose and proper handling of facsimile ballots. (Sec. 14201(c)(1).)

Prior to Election Day re: miscellaneous

- The county elections website and voter information guide must inform voters they can bring up to two assisters to help them vote, with some restrictions. Text must be in all of the Section 203 and Section 14201 languages in the county. (Sec. 14282(a).)
  - **Tip:** Contra Costa County modeled this in 2016. Additionally, CACEO and Asian Americans Advancing Justice – California plan to work together to create template text in a number of languages that county elections offices can use.

On Election Day re: facsimile ballots

- The number of facsimile ballots at polling places has changed:
  - One facsimile ballot must be conspicuously posted. (Sec. 14201(a).) No change from prior law.
  - One facsimile ballot must be available for voters to take into the voting booth to be used as a reference, a/k/a in some loose leaf format. (Sec. 14201(a).)
    - **Tip:** Yolo County, Monterey County, and San Mateo County, among others, have offered loose leaf facsimile ballots to voters in the past. Yolo County laminates its facsimile ballots to prevent votes from confusing them with regular ballots.
  - Where the language group exceeds 20 percent, two more facsimile ballots must be available in loose leaf format. (Sec. 14201(b)(2).)
- A sign must be posted informing voters of the presence of facsimile ballots, in English and all Section 14201 language(s) relevant to that polling place. (Sec. 14201(c)(3).)
    - **Tip:** Contra Costa County posts an 8.5x11 sign in every voting booth explaining the languages in which facsimile ballots are available. Yolo County has created a banner that hangs from each polling place's main table that informs voters about facsimile ballots and contains sample images of facsimile ballots. Marin County, San Francisco County, and others also use signage indicating the availability of facsimile ballots.

- If a voter requests a facsimile ballot that is available at that precinct, the poll worker must provide it to the voter. (Sec. 14201(c)(2).)
- Optional: Counties may replace facsimile ballots with translated, votable ballots. If they do so, they are freed of several requirements of Section 14201. (Sec. 14201(g)(2).)
  - **Tip:** Santa Cruz County's Spanish-language coverage under state law is so extensive the County decided many years ago to offer voters translated, votable Spanish-language ballots instead of Spanish-language facsimile ballots.

On Election Day re: bilingual poll workers

- Bilingual poll workers must wear something that identifies their language skills (e.g. name tag, button, sticker, etc.). (Sec. 12303(c)(3).)
  - **Tip:** Counties around the state use this practice, including Alameda, Kern, Merced, Napa, Sacramento, and Sutter Counties. CACEO and Asian Americans

Advancing Justice – California plan to make template text that says "I speak XXX" in a variety of languages.

- A sign must be posted indicating the languages other than English that are spoken by the poll workers present, if any. No sign must be posted if the poll workers only speak English. The name of each language must be listed in the language itself, not in English. (Sec. 14200(g).)
  - o **Tip:** Counties around the state use this practice, including Alameda, San Mateo, and Stanislaus Counties. Sacramento County may have the most efficient approach: The County prints a sign that says "Languages Spoken Here" with a number of blank lines underneath. Poll workers are instructed to add languages and post.

After Election Day:

- Counties must send a report to the Secretary of State within 150 days of each statewide general election indicating the number of bilingual poll workers recruited that spoke each of the federal and state law languages in the county. (Sec. 12303(c)(2)(A).)

Voter's Choice Act counties only:

- AB 918's provisions in Sections 14200 and 14201 that apply to polling places also apply in Vote Centers. (Sec. 4005.6(a).)
- For voters who have previously indicated a language preference, county must proactively send a facsimile ballot in the preferred language, if it is a facsimile ballot the county is already required to prepare by Section 14201. (Sec. 4005.6(b).)
  - o The facsimile ballots can be sent by mail or email.
  - o The facsimile ballots must be received by voters before 10-day Vote Centers open.
  - o AB 918 does not create any new obligations on the part of county elections offices to seek out new or updated language preference information from voters. The Voters Choice Act, however, contains a requirement that elections offices implementing VCA send voters a translated notice with either the county voter information guide or the vote-by-mail packet informing voters that they may request a translated Section 203 ballot or facsimile ballot (assuming federal/state law coverage applies). (Sec. 4005(a)(8)(B)(i)(III).)
  - o **Tip:** VCA counties should begin planning now for how they intend on checking which voters have previously indicated a preference for a Section 14201 language, for example, on the voter registration card they used to register to vote.

