

Language Access Reports and State Plans

Many courts have created language access plans, which may inform our efforts to provide linguistically appropriate services and also advocate for our clients' language rights. Here are some state plans and reports on language access efforts:

NAPABA Report: Interpreting Justice: Progress and Challenges on Language Access, 2017 - 10 Year Anniversary (November 2017)

[https://napaba.site-ym.com/resource/resmgr/Language Access/NAPABA LanguageAccessReport .pdf](https://napaba.site-ym.com/resource/resmgr/Language%20Access/NAPABA%20LanguageAccessReport.pdf)

Language Access in State Courts, U.S. Department of Justice (September 2016): <https://www.justice.gov/crt/file/892036/download>

National Center for State Courts, "Called to Action: 5 Years of Improving Language Access in the State Courts Access to Justice for Limited English Proficient Litigants 2012 – 2017," available at <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Called-to-Action.aspx>

- o Direct link to the 99-page report: <http://www.ncsc.org/~media/Files/PDF/Topics/Language-Access/language-access-called-to-action.ashx>

State Plans:

- California: http://www.courts.ca.gov/documents/CLASP_report_060514.pdf
 - o Agreement with Los Angeles Superior Court and DOJ: <https://www.justice.gov/opa/file/894196/download>
 - o Finding the Path to Language Justice in the California Courts, Joann H. Lee (June 2018) <http://povertylaw.org/clearinghouse/stories/lee>
- New Jersey: https://www.judiciary.state.nj.us/attorneys/assets/directives/dir_01_17.pdf
- New York: <http://www.nycourts.gov/publications/language-access-report2017.pdf>
- Washington State: http://www.courts.wa.gov/programs_orgs/pos_interpret/content/pdf/StateLAP.pdf

- Washington DC: <http://www.dccourts.gov/internet/documents/DC-Courts-Language-Access-Plan-FY-2014.pdf>

Topics to Cover for the NAPABA Workshop

Presented by Christine Chen, Executive Director, APIAVote

Now that the 2018 election cycle has been completed, we continue to learn about barrier that voters face, especially AAPI voters. Let us provide you with an overview of policy changes and trends we are seeing, but note that many of these policies are determined on the state level so they vary from state to state. By understanding these policies, we hope that NAPABA chapters and members can be active post elections in working with the local coalitions to change and challenge policies that make it difficult for AAPI voters and limited English proficient voters.

Voting Rights Act: Language Access

Language access in voting rights is one of the most important components to access to the ballot for limited-English proficient voters, and this is particularly important in the AAPI community.

The Voting Rights Acts (VRA), as amended, has two key provisions around language access that APIAVote advocates around:

Section 203

- Section 203 of the VRA provides language access protections for those states and localities with higher populations of voters speaking a particular non-English language.
- Specifically, Section 203 requires certain jurisdictions to provide bilingual written voting materials and voting assistance for covered minority languages.
- To be covered by Section 203 language access requirements, the number of US citizens of voting age in a single language group living in the jurisdiction must be: 1) more than 10,000; or 2) more than five percent of all voting age citizens; or 3) on an Indian reservation, exceeding five percent of all reservation residents; and 4) the illiteracy rate of the group is higher than the national illiteracy rate.

Section 208

- Section 208 of the VRA provides for voters who need assistance to vote as a result of blindness, disability, or inability to read or write. These voters may be provided assistance in voting by a person of their choosing, which can be any person other than the voter's employer or agent of the employer or officer or agent of the voter's union.
- This provision of the VRA is particularly important because it permits voters who are limited-English proficient, and thus unable to read or mark their ballot, to have someone they feel comfortable with assisting them in voting. In particular, for elderly voters in the AAPI community, who may not feel comfortable getting assistance from poll workers, this provision is an especially important safeguard to ensuring that all voters' voices are heard.

Early Voting / No Excuse Absentee Voting

- Early voting is the practice that allows individuals to vote in person or by mail, without an excuse, in advance of Election Day.

- Typical early in-person voting practices allow individuals to vote at one of a number of locations, including designated early voting centers, Election Day polling places, and county clerks' offices.
- No-excuse absentee voting gives voters an opportunity to submit ballots by mail in advance of Election Day or drop them off at their local elections offices.
- Early voting and no-excuse absentee voting allow individuals to vote at their own convenience – at a time and place that fits in with their busy schedules. While early voting has not definitively yielded higher voter turnout, it has demonstrated a significant convenience for voters and is one of the most voter-friendly policies states can implement to improve the ease and satisfaction of voters.
- The majority of states, 37 in all, countrywide allow early voting currently. This includes 3 states (Washington, Oregon, and Colorado) that mail ballots to all voters in advance of Election Day. Only 13 states do not permit early voting, and in fact, require an excuse to request an absentee ballot.

