

AALDEF



Asian American Access to Democracy In the 2022 Elections

*Local compliance with the Voting Rights Act and the Help America Vote Act (HAVA)
in CA, DC, FL, GA, MA, MD, MI, MN, NM, NJ, NV, NY, PA, TX, and VA*

A Report of the Asian American Legal Defense and Education Fund

Asian American
Legal Defense and
Education Fund



Founded in 1974, the Asian American Legal Defense and Education Fund (AALDEF) is a national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all.

AALDEF focuses on critical issues affecting Asian Americans, including immigrant rights, civic participation and voting rights, economic justice for workers, language access to services, affirmative action, educational equity, housing and environmental justice, and the elimination of anti-Asian violence, police misconduct, and human trafficking.

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AALDEF thanks the many volunteer attorneys, law students, interns, and members of the co-sponsoring organizations for their assistance in monitoring the 2022 Elections.

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EXECUTIVE SUMMARY

The 2022 Midterm Election saw continued high voter turnout, especially among Asian American voters.¹ More than an estimated 121 million voters cast their ballots,² despite significant ongoing voter suppression efforts across the country. The voter turnout among Asian Americans was 41.5%, roughly in line with the last midterm election in 2018.³ During the 2022 Midterm Election, the Asian American Legal Defense and Education Fund (AALDEF) conducted the Asian American Exit Poll, a nonpartisan, multilingual exit poll of almost 5,500 Asian American voters. When all the votes were tallied, voters had elected the most diverse Congress in history, including 14 Congresspeople and 2 Senators of Asian American and Pacific Islander descent.⁴

Asian Americans are the nation's fastest-growing racial group, numbering more than 24.5 million in 2021.⁵ Though Asian Americans seek to participate in the electoral franchise, their participation is sometimes met with resistance. In addition to facing voter suppression tactics such as strict voter identification and voter purge laws that tend to disproportionately affect communities of color, many Asian Americans have had to overcome further obstacles to exercise their right to vote. As AALDEF has documented for decades, Asian American voters who are immigrants, limited English proficient (LEP), elderly, or voting for the first time are likely to face numerous additional barriers at the polls.⁶

AALDEF'S DEMOCRACY PROGRAM

For over forty years, AALDEF has monitored elections for anti-Asian voter disenfranchisement, compliance with the federal Voting Rights Act (VRA)⁷—including the language access provisions (Section 203),⁸ the general assistance provisions (Section 208),⁹ and the non-discrimination protections (Section 2)¹⁰—and the Help America Vote Act (HAVA).¹¹ Section 203 of the VRA requires Asian-language instructions, ballots, and interpreters in covered jurisdictions.¹² Section 208 allows voters who are unable to read their ballots, including LEP voters, to be assisted by a person of the voter's choice, other than a representative of the voter's employer or union.¹³ HAVA requires voting signs and provisional ballots for voters who may otherwise be prevented from voting,¹⁴ and only requires identification of a limited group of first-time voters.¹⁵ As a result of monitoring elections throughout the country, AALDEF has been able to remedy illegal voting barriers that voters encountered on Election Day *in real time*.

AALDEF has also litigated cases and enforced its prior judgements, arising from incidents observed on Election Day. For example, in 2021, AALDEF successfully sued the City of Hamtramck, MI for its failure to provide Section 203-required language assistance to Bengali-speaking voters, resulting in a federal court order mandating the city provide those resources.¹⁶ In 2022, ahead of the midterm elections, AALDEF defeated part of Texas's voter suppression law, Senate Bill 1, which sought to unlawfully limit voters' rights to assistance under Section 208 of the VRA.¹⁷ We obtained a modification order of the permanent injunction we won in 2018 when we challenged a virtually identical limitation to voter assistance Texas had implemented.¹⁸ In addition to pursuing litigation, AALDEF has also successfully persuaded jurisdictions to enter into out of court settlement agreements with comprehensive Asian language election programs to meet the language access needs of Asian American voters, most recently in Malden, MA.¹⁹

2022 ELECTIONS FINDINGS AND OBSERVATIONS

This report reviews our observations from surveying 5,476 Asian American voters, in 11 Asian languages,²⁰ at 79 poll sites in 39 cities in 12 states—California, Florida, Georgia, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New York, Pennsylvania, Texas, Virginia—and Washington, DC, about their voting experiences during the 2022 Midterm Elections. Over 550 volunteer attorneys, law students, and community volunteers conducted the exit poll. The full list of poll sites at which AALDEF stationed exit poll volunteers can be found in Appendix Table A.

AALDEF's Asian American Exit Poll and poll monitoring efforts in 2022 showed jurisdictions violated Asian American voters' rights by:

- Unlawfully denying federally required Asian-language assistance and information
- Turning inordinately high numbers of voters away from poll sites
- Requiring Asian American voters to prove their U.S. citizenship.
- Requiring Asian American voters to provide identification to vote where not required by law
- Failing to adequately train poll workers on the voting process and voters' language access rights
- Wrongfully denying Asian American voters their right to vote due to the voters' names missing from or misspelled in the voter rolls

Furthermore, Asian American voters faced long lines and additional delays because of language assistance needs, machine breakdowns, misdirection to poll sites, and inadequate notification of poll site assignments or changes.

AALDEF also monitored 94 poll sites in seven states—New York, Massachusetts, Pennsylvania, New Jersey, Minnesota,²¹ New Mexico, and Virginia—during the November 2022 Midterm Election. Dozens of volunteer attorneys, law students, and community volunteers monitored the poll sites for mandatory language assistance and translated election information and signage under Section 203 and required postings and the availability of provisional ballots under HAVA, as well as compliance with other state and federal laws. We observed first-hand a number of problems and also received complaints from Asian American voters, our community organization partners, interpreters and other poll workers. The full list of poll sites at which AALDEF stationed poll monitors can be found in Appendix Table B.

Our monitoring and exit polling work alongside our community partners revealed the following significant violations across the country:

- **Philadelphia County, PA**

An interpreter at one of the County's poll sites intentionally misinformed voters of candidates' political affiliation and even suggested who the voter should vote for. As a result, at least one voter cast a ballot for a candidate under the false assumption they belonged to the voter's preferred political party.

- **Ramsey County, MN**

AALDEF poll monitors witnessed widespread non-compliance with Section 203 of the VRA, under which Ramsey County, as of 2021, is required to provide voting assistance in Hmong, an oral language. There was a lack of any Hmong speaking poll workers and a lack of training for the few Hmong speaking interpreters. Additionally, the County failed to conduct vital outreach to the Hmong-speaking community meaning many voters were unaware of key election information or their right to language assistance.

- **Gwinnett County, GA**

A poll worker wrongly denied a first-time voter a provisional ballot because the voter's name did not appear in the voter registration system. It took two hours for an AALDEF attorney to get the poll worker to relent and issue the voter a provisional ballot as is the voter's right under HAVA. AALDEF reported this issue to the U.S. Department of Justice.

RECOMMENDATIONS

Congressional action, vigorous federal enforcement of voting rights laws, as well as concerted efforts by local election officials can remedy many of these problems and ensure and expand access to the ballot. Congress should resurrect Section 5 of the VRA, pass new legislation enacting universal voter registration, and close judicially created loopholes that have weakened Section 203 of the VRA. The U.S. Department of Justice should actively enforce the VRA, specifically Sections 2, 203, and 208, as well as HAVA. Local elections administrators should strive to ensure that they are truly meeting the language needs of the voters they serve by providing accurate and complete translations of all of the election information, including ballots, effectively recruiting, hiring and training poll workers and interpreters to competently and respectfully serve minority and LEP voters, and maintaining sufficient voting machines and poll sites.

I. INTRODUCTION

A. LEGAL BACKGROUND

1. THE VOTING RIGHTS ACT (VRA)

Voting is a fundamental constitutional right.²² Equal access and opportunity to vote are the first steps towards safeguarding our democracy. The passage of the Voting Rights Act of 1965 (VRA) signified a major step towards the realization of a fully democratic society. The VRA was, at least at its inception, directed at undoing Jim Crow's disenfranchisement of Black Americans.²³ Although Section 4(e) of the VRA²⁴ was enacted to protect the right to register and vote by individuals educated in American flag schools in Puerto Rico where the predominant language is not English, by the early 1970s, advocates and allies in Congress had begun pushing effectively to expand the ambit of the VRA to include other racial and language minority groups, and a more direct means to provide language access for people born in Puerto Rico.²⁵ Congress found that limited English proficiency was a serious barrier to the political participation of Asian Americans, Latinos, Alaskan Natives, and Native Americans.²⁶ Asian American citizens were registered to vote at much lower rates than non-Hispanic whites. As a result, through its 1975 amendment,²⁷ Congress included new bilingual language provisions, and established the first list of Section 203-covered jurisdictions to be issued by the Director of the Bureau of the Census following the 1980 Census.²⁸ In enacting these minority language provisions, Congress found that:

[T]hrough the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation.²⁹

The provisions, codified as Section 203 of the VRA, mandate bilingual written voting materials and voting assistance in the minority languages covered by the VRA in those jurisdictions with large populations of voting-age LEP citizens.³⁰ The 1992 amendments to the VRA expanded the coverage to include a numerical threshold of 10,000 LEP voting age citizens, in addition to the original 5% citizen voting-age LEP population threshold.³¹ This amendment reached urban concentrations of Asian American voters in places like Los Angeles, New York, and San Francisco.³² The covered jurisdiction determinations were updated and published following the 1990 and 2000 Census, as prescribed by law.³³ The 2006 reauthorization of the VRA extended Section 203's language provisions through 2032 with two major changes: the determinations would rely upon the American Community Survey (ACS) as the primary data source rather than the long form of the decennial census, and the determinations would be conducted every five years rather than every ten years.³⁴ Section 203 has helped countless Asian Americans, particularly first-time voters and elderly voters, fully exercise their right to vote and participate meaningfully in the democratic process.

Today, local jurisdictions are covered under Section 203 by determination of the Director of the Census Bureau when the ACS data shows greater than 5% or more than 10,000 voting-age citizens who speak the same Asian, Hispanic, Alaska Native or American Indian language have limited English proficiency, and, as a group, have a higher illiteracy rate than the national illiteracy rate.³⁵ On December 8, 2021, the Census Bureau published its latest Section 203 determinations and updated the list of covered jurisdictions.³⁶ As a result, 10 jurisdictions are now required to provide language assistance in several new Asian languages:

Table 1: Newly Covered Political Subdivisions for Asian Language Minority Groups—Dec. 2021

State	Political Subdivision	Language Minority Group
AK	Kodiak Island Borough	Filipino
CA	Sacramento County	Vietnamese
	San Mateo County	Filipino
HI	Maui County	Filipino
MA	Randolph Town city	Vietnamese
MN	Ramsey County	Hmong
NJ	Middlesex County	Asian Indian (including Sikh)
NY	Queens County	Bangladeshi
PA	Philadelphia County	Chinese (including Taiwanese)
TX	Dallas County	Vietnamese

Including the new determinations, 53 jurisdictions in 14 states are currently covered for Asian languages under Section 203.³⁷ Additionally, Hmong, a traditionally oral language, was added for the first time, meaning 8 Asian language minority groups are now covered.³⁸

Coverage under Section 203 requires jurisdictions to provide speakers of the covered Asian language with "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process" to the same extent and breadth as they are provided in English.³⁹ The statute's language are to be "broadly construed to apply to all stages of the electoral process, from voter registration through activities related to conducting elections."⁴⁰ Covered jurisdictions must provide translated voter registration forms, bilingual ballots, ballot instructions, language assistance signage, and interpreters and bilingual poll workers who speak the population's dialect.⁴¹ Additionally, covered jurisdictions are also required to communicate to the covered Asian language speaking population, as well as they do in English, any election-related "notifications, announcements, or other informational materials."⁴²

Another language provision of the VRA, Section 208, guarantees that all voters may obtain assistance by persons of their choice.⁴³ This provision is especially valuable to limited English proficient voters who do not live in jurisdictions where their community's total population rises to the Section 203 population thresholds requiring bilingual ballots and language assistance⁴⁴. These assistants may be friends, relatives, or official election interpreters, among others, but not the voters' employers or union representatives to avoid financial influence.⁴⁵ These individuals may also accompany the voters inside the voting booth to translate the ballot.⁴⁶

Section 2 of the VRA protects racial and language minority voters against discrimination.⁴⁷ Asian American voters who were subjected to discrimination in voting can seek remedies that may include court ordered language assistance. The U.S. Department of Justice has successfully brought lawsuits under Section 2 involving Asian Americans which required translated voting materials and interpreters to ameliorate past discrimination.⁴⁸

Finally, Section 5 of the VRA, or the preclearance provision, was intended to proactively prevent discrimination in voting.⁴⁹ Under Section 5, states and local jurisdictions with a history of racial and ethnic discrimination—as determined by a coverage formula in Section 4(b)—⁵⁰were required to have the Attorney General or the United States District Court for the District of Columbia approve any changes to their voting rules and practices, *before they could be implemented*, to ensure the proposed changes do not have a discriminatory impact on minority voters or reduce the ability of minority voters to participate in the electoral franchise.⁵¹ The burden of proof was on the covered jurisdiction to prove that the proposed voting change would not have a discriminatory effect on minority voters.

On June 25, 2013, the U.S. Supreme Court ruled in *Shelby County v. Holder*⁵² that the preclearance coverage formula in Section 4(b) was unconstitutional.⁵³ Without a valid coverage formula, no jurisdictions are currently covered under Section 5. Until such time that Congress

enacts a new coverage formula, Section 5 preclearance will remain inoperative and voting changes that are retrogressive or discriminate against minority voters need not be precleared before they go into effect. Instead, these changes must be challenged *after* they have been enacted, often causing voters to suffer the discriminatory changes for several election cycles before the lengthy and costly litigation process is resolved.⁵⁴

2. THE HELP AMERICA VOTE ACT (HAVA)⁵⁵

Following the presidential election debacle in Florida in 2000, former Presidents Gerald Ford and Jimmy Carter co-chaired the National Commission on Federal Election Reform.⁵⁶ The Commission's report, *To Assure Pride and Confidence in the Electoral Process*,⁵⁷ laid the basis for the Help America Vote Act (HAVA), which Congress enacted in December 2002.⁵⁸

HAVA provides voters with new rights, mandates a series of changes in how states conduct elections, and provides federal funds to update voting systems and expand access to the vote for voters with disabilities. HAVA provides all voters with the opportunity to cast provisional ballots and make voting information more accessible by providing sample ballots, instructions on how to vote, and information about voters' rights.⁵⁹ In Section 203-covered jurisdictions, these HAVA forms must also be completely and accurately translated into the covered languages.

