

CHAPTER 4

LANGUAGE REQUIREMENTS

The goal of this chapter is to assist county elections officials and the public in determining whether the alternative language accessibility requirements of federal and state law are applicable to their jurisdictions and in complying with those requirements.

Alternative Language Accessibility – Federal Requirements

Section 301(a)(4) of HAVA requires that a voting system “shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).” HAVA defines a “voting system” to include the equipment used to cast and count votes and report results, as well as the practices and documentation used to test and maintain the system and provide materials to voters, such as notices, instructions, forms or ballots. (HAVA § 301(b).)

Under the Voting Rights Act, a covered state or political subdivision (county) is required to provide voting materials in the language(s) of the applicable minority group(s), as well as in English. Where the minority language is oral or unwritten, the state or political subdivision is only required to furnish oral instructions, assistance or other information relating to registration and voting. (42 U.S.C. 1973aa-1a(c).)

The term “voting materials” means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots. (42 U.S.C. 1973aa-1a(b)(3)(A).) Voting materials also include such items as voter registration forms, applications for absentee ballots, ballot pamphlets, polling place signs, and voting system instructions.

A “covered state or political subdivision” is one in which the census data indicates that one of the following is true:

- more than 5 percent of the citizens of voting age of the State or political subdivision are members of a single language minority and are limited-English proficient;
- more than 10,000 of the citizens of voting age of the political subdivision are members of a single language minority and are limited-English proficient; or
- in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient. (42 U.S.C. 1973aa-1a(b)(2)(A)(i); 28 C.F.R. 55.6.)

In addition, the illiteracy rate of the citizens in the language minority as a group must be higher than the national illiteracy rate. (42 U.S.C. 1973aa-1a(b)(2)(A)(ii); 28 C.F.R. 55.6.)

For purposes of the Voting Rights Act, the terms “language minorities” or “language minority group” mean persons who are either American Indian, Asian American, Alaskan Natives, or of Spanish Heritage. (42 U.S.C. 1973aa-1a(e); 28 C.F.R. 55.1.)

Alternative Language Accessibility – State Requirements

The California Elections Code expresses the Legislature’s intent that non-English-speaking citizens should be encouraged to vote, and that obstacles to registration by non-English-speaking citizens should be minimized. (Elec. Code § 2103(c).) If a county elections official finds that non-English-speaking citizens comprise 3 percent or more of the voting age residents of a precinct, the elections official shall make reasonable efforts to recruit deputy registrars who are fluent in the language used by those citizens. (Elec. Code § 2103(d).) In addition, if the number of residents of voting age in each county and precinct who are members of a single language minority equals 3 percent or more of the voting age residents of a particular county or precinct, election materials, including facsimile ballots, must be posted in the applicable language at the affected polling places. (Elec. Code § 14201(c).) However, in those precincts where ballots printed in a language other than English are available for use by voters at the polls, the posting of a facsimile ballot in that particular language is not be required. (Elec. Code, § 14201(e).)

Similar to HAVA, section 14105.3(a) of the Elections Code also provides that voting information must be publicly posted at each polling place on the day of each election for federal office. The Secretary of State shall print posters and other appropriate materials setting forth the voter rights listed in Section 2300, and the posters shall be printed in as many languages as the Secretary of State determines are necessary, but, at a minimum, in sufficient languages to comply with Section 14201 and the federal Voting Rights Act. (Elec. Code, § 14105.3(b).)

Covered Political Subdivisions in California

Based on the applicable provisions of the federal Voting Rights Act, the State of California itself is a covered state based on its citizens of Spanish heritage. All voting materials for federal elections in this state must, therefore, be provided in Spanish as well as English. In addition, the following California counties are covered political subdivisions with the noted language requirements:

- **Alameda:** Chinese, Spanish
- **Colusa:** American Indian (Wintun), Spanish
- **Contra Costa:** Spanish
- **Fresno:** Spanish
- **Imperial:** American Indian (Yuman), Spanish
- **Kern:** Spanish
- **Kings:** Spanish
- **Los Angeles:** Chinese, Tagalog, Japanese, Korean, Vietnamese, Spanish

- **Madera:** Spanish
- **Merced:** Spanish
- **Monterey:** Spanish
- **Orange:** Chinese, Korean, Vietnamese, Spanish
- **Riverside:** Central or South American Indian, Spanish
- **Sacramento:** Spanish
- **San Benito:** Spanish
- **San Bernardino:** Spanish
- **San Diego:** Tagalog, Spanish
- **San Francisco:** Chinese, Spanish
- **San Joaquin:** Spanish
- **San Mateo:** Chinese, Spanish
- **Santa Barbara:** Spanish
- **Santa Clara:** Chinese, Tagalog, Vietnamese, Spanish
- **Stanislaus:** Spanish
- **Tulare:** Spanish
- **Ventura:** Spanish

(28 C.F.R. 55; updated at 67 Fed.Reg. 48872-48873 (July 26, 2002).)

Accordingly, these jurisdictions are required to provide election materials in the applicable languages in order to comply with HAVA, other federal laws, and California state law.

The Secretary of State's website provides additional resources, including forms and toll-free voter information hotline numbers, for voters who speak languages other than English. Please see our "New Voter" web page at <http://www.sos.ca.gov/elections/new-voter/>, which is available in English, Spanish, Chinese, Japanese, Korean, Tagalog and Vietnamese.