Automatic Voter Registration

- Automatic voter registration (AVR) is an election reform that has gained increasing popularity over the last few years, as legislation has spread from state to state across the country.
- While AVR models can differ from state to state, it generally is a measure by which states automatically register its citizens to vote, without the individual having to submit a voter registration form. States typically draw from the department of motor vehicles database to register its voters and verify other qualifying information, including age, residence, and citizenship. AVR measures also typically allow individuals to opt out of voter registration within a specified timeframe – sometimes by sending all enrolled voters a postcard, which they would return to their elections office, to allow them the opportunity to opt out of voter registration. Other opt-out opportunities occur during the DMV office transaction itself, when the individual is updating their DMV information or getting a new driver's license or state-issued ID.
- To date, AVR legislation has been passed in five states, plus the District of Columbia, and three other states have already implemented AVR.

Provisional Ballots

- Provisional ballots are a crucial part of our electoral process. They ensure that voters are not excluded from elections due to human processing or administrative errors. Provisional ballots allow voters an opportunity to cast a ballot when their eligibility was uncertain.
- Provisional ballots were introduced through the passage of the Help American Vote Act of 2002 (HAVA).
- These ballots provide a safeguard for voters for whom there would otherwise be no alternative.
- Provisional ballots are typically set aside from regular ballots and are not counted until the voter's eligibility can be verified. States have varying laws on the issuing and counting of provisional ballots, and while they differ in practice, APIAVote advocates for the fair counting of all provisional ballots that are properly authenticated.

Same-Day Registration

- Same day registration (SDR) gives voters the convenience of being able to update their voter registration if they have moved from a different state recently or have moved within the state and have not yet had the opportunity to register to vote, or if they do not meet the designated voter registration deadline. In an increasingly mobile society, where people move often and sometimes very close to an election or voter registration deadline, the convenience of SDR gives individuals the opportunity to register in their new residence.
- Same day registration can be offered on early voting days as well as on Election Day, and different states offer different options for same day registration to their residents.
- Currently, 15 states plus the District of Columbia permit their residents to register and vote on the same day. One additional state – Hawaii – has enacted SDR legislation, which has yet to be implemented.

Online Voter Registration

- Currently, 36 states and the District of Columbia have online voter registration (OVR) portals in place. Two additional states (Idaho and Oklahoma) have passed legislation to permit online voter registration, but have yet to implement it.
- OVR portals allow voters to submit electronic voter registration forms from their computers, tablets, or smartphones. These systems provide voters an easy opportunity to register to vote and eliminate the need for paper voter registration, which often leads to human processing error.
- Most currently-implemented OVR systems sync with a state's department of motor vehicles (DMV) database and can pull individuals' signatures from the DMV database to populate the signature portion of an individual's voter registration application once it has been submitted for review by the elections official.
- One of the most significant advantages of OVR is the cost savings it yields for statewide elections offices. Not only does the electronic system eliminate the paper trail (resulting in cost savings on printing), but it also eliminates the need to mail paper voter registration forms, and eliminates the need for human processing of the paper registration forms.
- One of the earliest implementers of OVR, Arizona, has run estimates on the cost savings benefits, and in just one county alone – Maricopa County, Arizona – the reported cost savings was almost \$1.4 million during the period between 2008 and 2012.

Voter ID

APIAVote fights against laws and policies that restrict access to the ballot and make it more difficult for individuals to vote, particularly those laws and policies that disproportionately affect Asian Americans at the ballot box. Policies like voter ID requirements, limitations on early voting and no-excuse absentee voting, and restrictions on language access in voting are all policies that restrict access to the ballot for voters.

- Most states today – 34 in all – require some type of identification for voters casting ballots. 32 of these states already have voter identification laws in place, while two state's laws, West Virginia and Iowa, will go into effect in 2018.
- Voter identification requirements vary from state to state. Some states have strict photo voter ID requirements, while other states accept identification without a photo to satisfy the voter identification requirement.

- Strict photo voter ID laws present significant barriers to access the ballot, and disproportionately impact lower income individuals, minorities, young people, the elderly, and those with disabilities. IDs that meet these strict ID requirements are often expensive, require lots of time to acquire, and require supporting documents (like marriage licenses or birth certificates) that are difficult and costly to obtain.
- Voter ID laws are a solution in search of a problem. They typically aim to prevent in-person fraud — an exceptionally rare occurrence. Moreover, voter ID laws are costly and time-consuming to implement.

Voter ID laws make it more difficult for people to vote, but what is perhaps most troublesome about these laws is that they disproportionately impact historically disenfranchised groups: people of color, people with limited English proficiency, the young, the elderly, and the poor. IDs are expensive and having to obtain one for the sole purpose of voting creates an extreme burden on those with limited means. Implementing voter ID requirements for voting also imposes a financial burden for the states and localities implementing these requirements, and creates additional administrative hurdles for election officials.

ID laws aim to prevent in-person fraud, which is an exceedingly rare problem. While ensuring the integrity of our elections process is of the utmost priority, we should not do so at the expense of placing additional hurdles in the place of those who are already marginalized in our society. Moreover, we should dedicate limited election administration resources to improving our elections technology and making easier for Americans to vote.