HAVA provides baseline voter identification requirements. Under Federal law, only first-time voters who registered by mail and did not provide identification information with their registration application are required to show identification when they vote in federal elections.⁶⁰ These voters need not show photo identification.⁶¹ Several forms of identification that include the voters' names and addresses are acceptable.⁶² Many states have enacted voter ID laws that require all voters to present IDs, with some states requiring a narrow set of photo IDs.⁶³

HAVA also provides federal money to state election administrators to improve the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and language access for "individuals with limited proficiency in the English language."⁶⁴ States have broad discretion to use the money for language assistance or for other purposes, such as purchasing new voting machines or developing the statewide voter databases mandated by HAVA.⁶⁵

3. THE NATIONAL VOTER REGISTRATION ACT (NVRA)⁶⁶

The National Voter Registration Act (NVRA) established a national form for voter registration for federal elections, with a clear provision that no additional requirements may be imposed by the states.⁶⁷ The federal voter registration form is particularly beneficial to Asian Americans because it is translated into many Asian languages.⁶⁸ In states that do not translate their state voter registration forms, voters may use the federal form, which is translated into Chinese, Japanese, Korean, Tagalog, Vietnamese, Hindi, Bengali, and Khmer.⁶⁹ Several states chose to create their own voter registration forms with additional requirements voters must meet to register, many of which have been successfully challenged for violating the NVRA.⁷⁰

4. STATE VOTING RIGHTS ACTS

In addition to the federal statutes protecting voters' rights and access to the ballot, several states have passed their own voting rights acts aimed at both filling perceived gaps in federal law and creating altogether new protections. In 2001, California became the first state to enact a state-level voting rights act which provided a new means for minority voters to challenge at-large elections regimes which dilute their votes.⁷¹ In Washington, the state VRA expanded on federal protections for minority voters in the redistricting process.⁷² The Virginia Voting Rights Act applies the federal VRA's language access mandate to more jurisdictions by eliminating the higher-than-national-average illiteracy rate requirement from its coverage formula.⁷³ Likewise, the New York Voting Rights Act expands protections for minority voters in redistricting,⁷⁴ and will

expand the number of covered jurisdictions required to provide bilingual elections-related materials to more Asian American LEP voters when the language access provisions go into effect in 2025.⁷⁵

B. AALDEF DEMOCRACY PROGRAM

AALDEF's Democracy Program focuses on enforcing the Voting Rights Act, advocating for fair redistricting, advancing minority language voter access, eliminating voting barriers, rejecting race, ethnicity, and language-based discrimination, ensuring an accurate census, and expanding overall access to the ballot.

1. HISTORY

AALDEF has monitored elections since the 1980s and has won many victories over the years for Asian American voters. In 1985, AALDEF negotiated an agreement with the New York City Board of Elections to provide Chinese language assistance at poll sites. In 1988, AALDEF conducted its first nonpartisan bilingual exit poll in New York's Chinatown to assess the use and effectiveness of voluntary language assistance.

In 1992, AALDEF testified before the U.S. House of Representatives Judiciary Committee on expanding the language assistance provisions of the Voting Rights Act (VRA).⁷⁶ As a result, ten counties in New York, California, and Hawai'i were subsequently covered for Asian language assistance under Section 203.

In 1994, AALDEF successfully advocated for the first fully translated Chinese-language ballots in New York City, providing language assistance for the first time to 55,000 Chinese American voters in three counties covered by the Voting Rights Act. AALDEF's advocacy was instrumental in supporting the Department of Justice's Section 5 objection to New York City's Chinese-language program, and its pretextual refusal to include transliterated candidate names on its ballot⁷⁷.



AALDEF expanded its poll monitoring during the 1996 elections in New York City to include more Asian ethnic groups, such as South Asian Americans. By 2000, AALDEF's exit poll covered 14 poll sites and surveyed 5,000 Asian American voters in New York City.

In 2004, AALDEF monitored the Presidential Election in 23 cities in 8 states. Approximately 1,200 volunteer attorneys, law students, and community volunteers surveyed 10,789 Asian American voters in 23 Asian languages and dialects at 87 poll sites.⁷⁸ In Michigan, AALDEF monitored a consent decree between the U.S. Department of Justice and the City of Hamtramck to remedy past voting discrimination.⁷⁹



In 2005 and 2006, using findings from past poll monitoring efforts, AALDEF joined or initiated lawsuits against Boston⁸⁰ and New York City,⁸¹ respectively, for compliance with the VRA.

In 2006, AALDEF also testified before the U.S. Senate Judiciary Committee in support of reauthorizing the language assistance provisions of the VRA.⁸² AALDEF's comprehensive report, which found that Asian

American voters continued to face racial discrimination, harassment, and institutional barriers in the electoral process, was included in the Congressional Record.⁸³

In 2008, AALDEF covered a total of 229 poll sites in 52 cities in 11 states. The exit poll surveyed 16,665 Asian American voters, in 11 Asian languages and dialects,⁸⁴ about their experiences in voting at 113 poll sites. Volunteer attorneys also inspected 137 total poll sites for voting signs required under HAVA, including poll sites in Northern Virginia, Northern New Jersey, and Eastern Pennsylvania, as well as poll sites in New York City and Boston that were specifically targeted for language assistance under the VRA. Over 1,500 volunteer attorneys, law students, and members of the co-sponsoring organizations observed first-hand a number of problems and received more than 800 complaints from Asian American voters, interpreters, and poll workers.

In 2009, AALDEF polled over 2,000 Asian American voters in Manhattan, Queens, and Brooklyn in New York City's municipal elections for Mayor, City Council and other local races. AALDEF conducted the exit poll at 13 poll sites in six languages: English, Chinese, Korean, Bengali, Punjabi, and Urdu. AALDEF also dispatched 150 attorneys, law students, and community volunteers to 50 poll sites to monitor the voting process. AALDEF urged the Department of Justice to investigate violations of the VRA against Asian American voters and volunteers who were racially targeted and harassed in a Queens city council race between Kevin Kim, a Korean American candidate, and his white opponent, Dan Halloran.⁸⁵

In 2010, AALDEF conducted a five-state multilingual exit poll of over 3,500 Asian American voters in collaboration with 30 national and local community groups. The 2010 exit poll was conducted in five states with large Asian American populations: New York, Massachusetts, Pennsylvania, Texas and Georgia. The exit poll was conducted at 34 poll sites in 8 languages and dialects: Chinese, Korean, Vietnamese, Khmer, Bengali, Punjabi, Urdu, and Gujarati. AALDEF also monitored almost 50 poll sites for compliance with the VRA and Help America Vote Act (HAVA). Volunteer attorneys checked the provision of Asian-language ballots, interpreters, signs and voting materials, which are required in certain districts; improper requests for voter identification, and whether provisional ballots were offered to Asian Americans whose names did not appear on voter lists.

In 2011, AALDEF dispatched attorneys, law students, and community volunteers to monitor and document voting barriers faced by Asian American voters in poll sites in Massachusetts, including Boston, Quincy, and Dorchester. AALDEF also conducted a nonpartisan exit poll in Chinese and English on Asian American voting preferences in Boston and Philadelphia. Both Boston and Philadelphia had Asian American candidates running for city council in the municipal elections.⁸⁶

In 2012, AALDEF covered a total of 81 poll sites in 38 cities in 14 states. The exit poll surveyed 9,096 Asian American voters about their voting experiences in 11 Asian languages and dialects.⁸⁷ Volunteer attorneys inspected 46 poll sites in New York City, New Jersey, and Massachusetts for compliance with Section 203 of the VRA and HAVA. AALDEF observed segregated voting lines in Annandale, VA, for Korean American voters. After lodging a complaint with the Fairfax County Board of Elections, the Board agreed to provide voluntary Korean language assistance.

In 2013, AALDEF conducted nonpartisan multilingual exit polls at 24 poll sites for the mayoral election in New York City and the gubernatorial elections in New Jersey and Virginia. We documented numerous violations of the VRA and HAVA, including inadequate language assistance, mistranslated ballot propositions, racist poll worker behavior, and improper demands for identification.

In 2014, AALDEF polled 4,102 Asian American voters participating in the Midterm Election. In total, AALDEF dispatched 584 volunteer attorneys, law students, and members of the co-sponsoring organizations to conduct nonpartisan exit polls at 147 poll sites in 38 cities in 11 states, in 13 Asian languages and dialects. That year, Asian American voters, interpreters, and poll workers sent more than 340 voting rights complaints to AALDEF, many of them about hostile poll site environments or the lack of language assistance. Leveraging our survey-based evidence for the need for more Asian language assistance, AALDEF attorneys successfully advocated for the provision of voluntary Chinese language assistance at targeted poll sites in Washington, DC.

AALDEF also met with the Chair of the Philadelphia City Commissioners to discuss steps to increase language access for Asian American voters in Philadelphia. On April 16, 2014, AALDEF lodged a complaint with the Philadelphia Human Relations Commission on behalf of Boat People SOS and Hong Nguyen, alleging Philadelphia's failure to provide language access to Philadelphia's LEP Asian American voters amounted to national origin discrimination in its administration of city services, a violation of the Fair Practice Ordinance.⁸⁸ AALDEF has continued to monitor elections in Philadelphia to ensure that the City complies with its agreement to provide interpreters for Chinese, Khmer, Korean, and Vietnamese voters following a 2007 settlement in *U.S. v. Philadelphia*.⁸⁹

In 2015, AALDEF attorneys sued Texas for denying Asian American voters with limited English proficiency the right to an assistor of their choice, in violation of Section 208 of the VRA. AALDEF won this case, *OCA-Greater Houston v. Texas*, when a federal district court blocked the Texas law, and the court of appeals affirmed this decision on the merits.⁹⁰ In 2015, AALDEF also successfully advocated for the provision of voluntary Vietnamese language assistance at targeted poll sites in Washington, DC. Such progress was possible because for years, AALDEF's exit poll in Washington, DC had provided clear evidence for the need for Vietnamese language assistance. Lastly, AALDEF monitored local elections and primaries in Philadelphia, PA and Houston, TX for compliance with the VRA and HAVA.

In 2016, AALDEF polled 13,846 Asian American voters at a total of 93 poll sites in 55 cities in 14 states. We documented significant violations of the VRA and HAVA, including anti-Muslim voter discrimination. In New York, New Jersey, and Massachusetts, AALDEF also dispatched volunteer attorneys to monitor 44 poll sites for compliance with the VRA and HAVA.

In 2017, AALDEF surveyed 2,538 voters at a total of 33 poll sites for the mayoral elections in New York City and Boston and the gubernatorial elections in New Jersey and Virginia. AALDEF also monitored 67 poll sites in New York, New Jersey, and Massachusetts for compliance with the VRA and HAVA.

In 2018, AALDEF surveyed 8,058 voters at a total of 81 poll sites in 54 cities in 14 states—California, Florida, Georgia, Louisiana, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Texas, Virginia—and Washington, DC.⁹¹ AALDEF also monitored 47 poll sites in New York, New Jersey, and Massachusetts for compliance with the VRA and HAVA.

AALDEF advocated against the U.S. Department of Commerce's March 2018 decision to add a citizenship question to the 2020 Census, a change that would have led to a significant undercount of immigrant and minority communities, robbing them of political representation. AALDEF submitted a public comment to the Department of Commerce,⁹² and later submitted an amicus brief when the legal challenge to the citizenship question was before the U.S. Supreme Court, to ensure that the Asian American perspective was adequately represented.⁹³

2. RECENT VOTING RIGHTS LITIGATION

In the last decade, AALDEF has actively pursued litigation wherever necessary to remedy significant problems that Asian American voters have faced on Election Day. During this period, AALDEF initiated or participated in the following cases under federal, state, and municipal election laws:

- *Perry v. Perez* (2012) – AALDEF filed an *amicus* brief urging the U.S. Supreme Court to affirm a Texas federal district court's interim redistricting plan after the Department of Justice contended that the Texas state legislature's plan diluted the voting power of Asian Americans and other people of color.⁹⁴

- *Favors v. Cuomo* (2012) – AALDEF filed a complaint-in-intervention on behalf of four Asian American voters urging the federal district court to adopt a congressional redistricting plan that provides Asian Americans in New York with equal political representation. As a result of this litigation, a three-judge panel approved a new congressional redistricting map which closely resembled AALDEF’s own proposed district lines, keeping Asian American and other communities of color intact.⁹⁵
- *Applewhite v. Commonwealth* (2014) – AALDEF filed an *amicus* brief in the Pennsylvania State Supreme Court challenging the constitutionality of Pennsylvania’s restrictive voter ID requirement.⁹⁶ AALDEF’s *amicus* brief demonstrated that Pennsylvania’s new photo ID requirements would have discriminatory impacts on Asian American voters.⁹⁷
- *Shelby County v. Holder* (2013) – AALDEF filed an *amicus* brief in the U.S. Supreme Court on behalf of 28 Asian American groups, urging the Court to uphold Section 5 of the VRA, which requires the U.S. Department of Justice or the U.S. District Court for the District of Columbia preclear proposed new voting rules in covered jurisdictions to ensure they do not discriminate against or disenfranchise minority voters.⁹⁸
- *Arizona v. Inter Tribal Council of Arizona* (2014) – AALDEF filed an *amicus* brief in the U.S. Supreme Court, challenging the legality of Arizona’s Proposition 200, the state’s restrictive voter registration law.⁹⁹ AALDEF argued that Proposition 200 unfairly burdened naturalized citizens, who make up almost 40% of the state’s Asian American population.¹⁰⁰
- *Alliance of South Asian American Labor v. Board of Elections in the City of New York* (2013) – AALDEF filed a lawsuit under Section 203 of the Voting Rights Act against the NYC Board of Elections for failure to provide adequate Bengali language assistance.¹⁰¹ AALDEF reached a settlement agreement with the Board of Elections that ensures that Bengali ballots and language assistance would be provided in future elections.¹⁰²
- *Boat People SOS v. Philadelphia City Commissioners* (2014) – AALDEF filed a complaint with the Philadelphia Commission on Human Relations alleging a violation of the city’s Fair Practices Ordinance, which prohibits discrimination in the provision of city services. AALDEF’s complaint alleged that the City Commissioners’ refusal to provide Asian language assistance during elections violates the Fair Practice Ordinance’s prohibition on discrimination of national origin in the provision of a city service, voting.¹⁰³
- *OCA-Greater Houston v. Texas* (2018) – On August 6, 2015, the fiftieth anniversary of the signing of the Voting Rights Act, AALDEF filed a lawsuit against Texas election officials on behalf of an Indian American LEP voter who was denied the right to assistance by a person of her choice—her son—because the Texas Election Code limited potential interpreters to only those individuals who were registered to vote in the same county as the voter who needed assistance. AALDEF also challenged Texas’ limitation of permissible assistance to reading and marking the ballot in the booth. AALDEF successfully argued that the Texas Election Code violated the VRA by unlawfully narrowing and restricting the provisions of Section 208, and the federal court issued a permanent injunction.¹⁰⁴
- *Texas League of United Latin American Citizens (LULAC) v. Whitley* – (2019) AALDEF joined a complaint challenging the Texas Secretary of State’s efforts to conduct a statewide voter purge targeting naturalized citizens, using methodology that has already been shown to be deeply flawed and improper.¹⁰⁵ AALDEF joined

this effort to give voice to the large community of Asian American naturalized citizens in Texas who could be disenfranchised by this voter purge, in violation of their equal protection rights and the federal Voting Rights Act.