Content Required in County Voter Information Guide and Elections Website

County Voter Information Guide		County Elections Website	
Required Content	**Translation**	**Required Content**	**Translation**
Text referring voters to where on the county elections website they can find the required list of polling places and the languages of the facsimile ballots available at each (if any)	Text must be in English and all Section 14201 language(s) in the county	List of all polling places, including the languages of the facsimile ballots available at each (if any) (this information can be integrated into a polling place lookup tool)	Text surrounding or explaining the list of polling places must be in English and all Section 14201 language(s) in the county
Instructions on how to submit a request for a facsimile ballot	Text must be in English and all Section 14201 language(s) in the county	Instructions on how to submit a request for a facsimile ballot	Text must be in English and all Section 14201 language(s) in the county
Text informing voters they can bring up to two assisters to help them vote, with some restrictions	Text must be in English, all Section 203 languages in the county, and all Section 14201 language in the county	Text informing voters they can bring up to two assisters to help them vote, with some restrictions	Text must be in English, all Section 203 languages in the county, and all Section 14201 languages in the county

Sample text that can be used to meet these requirements has been drafted, translated into a variety of languages, and placed on the CACEO website, http://caceo58.org/.

Section 14201 Language Determinations

Language Determinations Prior to 2018

In the 2014 and 2016 election cycles, county elections officials used Section 14201 determinations released on December 30, 2013 via CC/ROV #13132. The then-Secretary of State made the decision that only nine language communities would be eligible to receive the language access protections of state law. Those determinations were:

County	Spanish		Chinese		Tagalog/Filipino		Japanese		Khmer		Korean		Thai		Vietnamese		Asian Indian	
	Old	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old	New
Alameda	*		*		*		5		4		41				*		247	
Alpine																		
Amador	52																	
Butte	277																	
Calaveras	71																	
Colusa	*																	
Contra Costa	*		283		193		12				10				3		35	
Del Norte	20																	
El Dorado	333				9													
Fresno	*		4				14		7								186	
Glenn	*																	
Humboldt	122																	
Imperial	*																	
Inyo	59																	
Kern	*				58												41	
Kings	*				19													
Lake	106																	
Lassen	54																	
Los Angeles	*		*		*		*		*		*		*		*		*	
Madera	*																	
Marin	259		4								17				1			
Mariposa	10																	
Mendocino	315		19															
Merced	*																34	
Modoc	22																	
Mono	13																	
Monterey	*		2		44						6				2			
Napa	*		1		13													
Nevada	108						34											
Orange	*		*		84				2		*				*		9	
Placer	205				26													
Plumas	58																	
Riverside	*		40		104						11				2			
Sacramento	*		*		132		43				14				154		48	
San Benito	*																	
San Bernardino	*		66		36				4		49				15			
San Diego	*		*		*		8		11		22				*		6	
San Francisco	*		*		135		24				20				37			
San Joaquin	*		53		409				92						74		58	
San Luis Obispo	294				3													
San Mateo	*		*		162		13										2	
Santa Barbara	*				29													
Santa Clara	*		*		*		54		1		68				*		197	
Santa Cruz	359		11		10													
Shasta	80																	
Sierra	21																	
Siskiyou	33																	
Solano	472		11		235													
Sonoma	839																	
Stanislaus	*								7								33	
Sutter	321																233	
Tehema	78																	
Trinity																		
Tulare	*				81													
Tuolumne	75																	
Ventura	*		19		39												5	
Yolo	307		116		4												6	
Yuba	114																	

