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ELECTIONS DIVISION

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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).)¹

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).

¹ 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).²

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

² 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.

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
		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		
		Armenian	2139
		Bengali	5
		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

Methodology for Section 14201 Data Analysis & Determinations¹

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).)²

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 tabulation³ from the U.S. Census Bureau.

¹ 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.

² 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.

³ 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 counts⁴ 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

⁴ 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.

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.