- Hamtramck, MI Consent Decree and Order (2021)* – In 2021, AALDEF secured a federal court ordered consent decree on behalf of Detroit Action, AALDEF's community partner, and Rahima Begum, an LEP Bengali American voter, over the city's failure to provide Bengali language election information and assistance as required by Section 203 of the VRA.¹⁰⁶ Hamtramck was covered for Bangladeshi language assistance since 2011. The four-year term Consent Decree requires Hamtramck to provide a comprehensive and effective Bangladeshi language election program for translation and dissemination of election information and trained oral assistance in at least the "most widely used" Bengali dialects, and that all English and Bengali language election information provided by Hamtramck, including its websites, is made equally available to voters. Since the implementation of the Consent Decree, Hamtramck has seen the widespread use of Bengali ballots, the assignment of Bengali speaking poll workers and interpreters, and the city's additional voluntary provision of Yemeni speaking poll workers and interpreters, and the election of the first Muslim mayor. AALDEF is continuing to monitor compliance with its Consent Decree through July 2025.
- OCA Greater Houston v. Texas (2022)* –Texas's Senate Bill 1 resurrected practically the identical language which limited voter assistance to reading and marking the ballot in the booth formerly enjoined in 2018 through AALDEF's litigation. AALDEF filed an enforcement action, and the District Court for the Western District of Texas issued a modified permanent injunction striking down the provisions of SB1 that violated of the court's 2018 permanent injunction infringing on voters' Section 208 rights, and provided relief to LEP voters needing assistance during the 2022 Midterm elections.¹⁰⁷
- Allen v. Milligan (2023)* – AALDEF filed an *amicus* brief alongside, the Lawyers' Committee for Civil Rights Under Law, the Leadership Conference on Civil and Human Rights, and the Leadership Conference Education Fund, in the U.S. Supreme Court, urging the Court to uphold the voting dilution standard of Section 2 of the VRA from a brazen challenge by the Alabama state legislature.
- Fair Maps Texas Action Committee v. Abbott (ongoing)*– AALDEF, alongside partner civil rights groups, filed a lawsuit on behalf of Fair Maps Texas Action Committee, OCA-Greater Houston, Emgage, and individual registered voters, challenging Texas's state legislative and congressional redistricting plans as unconstitutional racial gerrymanders violating both Section 2 of the VRA and the Fourteenth and Fifteenth Amendments of the U.S. Constitution. The case has been consolidated with other challenges to Texas's redistricting plans. AALDEF's suit is unique among all of the other consolidated lawsuits because it seeks, for the first time at the state level, Asian coalition districts. It details an inadequate redistricting process lacking transparency, which led to discriminatory district maps that divide Asian communities of interest and dilute the political power of politically cohesive communities of color, particularly Black, Latino, and Asian American & Pacific Islander (AAPI) voters.
- LUPE v. Abbott (ongoing)*– AALDEF, on behalf of OCA-Greater Houston, League of Women Voters of Texas, REVUP-Texas, Texas Organizing Project, and Workers Defense Action Fund, filed a suit challenging Texas's voter suppression law, Senate Bill 1, arguing that numerous provisions of the bill violated the VRA, the Americans with Disabilities Act, and the U.S. Constitution. The statute makes it virtually impossible for members of the plaintiff organizations to vote by preventing them from

obtaining the necessary assistance to vote a fully informed ballot in the case of LEP and disabled voters and by curtailing vote by mail in the case of elderly, disabled, and LEP voters. AALDEF's initial assistance-related claims in this case were rendered moot by the court's 2022 Order in AALDEF's OCA-Greater Houston v TX enforcement 2021 action.¹⁰⁸

- *Fossella v. Adams* (ongoing) – AALDEF, alongside other voting and immigrants' rights organizations, intervened as defendants in a lawsuit challenging New York City's Our City Our Vote Law which would extend the right to vote to non-citizen legal city residents in municipal elections. While a New York trial court struck down the law, AALDEF, our partners, and the City of New York have appealed the decision to the New York Appellate Division.¹⁰⁹ The parties are currently awaiting a decision on the appeal.
- *Desis Rising Up & Moving (DRUM) v. New York City Districting Commission* – (ongoing) AALDEF challenged New York City's adoption of a city council districting plan that denies a large South Asian American community in the Richmond Hill/South Ozone Park neighborhood of Queens any reasonable chance of fair and effective representation, guaranteed under the City Charter.

3. OUT OF COURT VOTING RIGHTS RESOLUTIONS

In addition to litigation, AALDEF has also secured an out of court commitment to ensure compliance with federal law:

- *Malden, MA Memorandum of Understanding (2022)* – AALDEF with a coalition of local Asian American community-based organizations, reached an out of court settlement agreement with the City of Malden to resolve the city's failure to provide Chinese language information and assistance in compliance with Section 203 of the VRA.¹¹⁰ Malden had been subject to the federal minority language requirements since 2016 but by 2022 had failed to provide sufficient bilingual poll workers and interpreters, bilingual signage, and complete and accurate translations of election information. The MOU, effective until Aug. 26, 2026, requires Malden, among other things, to translate and properly disseminate all election information in Chinese, provide language assistance through bilingual poll workers and interpreters, and train poll workers regarding voters' language assistance rights.

4. ASIAN AMERICAN ELECTION PROTECTION 2022

During the 2022 Midterm Election, AALDEF conducted its National Exit Poll at a total of 79 poll sites in 39 cities in 12 states—California, Florida, Georgia, Louisiana, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Texas, Virginia—and Washington, DC.¹¹¹

AALDEF surveyed 5,476 Asian American voters, in 11 Asian languages and dialects,¹¹² about their voting experiences. We also dispatched volunteer attorneys to inspect 94 poll sites in Massachusetts, Minnesota, New Jersey, New Mexico, New York, Pennsylvania, and Virginia that were specifically targeted for language assistance under the VRA and for signage required under HAVA.



More than 550 volunteer attorneys, law students, and members of the co-sponsoring organizations observed first-hand a number of problems and received complaints from Asian American voters, interpreters, and poll workers. The Asian American Exit Poll and AALDEF's poll monitoring documented incidents of anti-Asian voting disenfranchisement and the need for language assistance. Whenever serious problems arose on Election Day, AALDEF attorneys immediately contacted local election officials to try to remedy the situation.

5. INITIATIVES IN 2022

To prepare for the Midterm elections, AALDEF launched several initiatives to protect the Asian American vote, including advocacy, community education, and legal training. AALDEF worked with local elections officials and community-based organizations in several states to improve language access for Asian American voters.

a. Advocacy

In the months preceding the 2022 Midterm Election, AALDEF and community partners wrote to all of the jurisdictions where we conducted our exit poll survey and poll monitoring. AALDEF also met with several local boards of elections in Texas, New York, Pennsylvania, Minnesota, and Massachusetts to discuss their language assistance programs.

b. Community Education

AALDEF educated voters, through multilingual information sheets, about their rights under HAVA and the VRA. For example, AALDEF created multilingual fact sheets to educate community members and leaders about Section 203 of the VRA, and the jurisdictions currently covered for Asian language assistance under Section 203. These fact sheets are available in English and 10 Asian languages: Bengali, Chinese, the Filipino dialects of Ilocano and Tagalog, Hindi, Japanese, Korean, Punjabi, Urdu, and Vietnamese. The fact sheets explain the law's requirements, its benefits, and the procedure for reporting problems to ensure that all Asian American voters can fully exercise their right to vote.



c. Legal Outreach through Exit Poll and Poll Monitoring Trainings

In October and November, AALDEF conducted 19 in person and virtual training sessions. AALDEF trained over 550 lawyers, community leaders, law students, and volunteers through in-person and virtual trainings to participate in the nationwide exit poll and poll monitoring project. AALDEF educated these volunteers about voters' rights under HAVA and the VRA, including Section 203 protections for LEP voters, the right to provisional ballots, and the right to bring friends or family members into the voting booth to assist or translate the ballot for voters. AALDEF also trained volunteers regarding their states' voting laws, including any additional voter identification requirements.

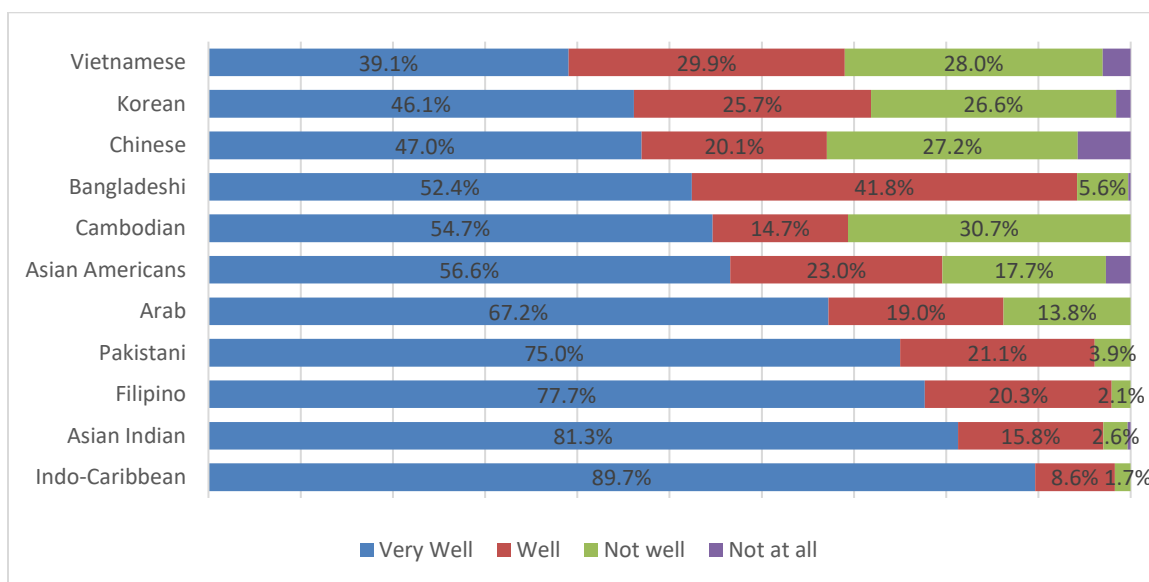
II. 2022 ELECTIONS FINDINGS AND OBSERVATIONS

Asian Americans had to overcome many barriers to exercise their right to vote, including (A) the lack of language assistance, (B) discriminatory and poorly trained poll workers, (C) incomplete voter lists and denials of provisional ballots, (D) improper identification checks, and (E) poll site confusion.

A. LANGUAGE ASSISTANCE

During the 2022 Midterm Election, many limited English proficient Asian Americans experienced difficulty voting. In AALDEF’s National Exit Poll, 73.5% of all respondents were foreign-born naturalized citizens, 35.6% identified English as their native language, 43.4% were LEP, and 10.0% were first-time voters.

Figure 1: Limited English Proficiency by Ethnicity



Language assistance, such as interpreters and translated voting materials, was far from adequate. Notwithstanding federal mandates, poll workers did not know about or were hostile to providing language assistance to voters. In our survey, 295 Asian American voters complained that there were no interpreters fluent in their language to help them vote even though they would have benefited from these resources.

1. SECTION 203 OF THE VOTING RIGHTS ACT (BILINGUAL ELECTION MATERIALS, INCLUDING BALLOTS AND LANGUAGE ASSISTANCE)

The Voting Rights Act (VRA) mandates bilingual election materials, including ballots, and language assistance for voters in several jurisdictions where AALDEF and community partners exit polled and poll monitored. Section 203 of the VRA covers jurisdictions for Asian languages in Alaska, California, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Pennsylvania, Texas, Virginia, and Washington.¹¹³

Table 2: Section 203 Covered Jurisdictions for an Asian Language as of Dec. 2021

State	Language Minority	Jurisdiction
AK	Filipino	Aleutians West Census Area
		Kodiak Island Borough*
CA	Cambodian	Los Angeles County
		Alameda County
	Chinese (including Taiwanese)	Contra Costa County
		Los Angeles County
		Orange County
		Sacramento County
		San Diego County
		San Francisco County
		San Mateo County
		Santa Clara County
	Filipino	Alameda County
		Los Angeles County
		San Diego County
		San Mateo County*
		Santa Clara County
Korean	Los Angeles County	
	Orange County	
Vietnamese	Alameda County	
	Los Angeles County	
	Orange County	
	Sacramento County*	
	San Diego County	
	Santa Clara County	
HI	Chinese (including Taiwanese)	Honolulu County
	Filipino	Honolulu County
		Maui County*
IL	Asian Indian (including Sikh)	Cook County
	Chinese (including Taiwanese)	Cook County
MA	Cambodian	Lowell city
		Malden city
	Chinese (including Taiwanese)	Quincy city
	Vietnamese	Randolph Town city*
MI	Bangladeshi	Hamtramck city
MN	Hmong	Ramsey County*
NV	Filipino	Clark County
NJ	Asian Indian (including Sikh)	Middlesex County*
	Korean	Bergen County
NY	Asian Indian (including Sikh)	Queens County
	Bangladeshi	Queens County*
	Chinese (including Taiwanese)	Kings County
		New York County
		Queens County
	Korean	Queens County
PA	Chinese (including Taiwanese)	Philadelphia County*
TX	Chinese (including Taiwanese)	Harris County
	Vietnamese	Dallas County*
		Harris County
		Tarrant County
VA	Vietnamese	Fairfax County
WA	Chinese (including Taiwanese)	King County
	Vietnamese	King County

* Newly covered as of Dec. 2021

In some jurisdictions where AALDEF conducts its Asian American Exit Poll, state or local laws also require election officials to provide language assistance for the LEP voters they serve. For example, although Boston, MA is not currently covered under Section 203 of the VRA for Asian language assistance, state law requires language assistance in Chinese and Vietnamese.¹¹⁴

There have been many shortcomings in Section 203 compliance. As AALDEF has noted from years of poll site observation and conducting multilingual voter interviews, the lack or shortage of effective language assistance at a poll site serving a high population of Asian American voters often translates directly into a high percentage of LEP Asian American voters experiencing difficulty voting or who are not able to vote at all. AALDEF's Asian American Exit Poll found significant levels of need for interpreters and translated materials in covered languages across Section 203-covered jurisdictions, especially in newly covered jurisdictions.