Language Determinations Starting in 2018

The current Secretary of State has expanded the LEP language communities eligible for the protections of state law. The new language determinations were released on December 29, 2017 via CC/ROV #17148. For information on the Secretary of State's methodology, please consult the CC/ROV. The new determinations are as follows:

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
		Panjabi	65
Alpine		NONE	
Amador		Spanish	11
Butte		**Hmong**	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		**Chinese**	2
		Spanish	212
Fresno	Hispanic		
		Chinese	13 (Chinese-13)
		Hmong	170
		Korean	7
		Cambodian/Khmer	2
		Panjabi	171
		Filipino	1 (Tagalog-1)
		Vietnamese	10
Glenn	Hispanic	NONE	
Humboldt		Spanish	72
Imperial	Hispanic	NONE	
Inyo		Spanish	51
Kern	Hispanic		
		Filipino	**73 (Ilocano-30; Tagalog-43)**
		Panjabi	46
Kings	Hispanic		
		Filipino	30 (Tagalog-30)
Lake		Spanish	76
Lassen		Spanish	32
Los Angeles	Cambodian		
	Chinese (includes Taiwanese)*		
	Korean		
	Hispanic		
	Filipino*		
	Vietnamese		

10

		Armenian	2139
		Persian	1317
Madera	Hispanic		
		Panjabi	26
Marin		Spanish	196
		Vietnamese	4
Mariposa		Spanish	13
		Filipino	1 (Tagalog-1)
Mendocino		Spanish	248
Merced	Hispanic		
		Chinese	5
		Hmong	31
		Panjabi	19
Modoc		Spanish	20
Mono		Spanish	8
Monterey	Hispanic		
		Korean	2
		Filipino	8 (Tagalog-8)
		Vietnamese	6
Napa		**Spanish**	151
		Filipino	14 (Tagalog-14)
Nevada		Spanish	32
Orange	Chinese		
	Korean		
	Hispanic		
	Vietnamese		
		Filipino	63 (Tagalog-63)
		Persian	71
Placer		**Korean**	3
		Spanish	104

		Filipino	3 (Tagalog-3)
Plumas		Spanish	20
Riverside	Hispanic		
		Chinese	61 (Chinese-43; Mandarin-18)
		Korean	26
		Filipino	34 (Tagalog-34)
		Vietnamese	36
Sacramento	Chinese		
	Hispanic		
		Hmong	93
		Korean	20
		Panjabi	59
		Filipino	103 (Tagalog-103)
		Vietnamese	182
San Benito	Hispanic	NONE	
San Bernardino	Hispanic		
		Chinese	72 (Chinese-43; Cantonese-3; Mandarin-26)
		Korean	70
		Filipino	44 (Tagalog-44)
		Vietnamese	37
San Diego	American Indian		
	Chinese		
	Hispanic		
	Filipino		
	Vietnamese		
		Arabic	180
		Korean	37
San Francisco	Chinese		
	Hispanic		
		Korean	15
		Filipino	72 (Tagalog-72)
		Vietnamese	26

San Joaquin	Hispanic		
		Chinese	73 (Chinese-41; Cantonese-32)
		Cambodian/Khmer	52
		Panjabi	179
		Filipino	**136 (Tagalog-129; Ilocano-7)**
		Vietnamese	84
San Luis Obispo		Spanish	232
		Filipino	8 (Tagalog-8)
San Mateo	Chinese		
	Hispanic		
		Korean	12
		Filipino	129 (Tagalog-129)
Santa Barbara	Hispanic		
		Chinese	11
		Korean	2
		Filipino	3 (Tagalog-3)
Santa Clara	Chinese		
	Hispanic		
	Filipino		
	Vietnamese		
		Korean	105
		Cambodian/Khmer	6
Santa Cruz		Spanish	291
Shasta		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