Table 3: Covered Jurisdictions: Interpreter and Translated Material Usage and Expressed Desire, Nov. 2022

State	Covered Jurisdiction	Language	Interpreter Used?		Translated Materials Used?	
			Yes	No, unavailable, but desired	Yes	No, unavailable, but desired
CA	Santa Clara	Mandarin	0.0%	0.0%	16.7%	0.0%
		Tagalog	0.0%	14.3%	0.0%	0.0%
		Vietnamese	17.6%	5.9%	44.1%	4.4%
MA	Lowell	Khmer	28.0%	8.0%	24.0%	8.0%
		Cantonese	0.0%	0.0%	50.0%	0.0%
	Malden	Mandarin	20.0%	20.0%	20.0%	20.0%
Quincy		Cantonese	0.0%	25.0%	0.0%	25.0%
MI	Hamtramck	Mandarin	50.0%	0.0%	50.0%	0.0%
		Bengali	7.1%	17.9%	7.1%	3.6%
NV	Clark	Tagalog	0.0%	6.8%	0.0%	6.8%
NJ	Bergen	Korean	9.6%	19.1%	23.4%	13.8%
		Middlesex	Gujarati*	27.3%	9.1%	9.1%
NY	Kings	Cantonese	42.4%	5.1%	39.0%	5.1%
		Mandarin	52.1%	0.0%	37.5%	6.3%
	New York	Cantonese	36.3%	3.0%	36.7%	7.2%
		Mandarin	40.0%	4.4%	34.4%	11.1%
	Queens	Bengali	12.5%	5.6%	13.2%	6.9%
		Cantonese	17.1%	5.3%	21.7%	4.6%
PA	Philadelphia	Hindi	5.6%	22.2%	5.6%	11.1%
		Korean	36.0%	18.0%	61.6%	7.0%
		Mandarin	28.8%	5.5%	31.1%	9.9%
		Cantonese*	70.7%	0.0%	58.6%	1.7%
		Mandarin*	68.3%	2.4%	51.2%	12.2%
		Vietnamese*	52.0%	6.9%	59.8%	7.8%
TX	Dallas	Cantonese	27.3%	27.3%	27.3%	9.1%
		Mandarin	23.1%	3.8%	23.1%	7.7%
	Harris	Vietnamese	27.0%	12.2%	48.6%	6.8%
VA	Fairfax	Vietnamese	5.8%	1.9%	5.8%	3.8%

* Newly covered as of Dec. 2021

During the 2022 Midterm Election, AALDEF noted varying degrees of inadequacy in the language assistance provided by every Section 203 covered jurisdiction we monitored.

2. SECTION 203 NON-COMPLIANCE IN NEWLY COVERED JURISDICTIONS

On December 8, 2021, the Census Bureau published its Section 203 Determinations, the updated list of covered jurisdictions.¹¹⁵ As a result, 12 jurisdictions are now required to provide language assistance in several new Asian languages. AALDEF sent letters to each of the following jurisdictions informing them of their new coverage.

Section 203 requires the translation and posting of all voting signs and materials for covered jurisdictions. Additionally, oral language assistance is also required to help covered-LEP voters cast their ballots. For traditionally oral languages, the Attorney General guidelines provide further guidance on oral language assistance under Section 203.

a. Ramsey County, MN — Hmong

AALDEF poll monitors and community-based organizations in Ramsey County, MN, newly covered for Hmong, witnessed several issues with Section 203 compliance. These included a lack of any Hmong speaking poll workers, and a lack of training for the few Hmong speaking interpreters that were assigned to proactively assist Hmong voters. Additionally, Ramsey County failed to provide the same election information it provides in English orally in Hmong. The County failed to make public service announcements on Hmong radio or TV, have audio recordings on their website, disseminate sufficient pre-election publicity, or have visible identification for poll sites and interpreters. Since Hmong is an oral language, it is vital that a sufficient number of trained bilingual poll workers and Hmong-interpreters are present at poll sites and actively approaching voters who need language assistance, and that election information is disseminated orally to the Hmong community equal to its availability in English.

b. Philadelphia County, PA — Chinese (Mandarin and Cantonese)

Philadelphia County, PA was newly covered for Chinese. AALDEF has a long history of alerting Philadelphia County of the needs of Chinese LEP voters.¹¹⁶ AALDEF's poll monitoring revealed several instances of Section 203 compliance issues, primarily related to a lack of Chinese speaking poll workers or interpreters across several polling sites, and a failure to display translated election signs and materials.

Over a fifth of the observed poll sites during the Midterm Election had neither Chinese-speaking poll workers nor Chinese interpreters present. The effect of this failure to provide Section 203-required language assistance is stark given, in Philadelphia, 87% of native-Mandarin speaking voters and 82.5% of native-Cantonese speaking voters identified as LEP in AALDEF's Asian American Exit Poll. Compounding this issue, AALDEF found that in the poll sites that had Chinese-language interpreters, the interpreters were Mandarin speakers unable to assist the many Fujianese- and Cantonese- speaking voters there.

Alarming, an interpreter at one of the Philadelphia County poll sites inaccurately informed voters of candidates' political parties and even suggested who the voter should vote for. As a result, at least one voter cast a ballot for the incorrect candidate under the false assumption they belonged to the voter's preferred political party.

Further, multiple poll sites across Philadelphia County lacked Chinese-language signage, including externally posted "Vote Here" signs—that enable voters to easily identify the poll site—and internally posted voter instructions and language assistance information.

c. Dallas County, TX

Dallas County, TX was newly covered for Vietnamese in 2021. During AALDEF's poll monitoring during the 2022 Primary Election, we observed several Section 203 compliance issues. During the Primary Election, neither AALDEF or any of the voters we spoke to

observed Vietnamese speaking poll workers or interpreters at any of the five poll sites AALDEF poll monitored. Furthermore, several poll sites failed to have all elections materials translated into Vietnamese, and when they were available, they were not displayed prominently nor in easily accessible locations.

In addition to Section 203 compliance issues, there were also potential Section 208 compliance issues. Despite the settled right to assistance in voting, LEP voters with their assistors faced additional wait times, after already standing in long lines to vote, resulting from some confusion about Texas's new assistance oath procedures. AALDEF spoke with many voters who brought individuals to assist them in voting. Many were forced to stand aside, after waiting in the long line with other voters, and to wait for many minutes before a poll worker was able to administer the assistance oath to their assistor while other voters freely voted.

d. Middlesex County, NJ — Asian Indian (Gujarati)

In Middlesex County, NJ, there were several issues with the County's Section 203 compliance for newly covered Asian Indian (Gujarati). Multiple poll sites lacked proper signage indicating the availability of Gujarati-language assistance. Further, when Gujarati interpreters were present, they were often not actively approaching voters who needed assistance.

e. Queens County, NY — Bangladeshi (Bengali)

Queens County, NY was newly covered for Bangladeshi (Bengali). AALDEF monitored several sites in Queens County, including many where the NYC Board of Elections had stated they would be assigning Bengali interpreters to. Of the interpreters assigned to poll sites AALDEF monitored in Queens, 11.2% were not actually present on Election Day.

3. SECTION 203 NON-COMPLIANCE IN EARLIER-COVERED JURISDICTIONS

Several jurisdictions have been covered under Section 203 for Asian languages for years, if not decades prior to the Census Bureau's most recent 2021 Section 203 Determinations.¹¹⁷ Despite being required to comply with Section 203 for several years, many covered jurisdictions have still failed to achieve full compliance with the law. AALDEF and our community partners have observed the following issues in these earlier-covered jurisdictions during the 2022 Midterm Election:

a. Lowell, MA — Cambodian (Khmer) Since 2016

In Lowell there were several instances of Section 203 compliance issues. AALDEF monitored poll sites with the highest Cambodian voter populations, according to the most recent Census Bureau estimates. Despite Lowell becoming a Section 203-covered jurisdiction in 2016, the City failed to display translated election signage adequately, and to adequately assign bilingual interpreters and poll workers. In fact, one of the four poll sites serving primarily Khmer speaking voters had no bilingual interpreter or poll worker at all. Many of the poll sites displayed key instructional signage in English only and none of the four poll sites AALDEF monitored during the 2022 Midterm Election had signage indicating the availability of Khmer language assistance. Additionally, in three of the four poll sites bilingual assistors were present, only some Khmer speaking poll workers were given identification that would have identified them for Khmer speaking voters.

At one Lowell poll site, where there were no Khmer speaking interpreters or poll workers AALDEF observed a significant number of Khmer speaking voters who attempted to vote in the 2022 Midterms and experienced problems. In one instance, an apparent LEP Khmer-

speaking women, who was an inactive voter, was forced to navigate the complicated process for inactive voters without translation, which was a time consuming and frustrating process.

b. Malden, MA — Chinese (Mandarin and Cantonese) Since 2016

On August 24, 2022, Malden entered into a Memorandum of Understanding (MOU) with AALDEF, the Greater Boston Legal Services Asian Outreach Center, and the Greater Malden Asian American Community Coalition in an effort to address the city's past failings in providing Chinese language information and assistance in compliance with Section 203 of the VRA.¹¹⁸

AALDEF and our community partners observed some issues with Malden poll sites during the 2022 Midterm Elections, including a lack of clearly displayed signage identifying the availability of bilingual assistance, a lack of Chinese language ballot instructions at certain polling locations, a lack of Cantonese-speaking poll workers, and a complete lack of Chinese-speaking poll workers at least one poll site.

c. Quincy, MA — Chinese (Mandarin and Cantonese) Since 2011

In Quincy, AALDEF observed a complete lack of Chinese speaking poll workers and interpreters at least one poll site and an insufficient production and display of translated election signs and materials across several polling sites. One poll site monitored by AALDEF had only one Chinese-speaking poll worker who was inundated with LEP voters seeking assistance, while another poll site lacked Chinese speaking interpreters or poll workers altogether. Of the six poll sites AALDEF monitored during the 2022 Midterms, none displayed any signage either outside or within the poll site indicating the availability of Chinese language assistance. Each of these poll sites also lacked key instructional signage in Chinese including "Vote Here" and "Check in table instructions."

d. Bergen County, NJ — Korean Since 2011

In Bergen County, NJ there was an insufficient display of translated signage and voter instruction materials, as well as lack of Korean language interpreters. At one poll site monitored by AALDEF, the New Jersey Voter Bill of Rights was not visibly posted in English, Korean, or Spanish. Two poll sites where many members of the Korean community vote lacked any official and easily identifiable Korean-language interpreters.

e. New York City – Chinese (Mandarin and Cantonese) Since 1992; Korean since 2002; Asian Indian (Bengali) Since 2011

Kings County (Brooklyn), New York County (Manhattan), and Queens County, NY have all been covered for Chinese (Mandarin and Cantonese) since 1992 and Queens County is additionally covered for Korean since 2002 and Asian Indian (Bengali) since 2011.

AALDEF and our community partners observed poll sites in all three counties missing translated materials and signage including interpreter available signs, affidavit ballot envelopes, and voting instructions. Likewise, of the poll sites we observed, significant percentages of interpreters assigned by the New York City Board of Elections were not actually present on Election Day: Chinese (25%), Korean (21%), and Hindi (50%).¹¹⁹ The Director of AALDEF's Democracy Program, Jerry Vattamala, contacted the NYC Board of Elections on Election Day to notify them of the large number of assigned interpreters who were missing.

4. COMPLIANCE WITH SECTION 208 OF THE VOTING RIGHTS ACT (ASSISTANCE BY PERSONS OF CHOICE)

Any voter who is blind, disabled, or unable to read or write is entitled to assistance by a person of the voter's choice under Section 208 of the VRA.¹²⁰ This law protects millions of LEP, disabled, and illiterate citizens in the United States by allowing them to choose someone they trust to help them vote. Unlike Section 203, this assistance provision has no coverage formula and applies across the entire nation. Under Section 208, these assistors may provide assistance to vote. Assistance to vote is broadly defined as protecting the entire voting process, not just inside the voting booth, and "includes steps in the voting process before entering the ballot box, [such as] 'registration,' and it includes steps in the voting process after leaving the ballot box, [like] 'having such ballot counted properly.'" The VRA defines the terms "vote" and "voting" to "include all action necessary to make a vote effective,"¹²¹ and lists "'casting a ballot' as only one example in a non-exhaustive list of actions that qualify as voting."¹²² The only exception under this federal law is that assistors may not be the voters' employers or union representatives.¹²³

In 2021, Texas enacted several voter suppression measures, including limitations on assistance through Senate Bill 1. By requiring an oath from the assistor that they had limited their assistance to merely "reading and marking" the ballot in the booth, SB1 brazenly used identically illegal language from the Texas Election Code that a federal district court had enjoined in 2018 as a result of AALDEF's Section 208 lawsuit brought on behalf of OCA-Greater Houston.¹²⁴ Following AALDEF's action to enforce the 2018 Section 208 permanent injunction in 2022, the same district court struck down this SB1 voter assistance restriction.¹²⁵ Texas was ordered to provide relief prior to the midterm elections.¹²⁶

5. STATE AND LOCAL LANGUAGE ACCESS/ASSISTANCE LAWS COMPLIANCE ISSUES

f. Boston, MA

In July 2005, the US Department of Justice filed a lawsuit against the City of Boston alleging that the City's election practices and procedures discriminated against members of language-minority groups, specifically persons of Chinese, and Vietnamese heritage, so as to deny and abridge their right to vote in violation of Section 2 of the VRA. The suit also included claims under Section 203 of the VRA raised on behalf of the City's Spanish speaking voters.¹²⁷ In October, 2005, a three-judge court issued an Order and Memorandum of Agreement and Settlement authorizing federal examiners and retaining the court's jurisdiction through expiration of the federal examiner designation and the agreement, both to occur on December 31, 2008.¹²⁸ The terms of the agreement required a comprehensive Chinese and Vietnamese language election program, including trained bilingual poll workers at targeted polling sites and translated election information, including ballots.

Later, in 2010 and in 2014 following the expiration of the order and agreement, Governor Deval Patrick continued the language access for Chinese- and Vietnamese- speaking voters by ordering that candidate names continue to be transliterated.¹²⁹ and to permanently require Boston to provide Vietnamese and/or Chinese ballots at all polling sites where more than five percent of the citizen voting-age population are members of that language minority and are LEP, or where the board of elections commissioners determines there is "substantial need" for such ballots.¹³⁰ While AALDEF witnessed translated materials at monitored poll sites during the Midterm Election, at least one poll site in Boston's Dorchester neighborhood, the cultural center of the city's Vietnamese community, lacked bilingual poll workers or interpreters. Boston must ensure bilingual poll workers are present at poll sites that serve the Chinese and Vietnamese communities.

6. THE NEED FOR VOLUNTARY LANGUAGE ASSISTANCE

Many states and localities with large and growing Asian American populations are not currently required to provide language assistance to those voters under federal or state law, and thus do not do so, leaving an unmet language need. AALDEF has worked to address these deficiencies, and has successfully persuaded elections officials in Illinois, Louisiana, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, Pennsylvania, and Virginia to provide language assistance voluntarily to voters, ahead of their potential coverage under federal law. Such efforts by local election officials to provide voluntary language assistance, while commendable, were still insufficient.

Indeed, in every state where AALDEF conducted exit polls and poll monitoring, the LEP voters we spoke to complained about the lack or shortage of language assistance at their poll sites and their consequent inability to vote a fully informed ballot. Jurisdictions with particularly high need for language assistance are listed below.

a. Florida

Unfortunately, no jurisdictions in Florida are currently covered for mandatory Asian language assistance under Section 203, yet there is still significant need. In Broward County that need is for Cantonese, Mandarin, and Korean language assistance. Of voters surveyed, 50.0% of native-Cantonese speakers, 25.0% of native Mandarin-speaking voters, and 20.0% of native-Korean speakers identified as LEP. When asked, 20.0% of native-Korean speakers and 12.5% of native-Cantonese speakers indicated they would have used translated elections materials if they were made available.

In Orange County, there is a need for Mandarin language assistance with 83.3% of native-Mandarin speaking voters identified as LEP. One in three native-Mandarin speaking voters surveyed said, if provided, they would have used an interpreter, and one in six said it would have used translated materials if made available.

b. Georgia

Like Florida, no Georgia jurisdictions are Section 203-covered for mandatory Asian language assistance, but in two rapidly growing Atlanta-area counties there are many voters who would benefit from such assistance. DeKalb County voters have a significant need for Vietnamese, Bengali, and Mandarin language assistance. Of voters surveyed, 50.0% of native-Vietnamese speakers, 38.5% of native-Bengali speakers, and 20.0% of native-Mandarin speakers identified as LEP. One in six native-Vietnamese voters stated they would have used interpreters if provided and the same percentage would have used translated materials if provided.

In Gwinnett County, assistance is needed in several Asian languages. The LEP rates are high for native speakers of many Asian languages: Korean (58.3%), Vietnamese (50.0%), Mandarin (46.2%), Bengali (42.9%), Cantonese (33.3%), and Hindi (23.1%). Large portions of these voters also indicated they would have used assistance from an interpreter fluent in their native language if provided: 42.5% for native-Bengali speakers, 33.3% for native-Cantonese speakers, and 23.1% for native-Mandarin speakers. For native-Mandarin speaking voters, 23.1% stated they would also have used translated materials if provided.

c. Maryland

In Montgomery County, there is a need for Mandarin and Tagalog language assistance. Of voters surveyed, 41.7% of Native-Mandarin speakers and 33.3% of native-Tagalog speakers indicated they were LEP.

d. Michigan

In Michigan, the results of the Asian American Exit Poll illustrate a need for voting assistance in South and West Asian languages. In Canton, there is a need for Punjabi language assistance. Of the native-Punjabi speaking voters we surveyed, 20.0% identified as LEP. In Hamtramck, which is Section 203 covered for Bangladeshi (Bengali), there is also a large need for Arabic language assistance. Of the native-Arabic speaking voters we surveyed, 50.0% identified as LEP. Further, 15% of native-Arabic speaking voters indicated they would have used an Arabic language interpreter to assist them, but none was provided at their poll site. In Warren, there was a need for Bengali assistance with 68.4% of the native-Bengali speaking voters we surveyed identifying as LEP. Likewise, in Sterling Heights, of the native-Bengali speaking voters we surveyed, 22.2% identified as LEP.

e. Nevada

While Clark County is Section 203-covered for Filipino (Tagalog), there is also significant need for Cantonese and Mandarin language assistance. Of native-Cantonese speaking voters surveyed, 84.6% identified as LEP. Likewise, 85.7% of native-Mandarin speaking voters surveyed identified as LEP. When asked whether they would have used an interpreter if one had been provided 15.4% of native-Cantonese speaking voters, and 14.3% of native-Mandarin speaking voters answered affirmatively. Additionally, 42.9% of native-Mandarin speaking voters said they would have used translated materials if they had been provided.

f. New York

In New York's two largest and most diverse counties, there is significant need for Asian language assistance in addition to that already required under Section 203. In Queens County, there is significant need for Tagalog, Urdu, Gujrati, Punjabi, and Vietnamese language assistance. The Asian American Exit Poll found high LEP rates for native speakers of these languages: Tagalog (33%), Urdu (42.3%), Gujrati (23.1%), Punjabi (40.9%), and Vietnamese (60.0%).

In Kings County, there is a need for Tagalog, Bengali, Urdu, and Vietnamese language assistance. LEP rates for these native language speakers were high: Tagalog (28.6%), Bengali (71.1%), Urdu (47.6%), and Vietnamese (71.4%). Among native-Vietnamese speaking voters in Kings County, 14.3% stated they would have used an interpreter if one had been present. Likewise, 14.3% of native-Urdu speaking voters stated they would have used translated materials had they been provided.

g. Pennsylvania

In Philadelphia County there is a significant need for Tagalog, Vietnamese, and Khmer language assistance. LEP rates for native speakers of each of these Asian languages are high: Tagalog (42.9%), Vietnamese (76.5%), and Khmer (56.0%). Additionally, 11.8% of native-Vietnamese speaking voters stated they would have used an interpreter if one had been present.

h. Texas

In Texas, there is significant need for Asian language assistance in addition to that already required under Section 203. In Collin and Travis counties, there is a significant need for Mandarin language assistance. In Collin County, 55.6% of native-Mandarin speaking voters indicated they are LEP. The LEP rate for native-Mandarin speaking voters in Travis County was also high at 33.3%.

In Fort Bend County, there is likewise a need for Mandarin language assistance, as well as assistance in Urdu and Vietnamese. The LEP rates for native speakers of these languages was high: Mandarin (80.0%), Urdu (28.6%), and Vietnamese (42.9%). Ten percent of Native-Mandarin speaking voters and 14.3% of native-Vietnamese speaking voters stated they would have used interpreters in their language had they been present. The same percentages of the two groups would also have used translated materials if they had been provided.

In Harris County, there is a need for Korean and Urdu language assistance. The native-Korean speaking voters surveyed were 33.3% LEP, while the native-Urdu speaking voters were 80.0% LEP. One in five of the native-Urdu speaking voters also stated they would have used an interpreter had one been provided.

i. Virginia

In Virginia, the Asian American Exit Poll found significant need for Asian language assistance in Fairfax and Loudon counties. While Fairfax County is required by Section 203 to provide language assistance for Vietnamese, there is also strong need for assistance in Cantonese, Mandarin, Korean, and Bengali. The LEP rates for native speaker of these languages we surveyed are high: Cantonese (23.1%), Mandarin (26.7%), Korean (64.6%), and Bengali (37.5%). Of native-Korean speaking voters, 24.4% stated they would have used an interpreter had one been present. With respect to translated materials, 13.3% of native-Mandarin speaking voters, 13.4% of native-Korean speaking voters, and 12.5% of native-Bengali speaking voters stated they would have used them if they had been provided.

In Loudon County, there is a need for Mandarin, Bengali, and Vietnamese language assistance. The LEP rates for native speakers of these languages we surveyed are high: Mandarin (20.0%), Bengali (60.0%), and Vietnamese (61.1%). Of native-Vietnamese speaking voters, 11.1% stated they would have used an interpreter had one been present. Of native-Bengali speaking voters, 20.0% stated they would have used translated materials if they had been provided.

The high rates of limited English proficiency in these jurisdictions demonstrate a pressing need for bilingual election assistance and information. Local elections officials must strive to translate its election information and provide bilingual poll workers to meet that need, in the proper languages and at the proper sites as recommended by the community organizations who speak for those LEP voters.

B. DISCRIMINATORY AND POORLY TRAINED POLL WORKERS

Poll workers who are poorly trained or hostile can exacerbate the challenges already present in the voting process, especially for elderly, LEP, and first-time voters. The unnecessary confusion and frustration that they create can serve to discourage or even disenfranchise voters and prevent them from participating in future elections.

In AALDEF's 2022 Asian American Exit Poll, several Asian American voters complained that poll workers were "rude or hostile." Several more poll workers were unhelpful or unknowledgeable about proper election procedures, prompting many Asian American voters to complain to AALDEF about poll workers who did not know what to do. Aside from these survey responses, AALDEF volunteers interviewed dozens of voters whose voting experiences had been made more difficult, confusing, or inconvenient by hostile and/or poorly trained poll workers. Unfortunately, countless other voters who experienced similar barriers left the poll site without documenting their issues with AALDEF.

1. DISCRIMINATORY AND HOSTILE POLL WORKERS

Throughout the country, Asian American voters encountered discriminatory or hostile poll workers. For example, in Brooklyn, NY, a poll worker told an Asian American that he did not have the right to vote, despite the voter being an American citizen and voting in many prior elections. The poll worker was rude and dismissive saying that the voter was not registered. Luckily, the voter was eventually able to cast his ballot after talking to another poll worker who was able to find the voter's name in the voter roll. At another Brooklyn poll site, an Indian American voter reported hostile comments from poll workers who assumed that he did not speak English.

Discrimination and hostility from poll workers not only discourage voters from exercising their fundamental right to vote, but also potentially violate the law.

2. POORLY TRAINED POLL WORKERS AND INTERPRETERS

Poll workers must be well trained and kept up to date on the legal rights of voters, especially LEP voters. HAVA requires that voters be informed of their rights at poll sites.¹³¹ However, some poll workers failed to post required signs with vital information for voters or failed to post signs in languages aside from English.

Poll workers were also inadequately trained regarding relevant federal and local voting laws, including procedures for directing or otherwise assisting LEP voters who needed language assistance. For example, while some jurisdictions provide interpreters, whether due to Section 203 or voluntarily, many of these interpreters were unaware of translated materials, including voting instructions and provisional ballots. At a poll site in Manhattan, NY, AALDEF observed that interpreters were completely unaware of translated Chinese language materials, robbing LEP voters the ability to read voting information on an equal basis as their native-English speaking counterparts.

3. IMPROPER ELECTIONEERING

Some poll workers engaged in improper electioneering and voter interference. In Philadelphia, PA, an interpreter improperly influenced an LEP voter. The interpreter misinformed the LEP voter about the political party of the candidates for City Council. The voter, who required Cantonese assistance, asked the interpreter to show them which candidates on the ballot were Democrats, as the voter had told the interpreter she intended to vote for Democratic candidates. The interpreter then pointed to two names on the ballot and said that these candidates were "good for the Chinese community." The voter selected these two candidates but subsequently discovered that the candidates she was induced to vote for were both Republicans.

To address discriminatory, hostile, incorrect, or otherwise inappropriate statements or behavior by poll workers and interpreters, better training is required. Without proper training, poll workers and interpreters might interfere or try to influence voters, or inadvertently disenfranchise voters due to a lack of familiarity with voters' rights under the VRA and HAVA. Poll workers and interpreters who are hostile or discriminatory should be disciplined, retrained, or dismissed.

C. INCOMPLETE VOTER LISTS AND DENIALS OF PROVISIONAL BALLOTS

Many Asian Americans complained that their names were missing from the voter rolls. In the past, poll workers used to turn away voters, but HAVA requires that provisional ballots be given to all voters to preserve their right to vote.¹³² However, such ballots were not always offered or were expressly denied. At times, voters were even turned away.

1. ASIAN VOTERS' NAMES MISSING

Voters reported to their assigned poll sites, or to poll sites where they had previously voted, only to find their names missing from voter lists. Asian American voters, especially those with non-Anglo names, are disproportionately affected by errors in their voter records. In many of these cases, voters' names had been misspelled or their first and last names were inverted. In some instances, wives' names were missing but their husbands' names were found. When voters complained about these errors, some poll workers became hostile.

In our survey, Asian American voters across the country complained that their names were not listed or listed incorrectly. AALDEF volunteers encountered voters who experienced this problem in the following jurisdictions:

- Bergen County, NJ
- Clark County, NV
- Collin County, TX
- Dallas County, TX
- Fairfax County, VA
- Kings County (Brooklyn), NY
- New York County (Manhattan), NY
- Philadelphia County, PA
- Queens County, NY
- Santa Clara County, CA
- Sterling Heights, MI

In New York City, AALDEF volunteers reported 21 incidents in which poll workers were either unable to locate voters' names in the voter roll, or there was some other voter roll related issue. In some cases, Asian American voters found that their names were misspelled in the voter roll. In many instances, Asian American voters reported that their names were not on the voter roll at poll sites where they had been voting for many years, sometimes even decades.

Indeed, many voters whose names were missing from the voter roll—often through no fault of their own—had to resort to voting by provisional ballot. However, provisional ballots in several jurisdictions are notorious for being overwhelmingly long and complicated to fill out, even for voters who are highly fluent in English. Indeed, AALDEF volunteers across the country encountered LEP voters who struggled to complete their provisional ballots and envelopes, in many cases due to the shortage of language assistance at the poll site or the poll workers' failure to display multilingual affidavit envelopes.

2. DENIALS OF PROVISIONAL BALLOTS

In our survey, 91 voters indicated that they had to vote by provisional ballot. Although HAVA requires that provisional ballots be offered to voters whose names are missing from voter rolls, some poll workers discouraged and even denied voters this right and turned them away.

AALDEF and our community partners witnessed several problems related to provisional ballots in Gwinnett County, GA. Poll workers generally discouraged and, in some cases, refused voters provisional ballots when they were required to be made available to voters under federal and Georgia law. At one site, a poll worker wrongly claimed that a first-time voter who naturalized and registered to vote in August 2022 was unable to vote by provisional ballot because the voter's name did not appear in the voter registration system. Only after an AALDEF attorney spoke with the local voter registration hotline and county elections officials did the poll worker relent. It took over two hours at the poll site for the voter to be allowed to vote by provisional ballot. AALDEF reported this issue to the U.S. Department of Justice. Curiously, when AALDEF followed up with

this voter during the Dec. 2022 Run-Off Election a month later, the voter informed us that her name appeared in the voter registration system and that she was able to vote normally.

When a voter encounters a problem with registration, an incorrect poll site, or a name or address change, the voter may be prevented from engaging in the regular ballot process. The provisional ballot provides a method for expanding the inclusiveness of the voting process, and in most cases where the voter's name fails to appear on the voter rolls, the provisional ballot is the last line of defense against voter disenfranchisement. As such, jurisdictions must comply with HAVA's mandate to provide provisional ballots to voters at poll sites if their names are missing from voting lists. Poll workers should also receive better training on the rules regarding provisional ballots and how to handle such ballots.

3. SUGGESTIONS TO ACHIEVE COMPLIANCE WITH HAVA'S PROVISIONAL BALLOTING REQUIREMENT

Names do not appear on lists of registered voters at poll sites for a variety of reasons. Voters' names may have been entered incorrectly or their registration forms may have been lost or mishandled. These voters were never registered through no fault of their own. Other voters may have been misinformed of their proper poll sites and ended up going to the wrong location. Voters may also have been at the correct sites, but their names were improperly removed from lists.

The accuracy of voter lists needs to be improved. For individuals who voted by provisional ballot, those provisional ballot affirmations can be used to correct voter registration errors and omissions in the database of registered voters. Most of the information on the affirmations, typically written on provisional ballot envelopes, is already used for voter registration. The Carter/Ford National Commission on Federal Election Reform, which laid the groundwork for many of HAVA's provisions, also recommended this solution, and it should be implemented.

Poll workers also inconsistently decided whether voters may cast provisional ballots. If poll workers see that a voter is at the wrong poll site, they should direct the voter to the correct poll site. Otherwise, poll workers should offer provisional ballots if voters believe they are at the correct poll sites. While some jurisdictions do not count provisional ballots cast in the wrong site, the ballots should be counted for all the races in which the voters are eligible to vote.

Provisional ballots preserve an individual's vote. Poll workers need better training on the proper administration of provisional ballots. When voters have taken all the necessary steps to register, corrective measures must be put into place to fix errors and omissions.

D. IMPROPER IDENTIFICATION CHECKS

On Election Day, 131 Asian American voters were improperly required to prove their United States citizenship in order to vote. In *Arizona v. Inter Tribal Council of Arizona*,¹³³ the Supreme Court considered a challenge to a restrictive voter registration law that required proof of citizenship for voter registration—Arizona's Proposition 200.¹³⁴ In 2013, AALDEF filed an *amicus* brief in the Supreme Court challenging the legality of Proposition 200,¹³⁵ and on June 17, 2013, the Supreme Court struck down this law.¹³⁶ Requests for proof of citizenship of Asian American voters perpetuates the insidious attitude of Asian Americans as perpetual foreigners and must stop.