Data on Languages and Precincts Covered

Number of Precincts Providing Bilingual Assistance			
	Old Determinations	New Determinations	Change
All Languages Statewide	8,412	6,837	-1,575
Holdover Languages			
Spanish	5,077	3,293	-1,784
Filipino/Tagalog	1,825	1,016	-809
Vietnamese	288	397	109
Korean	258	366	108
Chinese	629	312	-317
Khmer	128	77	-51
New Languages			
Armenian	0	2,139	2,139
Farsi	0	1,388	1,388
Punjabi	0	768	768
Hmong	0	373	373
Arabic	0	180	180
Syriac	0	55	55
Ilocano	0	54	54
Eliminated Languages			
Hindi	1,140	0	-1,140
Japanese	207	0	-207

Frequently Asked Questions

1. Can county elections officials find translated boilerplate content to use? Are there examples available of how to meet some of these requirements?

Yes. CACEO has worked with Asian Americans Advancing Justice – Asian Law Caucus to develop translated boilerplate language that county elections offices can place in their county voter information guides and on the county elections websites. That is or will soon be available on the CACEO website, http://caceo58.org/.

Additionally, CACEO has collected examples of counties' compliance with several of state law's language access requirements. They are or will soon be on the CACEO website.

We urge you to be careful when copying-and-pasting boilerplate language or when borrowing examples. Distortion of characters can easily occur, particularly when copying from PDF to Word and/or when a computer does not have all needed fonts/languages. Always show documents translated into a language other than English to community members or staff that are fluent in that language before putting them into use with voters.

2. How do state law's language access requirements apply to non-Voter's Choice Act counties that use early voting sites?

The requirements that apply to polling places and Vote Centers also apply to early vote sites used by non-Voter's Choice Act counties.

3. Where do state law's language access requirements come from? What is their history?

Until 1970, the California Constitution required that voters had to be able to read English in order to be eligible to vote. This ended when the California Supreme Court ruled that this law violated the equal protection clause of the Fourteenth Amendment. In the twelve years that followed, facsimile ballots in Spanish were introduced, the "reasonable efforts" requirement around recruitment of bilingual poll workers was introduced, and finally facsimile ballots in languages in addition to Spanish were introduced. From 1982 to the present, California law has embraced language access in elections, saying "[A]ppropriate efforts should be made on a statewide basis to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance."

Opportunities for Collaboration

Asian Americans Advancing Justice – California hopes to support and advise counties as they implement the requirements of AB 918 and the new Section 14201 determinations.

The attorneys listed to the right will schedule one-one-one phone calls and/or meetings with counties in their geographic areas of focus in Spring 2018. However, any county elections office in California should feel free to reach out to them to ask questions or to discuss details of implementation.

The creators of this toolkit are aware that this toolkit does not answer every possible AB

918 implementation question. We encourage readers to reach out with additional questions as necessary.

<u>Northern CA and northern half of Central Valley:</u>

Jonathan Stein, AAAJ – Asian Law Caucus
JonathanS@advancingjustice-alc.org
(415) 848-7736

<u>Southern CA and southern half of Central Valley:</u>

Deanna Kitamura, AAAJ – Los Angeles
dkitamura@advancingjustice-la.org
(213) 977-7500

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[i] U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimate.

[ii] U.S. Census Bureau, 2006-2010 American Community Survey 5-Year Estimate.

[iii] California Civic Engagement Project, UC Davis Center for Regional Change, California's Latino and Asian American Vote: Dramatic Underrepresentation in 2014 and Expected Impact in 2016, Policy Brief Issue 10, July 2015, 2.

[iv] Asian Pacific American Legal Center, Asian Americans and the Ballot Box: The 2008 General Election in Los Angeles County, 2011, 24.

[v] 52 U.S.C. § 10503.

[vi] "About Language Minority Voting Rights," Department of Justice. Accessed February 15, 2017.

[vii] Cal. Elec. Code § 14201.

[viii] Cal. Elec. Code § 14201(d).