HAVA requires identification from a very narrow category of voters: only first-time voters who registered by mail and did not provide identification information with their registration application need to show identification when they vote.¹³⁷ These voters need not show *photo* identification; several forms of identification that include the voters' names and addresses are acceptable.¹³⁸ Notwithstanding positive efforts by election officials and community groups to educate the public,

as well as poll worker trainings that stressed the specific voter ID rules, identification was still required of a very large number of minority voters on Election Day.

In training our exit poll and poll monitoring volunteers, AALDEF reviewed current voter identification laws. AALDEF sought to dispel myths and ensure that voter ID requirements would not disenfranchise Asian Americans on Election Day.

Nonetheless, many long-time Asian American voters complained that they were improperly asked to provide identification. In states where voter ID is not generally required (beyond the requirements of HAVA), many Asian American voters were still required to present identification. A whopping 1,232 voters surveyed by the Asian American Exit Poll in these states stated that they were required to show identification on Election Day.

Table 4: Asian American Voters Improperly Required to Show ID in HAVA States

HAVA State	required to show identification
CA	24
DC	7
MA	28
MD	8
NJ	98
NV	57
NY	874
PA	136

The vast majority of these voters were not first-time voters, and therefore were certainly not required to show identification under HAVA. Even among the first-time voters, some may have provided identification information when they registered to vote, and thus may have still been improperly required to provide identification at the poll site.

In some cases, identification checks only appeared to be required of Asian American or language minority voters. Such demands for identification could discourage or disenfranchise voters. Poll workers must be better trained on the legal requirements regarding voter identification. When such demands for identification are discriminatory, these poll workers must be removed from their posts.

E. POLL SITE ISSUE – VOTERS TURNED AWAY

Inadequate notice of correct poll sites and misdirection to voting booths or election district tables inside poll sites created unnecessary confusion and can discourage and disenfranchise voters. Voters were often redirected, sometimes incorrectly, to other lines or poll sites. In our survey, 44 Asian American voters complained that they experienced confusion regarding their poll site while trying to vote.

In New York City, AALDEF volunteers encountered numerous voters who had gone to the wrong poll site, often due to misdirection by poll workers, or because the voters had not received notification of poll site changes. In Sunset Park, Brooklyn one voter reported being forced to vote by a provisional ballot at her poll site despite voting at the same poll site in previous years. In Sunnyside, Queens a Korean American voter was told that she was at the wrong polling site, waited in line at a different polling site for 30 minutes only to be told that the original poll site was indeed her correct poll site. In Flushing, Queens, many elderly Chinese American voters had been redistricted to a different poll site, but the Board of Elections notification mailer was only in English, so these LEP voters arrived to vote at their previous and now incorrect poll site. In many instances, Asian American voters who had received confusing or conflicting instructions from poll

workers had to either look up their poll sites and/or election districts themselves, or with the assistance of interpreters or AALDEF volunteers.

In Gwinnett County, GA, hundreds of voters at multiple poll sites were turned away because they were at the incorrect poll site. Many of these voters had not changed their residence in years and had previously voted at the poll site. Information regarding early vote and election day voting was often times not communicated to voters.

Election officials and poll workers must provide voters with all the information they need to cast their ballots in a timely and appropriate manner, including but not limited to their poll site assignments and the location of their correct election district tables. Without this information proactively made available to them, elderly, LEP, and first-time voters are left especially vulnerable to discouragement and disenfranchisement.

F. BROKEN VOTING MACHINES, LONG LINES, AND DELAYS

In light of continued high voter turnout, many poll sites throughout the country were not adequately equipped or staffed on Election Day to meet voter needs, often resulting in long lines and significant delays. As many voters reported, these delays were often compounded by problems with broken voting machines.

AALDEF's volunteers observed many issues with broken voting machines that delayed or perhaps even disenfranchised voters. In our survey, 44 Asian American voters reported encountering broken voting machines at their poll sites. In addition to exacerbating delays, inadequate and/or broken voting machines serve to add to the confusion of LEP and first-time voters in navigating the complexities of the voting process, including many Asian American voters.

Local election officials must check the equipment at their poll sites—most importantly, the voting machines—to ensure proper functioning in advance of future elections. Election officials should also improve their systems and procedures for receiving and responding to complaints on Election Day, including reports of broken voting machines. In light of high potential voter turnout, better poll site administration is also needed to more efficiently manage peak turnout times. Poll sites with particularly deficient staffing or equipment will result in many voters being avoidably disenfranchised.

III. RECOMMENDATIONS

Several steps must be taken to address the barriers faced by Asian American voters, both at the national and local level. AALDEF makes the following recommendations.

A. NATIONAL RECOMMENDATIONS

1. CONGRESSIONAL ACTION

- j. Enact a new coverage formula for Section 5 of the Voting Rights Act, so preclearance can be reimplemented to prevent jurisdictions with histories of racial discrimination from harming minority voters' equal ability to participate in our democracy.
- k. Pass Legislation Allowing Universal Voter Registration, lowering the disproportionate burdens voter registration has on Asian American voters, especially those who are LEP or elderly.
- l. Close the loophole created by *GALEO v. Gwinnett County Board of Registrations and Elections*, 36 F.4th 1100 (2022), which, for the first time, under a novel and ahistorical judicial interpretation, permitted a Section 203 covered local jurisdiction to avoid translating its absentee ballot by having the absentee ballot be "provided" by the uncovered state, contravening Section 203's legislative intent and decades of state practice.

2. U.S. DEPARTMENT OF JUSTICE ENFORCEMENT

- a. Vigorously enforce the requirements of Section 203 of the VRA in all jurisdictions covered for Asian languages, so Asian LEP voters may receive effective oral assistance, and complete and accurately translated election information, including ballots.
- b. Enforce the anti-discrimination provisions of Section 2 of the VRA to protect Asian American voters from discrimination in voting.
- c. Defend voters' rights under Section 208 of the VRA, to ensure that LEP, blind, and illiterate voters can be assisted by persons of their choice.
- d. Strengthen investigation and enforcement of HAVA's provisions regarding the proper and nondiscriminatory application of voter identification requirements and voters' right to a provisional ballot.

B. LOCAL RECOMMENDATIONS

1. LANGUAGE ASSISTANCE

- a. Meet with community-based organizations to determine the needs of Asian American LEP voters, and in which languages and specific dialects oral and written assistance should be rendered.
- b. Provide effective language assistance to all LEP voters. Poll sites serving Asian American voters should be equipped with a sufficient number of trained interpreters

and bilingual poll workers, and completely and accurately translated election information including voter registration forms, voting instructions, and ballots.

2. POLL WORKER AND INTERPRETER TRAINING

- a. Better train poll workers, enabling them to understand the requirements for language assistance and the proper use and posting of translated voting materials and signs under Section 203, and voters' rights to be assisted by persons of their choice inside the voting booth under Section 208.
- b. Additionally train poll workers near the election period on how to properly direct voters to their assigned poll sites and precinct voting booths and the narrow circumstances they may demand voter identification under HAVA and state law.
- c. Reprimand, retrain, or remove poll workers from their posts if they are hostile or discriminate against a group of voters, such as Asian American voters, or if they deny or restrict language assistance to voters.
- d. Ensure voters whose names cannot be found in lists of registered voters located at poll sites are given provisional ballots as per HAVA. Local election officials should count the ballots of all registered voters when their ballots are cast in their neighborhoods and local districts, even if they were at the wrong poll site. Voters should also receive notification of any poll site changes in advance of elections. Former poll sites should have notices in English, as well as translated notices, indicating the poll site move and listing the new poll site location.

3. LOCAL ELECTION ADMINISTRATION

- a. Correct errors in the registrations of new voters to prevent ballots from being disqualified. Voting by provisional ballot should be used as an opportunity to correct such errors in the voter roll.
- b. Inspect and properly maintain all voting machines, including repairing any voting machines that had broken during the Midterm Election.
- c. Acquire and deploy new voting machines at poll sites with reports of very long voting lines and delays during the Midterm Election, particularly in light of anticipated high voter turnout for the 2024 Elections.

APPENDIX

Table A: List of Poll Sites, Nov. 2022 AALDEF Asian American Exit Poll

State	County	City	Poll Site
CA	San Diego	La Jolla	UCSD Geisel Library
		San Diego	Paradise Hills Vote Center
	Santa Clara	San Jose	Santa Clara County Fairgrounds Tully Community Branch Library
DC	DC	DC	Bancroft Elementary School
FL	Broward	Southwest Ranches	Southwest Regional Library
	Miami Dade	Miami	Kendall Branch Library
	Orange	Apopka	Apopka Community Center
GA	DeKalb	Atlanta	Oakcliff Elementary School
		Duluth	Shorty Howell Park
	Gwinnett	Norcross	Lucky Shoals Community Center
MA	Middlesex	Lowell	Senior Center
	Norfolk	Quincy	North Quincy HS
	Suffolk	Boston	Cathedral High School Dr. William Henderson Inclusion Elementary School Wang YMCA of Chinatown
MD	Montgomery	Rockville	Montgomery
MI	Macomb	Sterling Heights	Gibbing Admin Building
		Warren	Beer Middle School Butcher Community Education Center
		Malden	Beebe School
	Oakland	Troy	First Romanian Baptist Church First United Methodist Church
	Travis	Austin	Spicewood Springs Branch Library
	Washtenaw	Ann Arbor	Clague Middle School
	Wayne	Canton	Summit on the Park
		Detroit	Lasky Recreation Center Hamtramck Community Center Hamtramck Senior Plaza Housing Administration Building
		Hamtramck	
NJ	Bergen	Fort Lee	Fort Lee Senior Citizen Activities Center
		Palisades Park	Lindbergh School
	Hudson	Jersey City	Fire House
	Middlesex	Edison	JP Stevens
NV	Clark	Las Vegas	Chinatown Plaza Seafood City
NY	Kings	Brooklyn	KENSINGTON - PS 230
			MIDWOOD - PS 217
			SUNSET PARK - PS 896
	New York	Manhattan	Confucius Plaza
			PS 126
			PS 130
	Queens	Queens	BAYSIDE - Benjamin N. Cardozo High School
			ELMHURST - Newtown High School
			FLUSHING - JHS 189
			FLUSHING - PS 20 John Bowne
FLUSHING - PS 214			
FLUSHING - PS 22 Thomas Jefferson			
GLEN OAKS - PS 115			
JACKSON HEIGHTS - PS 69			
RICHMOND HILL - JHS 226			

			SUNNYSIDE - PS 150-Queens
			WOODSIDE - PS 12
PA	Philadelphia	Philadelphia	Chinese Christian Church
			Columbus Square Recreation Center
			DiSilvestro Recreation Center
			Ford PAL Recreation Center
			Furness School
			Mastery Thomas Charter School
			South Philadelphia Branch Library
			South Philadelphia High School
			St. George's Greek Orthodox Church
TX	Collin	Frisco	Frisco Fire Station #8
	Dallas	Garland	Vietnamese Community Center
	Fort Bend	Sugar Land	Jacks Conference Center
			Museum of Natural Science
	Harris	Houston	Alief ISD Building Admin Building
			Chinese Community Center
			Houston Community College Alief Center
			Tracy Gee Community Center
			Trini Mendenhall Community Center
VA	Fairfax	Annandale	Annandale Fire Station Co., #8
		Burke	Lake Braddock Secondary School
		Centreville	Powell Elementary School
		Fairfax	Providence Community Center
		Falls Church	Woodrow Wilson Library
	Loudoun	Sterling	Potomac Baptist Church
			Sugarland Elementary School

Table B: List of Poll Sites Monitored by AALDEF and Community Partners, Nov. 2022

State	County	City/Borough	Poll Site
MA	Middlesex	Lowell	Bailey School
			Collegiate Charter School of Lowell
			Morey School
			Rogers School Gymnasium
		Malden	Beebe School
			Early Learning Center
			Ferryway School Café
			Ferryway School Gym
			Forest Dale School
			Irish American Club
	Norfolk	Quincy	Malden Senior Center
			Suffolk Manor
			Atlantic Middle School
			Knights of Columbus Hall
			Montclair School
			North Quincy High School
	Suffolk	Boston	Quincy Community United Methodist Church
			Saint John's Church
			Cathedral High School
			Catherine Clark Apartments
Cristo Rey Boston High School			
Cyclorama			
Dorchester House			
MN	Ramsey	St. Paul	Dr. William Henderson Inclusion Elementary School
			Wang YMCA of Chinatown
			Divinity Lutheran Church
			East Side Community Center
			Eastern Heights Elementary School
			McDonough Community Center
NJ	Bergen	Fort Lee	Richard & Catherine Nest Adult Activity Center
		Palisades Park	Palisades Park Junior and Senior High School
	Middlesex	Edison	James Monroe Elementary School
			John Adams Middle School
			JP Stevens High School
NM	Bernalillo	Albuquerque	Thomas Jefferson Middle School
			Cibola High School
			La Cueva High School
			Manzano Mesa Elementary School
NY	Kings	Brooklyn	Ed R Murrow High School
			Midwood Public Library
			P.S. 101 The Verrazano School
			P.S. 105
			P.S. 128
			P.S. 186
			P.S. 205
			P.S. 217
			P.S. 227 JHS
			P.S. 95
			P.S. 97 The Highlawn School
			P.S. 99
			P.S./I.S. 226 Alfred De B. Mason
	PS 682		
New York	Manhattan	Civil Court	

			Masaryk Towers	
			Mott St. Senior Center	
			P.S. 140	
			P.S. 184M	
			P.S. 2 Meyer London	
			P.S. 20	
			PS 131	
	Rafael Hernandez Houses			
	Queens	Queens		I.S. 5-Walter Crowley Intermediate School
				Newtown H.S.
				P.S. 102 Bayview
				P.S. 12 James B. Colgate
				P.S. 13 Clement C. Moore
				P.S. 222 Christopher A. Santora School
P.S. 234				
P.S. 7				
P.S. 85 Judge Charles Vallone				
P.S. 89				
PS 206-Horace Harding School				
PS 70 Queens				
PA	Philadelphia	Philadelphia	Arts & Crafts Holdings	
			Bok Building	
			Chinese Christian Church	
			Church Of Grace to Fujianese	
			East Passyunk Community Center	
			Ford Recreation Center	
			Greek Orthodox Church (Northeast)	
			Greenfield School	
			Holy Communion Lutheran Church	
			Mastery Thomas Charter School	
			Mayfair School	
			Old First Reformed Church	
			Seafarers Union Hall	
			Solis Cohen School	
St John's Lutheran Church				
VA	Henrico	Glen Allen	Colonial Trail Elementary School	
			Rivers Edge Elementary School	
		Richmond	St. Anthony's Day Care Center	
			Short Pump Elementary School	

Table C: Native Language Speakers—By Jurisdiction

State	Jurisdiction	Language	% of Surveyed Voters
CA	San Diego	Tagalog	19.4%
		Vietnamese	6.5%
CA	Santa Clara	Vietnamese	49.7%
		Tagalog	6.0%
		Mandarin	5.3%
DC	DC	Hindi	9.1%
		Tagalog	6.1%
		Urdu	6.1%
FL	Broward	Tagalog	14.1%
		Cantonese	8.7%
		Mandarin	8.7%
FL	Miami Dade	Cantonese	26.7%
		Mandarin	13.3%
FL	Orange	Mandarin	31.6%
		Vietnamese	15.8%
		Khmer	10.5%
GA	DeKalb	Bengali	33.3%
		Vietnamese	20.5%
		Mandarin	12.8%
GA	Gwinnett	Vietnamese	18.3%
		Mandarin	10.3%
		Hindi	10.3%
MA	Boston	Cantonese	38.5%
		Vietnamese	21.5%
		Mandarin	12.6%
MA	Lowell	Khmer	56.0%
		Vietnamese	8.0%
MA	Malden	Mandarin	25.0%
		Cantonese	25.0%
		Vietnamese	8.3%
MA	Quincy	Cantonese	38.5%
		Mandarin	30.8%
		Vietnamese	7.7%
MD	Montgomery	Mandarin	16.7%
		Tagalog	12.5%
MI	Ann Arbor	Korean	14.8%
		Mandarin	11.1%
MI	Canton	Hindi	13.5%
		Urdu	11.5%
		Gujarati	9.6%
		Punjabi	9.6%
MI	Detroit	Bengali	28.6%
		Arabic	14.3%
MI	Hamtramck	Bengali	48.4%
		Arabic	32.3%
MI	Sterling Heights	Bengali	22.0%
		Arabic	17.1%
MI	Troy	Bengali	12.5%
MI	Warren	Bengali	57.6%
		Korean	9.1%
		Arabic	9.1%
NJ	Bergen	Korean	75.7%
NJ	Hudson	Tagalog	43.2%
		Urdu	9.1%
NJ	Middlesex	Hindi	21.2%
		Gujarati	17.6%
NV	Clark	Tagalog	50.6%

		Cantonese	7.8%
NY	Kings	Bengali	25.8%
		Cantonese	23.9%
		Mandarin	17.0%
NY	New York	Cantonese	49.0%
		Mandarin	19.9%
NY	Queens	Mandarin	24.4%
		Cantonese	13.6%
		Korean	11.3%
PA	Philadelphia	Cantonese	22.0%
		Mandarin	15.5%
		Vietnamese	10.1%
TX	Collin	Hindi	17.6%
		Mandarin	8.8%
TX	Dallas	Vietnamese	85.7%
TX	Fort Bend	Mandarin	16.9%
		Urdu	11.9%
		Vietnamese	11.9%
TX	Harris	Vietnamese	41.0%
		Mandarin	15.4%
TX	Travis	Mandarin	26.1%
		Hindi	8.7%
VA	Fairfax	Korean	23.3%
		Vietnamese	16.8%
VA	Loudoun	Vietnamese	21.7%
		Tagalog	14.5%
		Mandarin	12.0%

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The following co-sponsors helped mobilize over 550 volunteers across the country to conduct the nation's largest Asian American exit poll and election monitoring program.

National

Asian and Pacific Islander American Vote (APIA Vote)
 Asian Pacific American Labor Alliance (APALA)
 National Asian Pacific American Bar Association (NAPABA)
 National Federation of Filipino American Associations (NaFFAA)
 National Queer Asian Pacific Islander Alliance (NQAPIA)
 OCA – Asian Pacific American Advocates
 Voters of Tomorrow

Local

ACDC Texas**
 Asian American Federation of Florida
 American Citizens for Justice / Asian American Center for Justice (ACJ)
 American Friends Service Committee
 Apex for Youth
 Asian American Federation of New York (AAFNY)
 Asian American Organizing Project (AAOP MN)
 Asian Americans United (AAU)**
 Asian Family Support Services of Austin, Austin Asian communities Civic Coalition
 Asian Pacific Islander American Public Affairs Association (APAPA Austin)**
 Asian and Pacific Islander American Vote – Michigan (APIA VOTE MI)**
 Asian Texans for Justice (ATJ)**
 Association of Chinese Americans (ACA)**
 Boat People SOS – Houston**
 Cambodian Mutual Assistance Association (CMAA Lowell)**
 CAPI MN
 Caribbean Equality Project**
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 Coalition of Asian American Leaders (CAAL MN)**
 Florida Asian Services (FASC)**
 GAPIMNY- Empowering Queer & Trans Asian Pacific Islanders
 Hamkae Center**
 Houston in Action**
 Japanese American Citizens League – Houston**
 KAYF - We Are Future Leaders
 Korean Community Services of Metropolitan New York**
 MinKwon Center for Community Action**
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 National Federation of Filipino American Associations – San Diego/Imperial Chapter**
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 OCA Dallas and Fort Worth (OCA DFW)**
 OCA Detroit**
 OCA Greater Houston Chapter**
 OCA South Florida
 Pilipino American Unity for Progress NY (UniPro NY)**
 Southeast Asian Mutual Assistance Associations Coalition, Inc. (SEAMAAC)**

Upper Manhattan Asian American Alliance
 VietLEAD**
 Vietnamese American Young Leaders Association of New Orleans (VAYLA)
 Woodside on the Move**

Law Firms

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 Shearman & Sterling LLP**
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Legal

Asian American Bar Association of Houston
 Asian American Bar Association of New York (AABANY)
 Asian Law Alliance (ALA)**
 Asian Pacific American Lawyers Association of NJ (APALA-NJ)
 Asian Pacific American Legal Resource Center (APALRC)
 Asian Pacific Bar Association of DC (APABA-DC)
 Asian Pacific Bar Association of Maryland (APABA-MD)
 Asian Pacific Bar Association of Pennsylvania (APABA-PA)
 Austin Asian American Bar Association (AAABA)
 Georgia Asian Pacific American Bar Association (GAPABA)**
 Greater Boston Legal Services – Asian Outreach Unit**
 Muslim Bar Association of New York (MuBANY)
 South Asian Bar Association of New York (SABANY)

Schools

Berkeley SALSA
 Boston College APALSA**
 Cardozo APALSA
 Columbia APALSA**
 Columbia Asian American Alliance
 Columbia School of Social Work Asian Pacific Islander Student Caucus (CSSW API Caucus)
 Columbia School of Social Work China Center for Social Policy
 Columbia University School of Social Work
 Cornell Law School
 CUNY Asian American / Asian Research Institute
 Duke APALSA
 Golden Gate University APALSA
 Harvard APALSA**
 Harvard Kennedy School Asian Pacific American Caucus
 Harvard Pan-Asian Graduate Student Alliance

Hunter College Asian American Studies Program**
Michigan Law APALSA
NYU APA Institute
NYU APALSA
Penn Law APALSA
Suffolk Law APALSA
University of Michigan APALSA
UCSD Asian Pacific Islander Middle Eastern Desi American (APIMEDA) Programs and Services
UT Austin Center for Asian American Studies
Washington & Lee APALSA

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⁶ See, e.g., Anna Purna Kambhampaty, *Asian Americans Are the Fastest-Growing Racial Group in the Electorate—But Many Face Additional Obstacles to Voting by Mail*, TIME Magazine (Oct. 20, 2020, 5:54 PM), <https://time.com/5901094/asian-americans-vote-by-mail>; Phil Tajitsu Nash, *Viral Voting: AALDEF Adapts to 2020 and Beyond*, 31 Asian Am. Pol. Rev. (2021). Danny Hakim & Michael Wines, *‘They Don’t Really Want Us to Vote’: How Republicans Made It Harder*, N.Y. TIMES (Nov. 3, 2018), <https://www.nytimes.com/2018/11/03/us/politics/voting-suppression-elections.html>.

⁷ Voting Rights Act of 1965, Pub. L. 89–110, 79 Stat. 437 (codified as amended in scattered sections of 52 U.S.C.).

⁸ 52 U.S.C. § 10503.

⁹ 52 U.S.C. § 10508.

¹⁰ 52 U.S.C. § 10301.

¹¹ Help America Vote Act of 2002, Pub. L. 107–252, 116 Stat. 1666 (codified as amended in scattered sections of 52 U.S.C. 52 U.S.C.).

¹² 52 U.S.C. § 10503(c).

¹³ 52 U.S.C. § 10508.

¹⁴ 52 U.S.C. § 21082(a)–(b).

¹⁵ See 52 U.S.C. § 21083(b).

¹⁶ See Consent Decree and Order, *Detroit Action v. City of Hamtramck*, No. 21-11315 (E.D. Mich. July 13, 2021).

¹⁷ See *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D. Tex. Jun. 6, 2022).

¹⁸ See *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D. Tex. Jun. 6, 2022); see also *OCA-Greater Houston v. Texas*, No. 1:15-CV-00679-RP, 2016 WL 9651777 (W.D. Texas Aug. 12, 2016), *aff’d*, 867 F.3d 604 (5th Cir. 2017); *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2018 WL 2224082 (W.D. Tex. May 15, 2018).

¹⁹ See Memorandum of Understanding, *AALDEF, Greater Boston Legal Services’ Asian Outreach Unit, Greater Malden Asian American Community Coalition, and the City of Malden* (2022).

²⁰ The eleven Asian languages were: Arabic, Bengali, Chinese, Gujarati, Hindi, Khmer, Korean, Punjabi, Tagalog, Urdu, and Vietnamese. Volunteers were conversant in twenty-nine (29) Asian languages and dialects: Arabic, Bengali, Burmese, Cantonese, Farsi, Fujianese, Gujarati, Hindi, Hmong, Hokkien, Indonesian, Japanese, Kannada, Khmer, Korean, Malayalam, Mandarin, Marathi, Nepali, Punjabi, Sichuanese, Tagalog, Taiwanese, Teochew, Thai, Toisan, Urdu, Vietnamese, and Wenzhounese.

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- ²¹ In Minnesota, AALDEF's poll monitoring was conducted through in person interviews with voters outside poll sites after they had voted.
- ²² See, e.g., *Reynolds v. Sims*, 377 U.S. 533, 561–62 (1964) (“Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society.”).
- ²³ See Sheryll Cashin, *Democracy, Race, and Multiculturalism in the Twenty-First Century: Will the Voting Rights Act Ever Be Obsolete?*, 22 WASH. U. J.L. & POL'Y 71, 88–89 (2006).
- ²⁴ 52 U.S.C. § 10503(e).
- ²⁵ See Katherine Culliton-González, *Time to Revie Puerto Rican Voting Rights*, 19 Berkeley La Raza L.J. 27, 33–34.
- ²⁶ See S. Rep. No. 94-295, at 24 (1975), reprinted in 1975 U.S.C.C.A.N. 774, 790; S. Rep. (1992), 102-315, at 4.
- ²⁷ The VRA has been reauthorized five times: in 1970, 1975, 1982, 1992, and 2006. See Pub. L. No. 91-285, 84 Stat. 314 (1970); Pub. L. No. 94-73, 89 Stat. 400 (1975); Pub. L. No. 97-205, 96 Stat. 131 (1982); Pub. L. 102–344, 106 Stat. 921 (1992); Pub. L. 109–246, Stat. 577 (2006).
- ²⁸ See An Act to Amend the Voting Rights Act of 1965, Pub. L. 94–73, § 203, 89 Stat. 400, 401–02. (1975).
- ²⁹ 52 U.S.C. § 10503(a).
- ³⁰ 52 U.S.C. § 10503(c). Limited English proficiency for the Section 203 determinations is determined by one's ability to read English less than “very well.” H.R. Rep. No. 102-655, at 7 (1992), as reprinted in 1992 U.S.C.C.A.N. 766, 772.
- ³¹ 52 U.S.C. § 10503(b)(2)(A).
- ³² To Amend the Voting Rights Act of 1965 with Respect to Bilingual Election Requirements, Pub. L. 102-344, 106 STAT. 921 (1992).
- ³³ 57 Fed. Reg. 43213 (1992); 67 Fed. Reg. 48871 (2002).
- ³⁴ Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Pub. L. 109-246, 120 Stat. 577 (2006).
- ³⁵ 52 U.S.C. § 10503(b)(2)(A); (e). Additionally, if it is determined that an American Indian Area or Alaska Native Area meets the coverage criteria, then any political subdivision that contains that area is covered. 52 U.S.C. § 10503(b)(2)(A)(III).
- ³⁶ 86 Fed. Reg. 69611 (2021); 81 Fed. Reg. 87532 (2016).
- ³⁷ 86 Fed. Reg. 69611 (2021).
- ³⁸ See *id.* The eight Asian language minority groups are: Bangladeshi, Cambodian, Chinese (including Taiwanese), Filipino, Asian Indian, Korean, Vietnamese, and Hmong. See *id.*
- ³⁹ 52 U.S.C. § 10503(c).
- ⁴⁰ 28 C.F.R. § 55.15.
- ⁴¹ 28 C.F.R. § 55.19–20.
- ⁴² *Id.*
- ⁴³ 52 U.S.C. § 10508.
- ⁴⁴ For example, in Texas, Section 203's bilingual ballot requirements fall far short for Asian Americans, extending to only a small fraction of Asian American voters statewide. Section 203 requires Texas and 83 of its counties to provide election materials in Spanish, but only requires 3 counties to provide election materials in an Asian language: Vietnamese in Dallas County, Chinese and Vietnamese in Harris County, and Vietnamese in Tarrant County. See 86 Fed. Reg. 69611 (2021). Many Asian American LEP voters reside outside of these three counties, and, even within these counties, there are many other Asian American LEP voters who speak commonly spoken but not covered Asian languages. Approximately three-fourths of the Texas LEP population that speaks an Asian language at home is not covered by Section 203. See Kyuwon Shim, Michelle David & Susana Lorenzo-Giguere, *An Asian American Challenge to*

Restrictive Voting Laws: Enforcing Section 208 of the Voting Rights Act in Texas, CUNY L. Rev. (forthcoming 2023).

⁴⁵ 52 U.S.C. § 10508.

⁴⁶ See, e.g., *OCA-Greater Houston v. Texas*, No. 1:15-cv-679-RP, 2016 WL 4597636, at *9 (W.D. Tex. Sept. 2, 2016); *OCA-Greater Houston v. Texas*, 867 F.3d 604 (5th Cir. 2017); *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2018 WL 2224082 (W.D. Tex. May 15, 2018); *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D. Tex. Jun. 6, 2022).

⁴⁷ 52 U.S.C. § 10301.

⁴⁸ See, e.g., Consent Decree and Order at 8, *United States v. City of Hamtramck*, No. 00–73541 (E.D. Mich. Aug. 7, 2000); Memorandum of Agreement and Settlement, *United States and the City of Boston* (2005); see also Complaint, *United States v. Boston*, No. 05-11598 WGY (D. Mass. Jul. 29, 2005), ECF No. 1.

⁴⁹ 52 U.S.C. § 10304.

⁵⁰ 52 U.S.C. § 10303(b).

⁵¹ 52 U.S.C. § 10304.

⁵² 570 U.S. 529 (2013).

⁵³ *Id.* at 556.

⁵⁴ See, e.g., *Allen v. Milligan*, 599 U.S. ____ (2023); *Moore v. Harper*, 600 U.S. (2023); *Ardoin v. Robinson*, No. 21–1596, 21A81 (U.S. Jun. 23, 2023) (order dismissing grant of certiorari and vacating stay); Complaint, *Fair Maps Texas Action Comm. v. Abbott*, No. 1:21-cv-01038, (W.D. Tex. Nov. 16, 2021), ECF No. 1; *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D. Tex. Jun. 6, 2022).

⁵⁵ Help America Vote Act of 2002, Pub. L. 107–252, 116 Stat. 1666 (2002).

⁵⁶ OFF. FOR CIV. RTS. EVALUATION, ELECTION REFORM: AN ANALYSIS OF PROPOSALS AND THE COMMISSION'S RECOMMENDATIONS FOR IMPROVING AMERICA'S ELECTION System (2001).

⁵⁷ NATIONAL COMMISSION ON FEDERAL ELECTION REFORM, TO ASSURE PRIDE AND CONFIDENCE IN THE ELECTORAL PROCESS (2001).

⁵⁸ Help America Vote Act of 2002, Pub. L. 107–252, 116 Stat. 1666 (2002) (codified as amended in scattered sections of 52 U.S.C. & 36 U.S.C.).

⁵⁹ 52 U.S.C. § 21082(a)–(b).

⁶⁰ 52 U.S.C. § 21083(b).

⁶¹ 52 U.S.C. § 21083(b)(2)(A)(i)(II).

⁶² *Id.*

⁶³ See, e.g., TEX. ELEC. CODE ANN. §§ 63.001; 63.0101 (2021); OHIO REV. CODE ANN. § 3505.18(A) (West 2023).

⁶⁴ 52 U.S.C. § 20901(b)(1)(G).

⁶⁵ 52 U.S.C. § 21085.

⁶⁶ National Voter Registration Act, Pub. L. 103–31, 107 Stat. 77 (1993).

⁶⁷ 52 U.S.C. § 20501.

⁶⁸ National Mail Voter Registration Form, U.S. Election Assistance Comm., <https://www.eac.gov/voters/national-mail-voter-registration-form>.

⁶⁹ *Id.*

⁷⁰ See, e.g., *Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, 19, 15 (2013) (holding the NVRA preempted Arizona's proof of citizenship requirement for voter registration); *Fish v. Kobach*, 840 F.3d 710 (2016) (affirming grant of preliminary injunction against a Kansas statute for violating the motor voter provisions for the NVRA by requiring documentary proof of citizenship when an individual uses the federal voter registration form while obtaining or renewing a driver's license).

⁷¹ CAL. ELEC. CODE §§ 14027-14032

⁷² WASH. REV. CODE § 29A.92.020; see also *Portugal v. Franklin County*, 530 P.3d 994 (Wash. 2023).

⁷³ 2021 Va. Acts 82-88, 168-175.

⁷⁴ N.Y. ELEC. LAW § 17–206.

⁷⁵ N.Y. ELEC. LAW § 17–208. The language access provisions of the NYVRA take effect in 2025, three years after the law's passage. John R. Lewis Voting Rights Act of New York (NYVRA), 2022 N.Y. Laws Ch. 226. Once these NYVRA provisions are effective, several jurisdictions will be required to provide Asian language materials and interpreters even though they are not required to under the Section 203 of the federal VRA, assuming currently population trends, including Queens, Kings, Nassau, and Richmond counties.

⁷⁶ Hearing of the House Subcomm. on Civil and Constitutional Rights, House Judiciary Committee, on the Lang. Assist. Provis. of the Voting Rights Act, S. 2236, 102 Cong. Rec. at 12 (Apr. 1, 1992) (statement of Margaret Fung, Exec. Dir., AALDEF); Senate Report 102-315, Calendar No. 537 July 2, 1992, at 12.

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⁷⁹ See, Consent Decree and Order at 8, *United States v. City of Hamtramck*, No. 00–73541(E.D. Mich. Aug. 7, 2000); Second Amended Consent Order and Decree, *United States v. City of Hamtramck*, No. 00–73541(E.D. Mich. Jan. 29, 2004).

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⁸¹ See Complaint, *Chinatown Voter Education Alliance v. Ravitz* (S.D.N.Y 2008) (No. 1:06-cv-00913); Press Release, AALDEF, *AALDEF Files Voting Rights Act Lawsuit Against the NYC Board of Elections* (Feb. 06, 2006).

⁸² Hearing of the Senate Judiciary Committee on the Continuing Need for Section 203's Provisions for Limited English Voters, 109th Cong. (June 13, 2006) (statement of Margaret Fung, Exec. Dir., AALDEF).

⁸³ *Id.*

⁸⁴ The survey questionnaire was written in 11 Asian languages: Chinese, Korean, Japanese, Vietnamese, Khmer, Tagalog, Urdu, Bengali, Punjabi, Gujarati, and Arabic, in addition to English. Volunteers were conversant in 41 Asian languages and dialects.

⁸⁵ For more detailed information, see <http://aaldef.org/press-releases/press-release/aaldef-complaint-to-doj-voting-rights-violations-in-queens-city-council-district.html>.

⁸⁶ For more detailed information, see <http://aaldef.org/press-releases/press-release/aaldef-to-monitor-asian-american-voting-access-and-conduct-exit-polls-in-philadelphia-boston-and-qui.html>.

⁸⁷ The survey questionnaire was written in 11 Asian languages: Chinese, Korean, Japanese, Vietnamese, Khmer, Tagalog, Urdu, Bengali, Punjabi, Gujarati, and Arabic, in addition to English. Volunteers were conversant in 41 Asian languages and dialects.

⁸⁸ JERRY VATTAMALA, AALDEF, *COMPLAINT TO PHILADELPHIA COMMISSION ON HUMAN RELATIONS* (2014), <https://www.aaldef.org/uploads/pdf/AALDEF%20Complaint%204-16-14.pdf>. For more

information about the case, see Press Release, AALDEF, Asian Americans File Complaint Against Philadelphia City Commissioners Over Denial of Language Access to Voters (Apr. 16, 2014), <https://www.aaldef.org/press-release/asian-americans-file-complaint-against-philadelphia-city-commissioners-over-language-access-to-voter>.

⁸⁹ *United States v. Philadelphia*, No. 2:06cv4592, 2006 WL 3922115 (E.D. Pa. Nov. 7, 2006).

⁹⁰ *OCA-Greater Houston v. Texas*, No. 1:15-cv-679-RP, 2016 WL 4597636 (W.D. Tex. Sept. 2, 2016); see also *OCA-Greater Houston v. Texas*, 867 F.3d 604 (5th Cir. 2017).

⁹¹ The determination of states was based on the size of the Asian American populations, the interest of local groups to co-sponsor the project, and capacity to mobilize the requisite number of volunteers.

⁹² AALDEF Public Comment Re: Proposed Citizenship Question on 2020 Census, *available at* <https://www.aaldef.org/uploads/8.1.18AALDEFCensusCitizenshipQuestionPublicComment.pdf>.

⁹³ ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND, *AALDEF and NAPABA lead AAPI Amicus Brief Opposing Citizenship Questions on the Census* (Apr. 2, 2019), <https://www.aaldef.org/press-release/aaldef-and-napaba-lead-aapi-amicus-brief-opposing-citizenship-questions-on-the-census>.

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⁹⁶ Press Release, AALDEF, AALDEF Statement on PA Voter ID Law State Supreme Court Decision (Sept. 18, 2012), <https://www.aaldef.org/press-release/aaldef-statement-on-pa-voter-id-law-state-supreme-court-decision>; Brief for Asian American Legal Defense and Education Fund and Asian Pacific American Bar Association of Pennsylvania as Amici Curiae Supporting Petitioners, *Applewhite v. Commonwealth*, 2014 WL 184988 (Pa. Commw. Ct. Jan. 17, 2014).

⁹⁷ *Id.*

⁹⁸ The U.S. Supreme Court struck down the coverage formula for Section 5 preclearance, Section 4(b) of the Voting Rights Act, in a 5-4 decision. 570 U.S. 529 (2013). For more information about the case, see <https://www.aaldef.org/press-release/26-asian-american-groups-urge-us-supreme-court-to-prevent-voter-discrimination-by-upholding-section>.

⁹⁹ Brief of the Asian American Legal Defense and Education Fund as Amicus Curiae Supporting Respondents, *Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1 (2013) (No. 12-71).

¹⁰⁰ *Id.* The Supreme Court ultimately struck down Arizona’s Proposition 200, in a 7-2 decision. *Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, 19–20 (2013).

¹⁰¹ No. 13-CV-03732 (E.D.N.Y. 2013). The Board provided Bengali ballots in the first election after the lawsuit was filed and ultimately settled the case with AALDEF. For more information about the case, see <https://www.aaldef.org/press-release/south-asian-voters-sue-nyc-board-of-elections-for-violations-of-the-voting-rights-act>.

¹⁰² See Press Release, AALDEF, NYC Board of Elections Settles Lawsuit on Bengali Ballots in Queens (Mar. 24, 2014).

¹⁰³ JERRY VATTAMALA, AALDEF, COMPLAINT TO PHILADELPHIA COMMISSION ON HUMAN RELATIONS (2014), <https://www.aaldef.org/uploads/pdf/AALDEF%20Complaint%204-16-14.pdf>. For more information about the case, see Press Release, AALDEF, Asian Americans File Complaint Against Philadelphia City Commissioners Over Denial of Language Access to Voters (Apr. 16, 2014), <https://www.aaldef.org/press-release/asian-americans-file-complaint-against-philadelphia-city-commissioners-over-language-access-to-voter>.

¹⁰⁴ *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2018 WL 2224082 (W.D. Tex. May 15, 2018); see also *OCA-Greater Houston v. Texas*, No. 1:15-cv-679-RP, 2016 WL 4597636 (W.D. Tex. Sept. 2, 2016), *aff'd*, 867 F.3d 604 (5th Cir. 2017). For more information about the case, see Press Release, AALDEF, Asian Americans sue Texas for Denial of Language Assistance Under the Voting Rights Act (Aug. 06, 2015), <https://www.aaldef.org/press-release/asian-americans-sue-texas-for-denial-of-language-assistance-under-the-voting-rights-act>.

¹⁰⁵ No. 19-CV-00074 (W.D. Tex. 2019). For more information about the case and settlement, see <https://www.aaldef.org/press-release/latino-voters-civil-rights-groups-reach-settlement-with-texas-over-purging-of-voter-rolls>.

¹⁰⁶ Consent Decree and Order, *Detroit Action v. City of Hamtramck*, No. 21-11315 (E.D. Mich. July 13, 2021); Complaint, *Detroit Action v. City of Hamtramck*, No. 21-11315 (E.D. Mich. June 3, 2021).

¹⁰⁷ *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D. Tex. Jun. 6, 2022).

¹⁰⁸ *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D. Tex. Jun. 6, 2022).

¹⁰⁹ Brigid Bergin, *'We Stand Ready to Fight' — Appellate Court Hears Arguments over NYC Noncitizen Voting Law*, GOTHAMIST (Jun. 23, 2023), <https://gothamist.com/news/we-stand-ready-to-fight-appellate-court-hears-arguments-over-nyc-noncitizen-voting-law>.

¹¹⁰ See Memorandum of Understanding, AALDEF, *Greater Boston Legal Services' Asian Outreach Unit, Greater Malden Asian American Community Coalition, and the City of Malden* (2022); see also Press Release, AALDEF, AALDEF and local Asian American Community Secure Commitment from Malden, MA to Provide Chinese Language Assistance in Compliance with Voting Rights Act (Aug. 26, 2022), <https://www.aaldef.org/press-release/aaldef-and-local-asian-american-community-secure-commitment-from-malden-ma-to-provide-chinese-language-assistance-in-compliance-with-voting-rights-act>.

¹¹¹ The determination of states was based on the size of the Asian American populations, the interest of local groups to co-sponsor the project, and capacity to mobilize the requisite number of volunteers.

¹¹² The survey questionnaire was written in 11 Asian languages: Chinese, Korean, Japanese, Vietnamese, Khmer, Tagalog, Urdu, Bengali, Punjabi, Gujarati, and Arabic, in addition to English. Volunteers were conversant in 29 Asian languages and dialects.

¹¹³ 86 Fed. Reg. 69611 (2021).

¹¹⁴ 2014 Mass. Legis. Serv. Ch. 166 (West). This law was enacted after the expiration of the Memorandum of Agreement and Settlement entered in the District of Massachusetts in 2005. See Memorandum of Agreement and Settlement, *United States and the City of Boston* (2005).

¹¹⁴ 52 U.S.C. § 10304.

¹¹⁵ 86 Fed. Reg. 69611 (2021).

¹¹⁶ See, e.g., JERRY VATTAMALA, AALDEF, COMPLAINT TO PHILADELPHIA COMMISSION ON HUMAN RELATIONS (2014), <https://www.aaldef.org/uploads/pdf/AALDEF%20Complaint%204-16-14.pdf>.

¹¹⁷ See 42 Fed. Reg. 35970 (1977); 49 Fed. Reg. 25887 (1984); 57 Fed. Reg. 43213 (1992); 67 Fed. Reg. 48871 (2002); 76 Fed. Reg. 63602 (2011); 81 Fed. Reg. 87532 (2016); 86 Fed. Reg. 69611 (2021).

¹¹⁸ See Memorandum of Understanding, *AALDEF, Greater Boston Legal Services' Asian Outreach Unit, Greater Malden Asian American Community Coalition, and the City of Malden* (2022).

¹¹⁹ The New York City Board of Elections designated Bengali as the Asian Indian language for written translation, but Bengali and Hindi, as well as Punjabi, where possible, interpreters are provided for oral language assistance.

¹²⁰ 52 U.S.C. § 10508.

¹²¹ 50 U.S.C. § 10310(c)(1).

¹²² *OCA-Greater Houston v. Texas*, 867 F.3d 604, 615 (5th Cir. 2017).

¹²³ 52 U.S.C. § 10508.

¹²⁴ *OCA-Greater Houston v. Texas*, No. 1:15-cv-679-RP, 2016 WL 4597636, at *10 (W.D. Tex. Sept. 2, 2016); see also *OCA-Greater Houston v. Texas*, 867 F.3d 604 (5th Cir. 2017).

¹²⁵ *OCA Greater Houston v. Texas*, No. 1:15-CV-679-RP, 2022 WL 2019295 (W.D.Tx Jun. 6, 2022)

¹²⁶ *Id.*

¹²⁷ Complaint, *United States v. Boston*, No. 05-11598 WGY (D. Mass Jul. 29, 2005), ECF No. 1.

¹²⁸ See Memorandum of Agreement and Settlement, *United States and the City of Boston* (2005).

¹²⁹ Aaron Michlewitz, Sonia Chang-Diaz, Deval Patrick, Governor Patrick Signs Ballot Translation Bill, VOTE SMART (July 31, 2010), <https://justfacts.votesmart.org/public-statement/539488/governor-patrick-signs-ballot-translation-bill>.

¹³⁰ 2014 Mass. Legis. Serv. Ch. 166 (West).

¹³¹ 52 U.S.C. § 21082(b).

¹³² 52 U.S.C. § 21082(a).

¹³³ 570 US 1 (2013).

¹³⁴ *Id.* at 6–7.

¹³⁵ Brief of the Asian American Legal Defense and Education Fund as Amicus Curiae Supporting Respondents, *Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, (2013) (No. 12-71).

¹³⁶ *Arizona*, 570 U.S. at 20.

¹³⁷ 52 U.S.C. § 21083(b).

¹³⁸ *Id.* at § 21083(b)(2)(A)(i)(II).