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Written Testimony  
by

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and Ensuring Accurate Registration”

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NALEO

Chair Pellerin, Vice Chair Lackey, Committee Members, fellow panelists and invited guests: thank you for the opportunity to submit this testimony to the Committee on strategies for bridging gaps in voter engagement in California and ensuring accurate voter registration in the state.

I am Rosalind Gold, Chief Public Policy Officer of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund. NALEO Educational Fund is the leading non-profit, non-partisan organization that facilitates full Latino participation in the American political process, from citizenship to public service. Our constituency encompasses the more than 7,000 Latino elected and appointed officials nationwide, among which more than 1,800 are from California, and it includes Republicans, Democrats, and Independents.

For several decades, NALEO Educational Fund has been at the forefront of efforts to help ensure that voter registration and voting are accessible to Latinos in California and throughout the nation. We conduct a comprehensive and integrated program of non-partisan voter education and engagement, together with research and policy development on elections and voting. For example, we have learned about the challenges Latinos face in casting ballots through our year-round, live bilingual information hotline, 888-VE-Y-VOTA, which also allows community members to reach the hotline through SMS/Text. The hotline also serves as the main Spanish-language resource for the Election Protection Coalition and its national hotline, a project led by the Lawyers' Committee for Civil Rights Under Law.

In addition, through our *Ve y Vota* (Go and Vote) campaign, NALEO Educational Fund is a trailblazer in the field of voter engagement, piloting several strategies that have since been adopted by other community-based organizations (CBOs), such as conducting outreach to low propensity voters. To mobilize Latinos to participate in the electoral process, the organization uses various engagement strategies and modes, including mail, paid digital and media advertising, and earned media; phone- and text-banking, and interactive SMS; capacity building among partners; and campaign brand visibility ("swag"). In these efforts, the organization works closely with Spanish-language media partners.

In 2022, we also launched our *Defiende la Verdad* ("Defend the Truth") campaign to combat incidents of misinformation, disinformation, and malinformation (MDM) that target Latinos. *Defiende la Verdad* enhances the ability of community leaders, Latino-serving organizations, and media partners to monitor and report MDM relating to the electoral process. The campaign helps fill the gap that exists with social media companies' limited capacity to monitor and take down incidents of MDM in languages other than English, including Spanish. *Defiende la Verdad* features presentations for community leaders and other stakeholders, trainings on how to identify and report MDM incidents, and MDM monitoring sessions. The campaign is also creating tools for community members to counter online MDM in their own social and professional networks.

The organization also uses a variety of research approaches to better understand the factors affecting Latino electoral participation, and this research helps inform our voter engagement efforts. Through our research, we have also learned about the issues that Latinos consider to be important in elections, their sources of information about politics and civic life, the extent to which they perceive that political parties, candidates, and community organizations have reached out to them, and their preferences for methods of casting ballots.

In addition, the organization has actively participated in advocacy and policy development efforts in California to eliminate barriers in the state's electoral process and enhance Latino voting and registration. During the implementation of the Help America Vote Act (HAVA) of 2002, the organization served on the Secretary of State's Advisory Committee to develop and update the state HAVA plan. The organization was also deeply involved in the policy dialogues around the enactment and implementation of the state's New Motor Voter Act of 2015 and the Voter's Choice Act (VCA) of 2016, with a view to ensuring that the policymakers considered the impact of these measures on the Latino community. The organization also continues to work closely with partners from a broad range of ethnic and racial communities to advance policies which promote access to California's elections for citizens who are not yet fully proficient in the English language. Additionally, in 2022, I was appointed to serve on the California Secretary of State's (SOS) Motor Voter Task Force. The organization also serves on the SOS' Language Access Advisory Committee (LAAC), as well as the Los Angeles County LAAC, and co-chairs the County's Voter Outreach Committee.

In this testimony, I will first highlight the growth of the Latino electorate in California, and the "participation gap" which exists between the turnout and registration rates of Latinos and non-Hispanic Whites. I will then address several factors which affect Latino turnout in elections, including barriers to full participation. Finally, I will provide several recommendations on how to better engage and mobilize California Latinos, which will incorporate the findings of research and our experiences with the Latino community.

### **I. California's Latino Population, Electorate and the "Participation Gap"**

California's Latino community is the state's largest population group, comprising 40.3% of the state's population, and its growth has helped fuel the growth of California for several decades. For example, according to 2020 Census data, between 2010 and 2020, California's population grew from 37.3 million to 39.5 million, an increase of 6.1%. During the same period, the state's Latino population grew from 14.0 million to 15.6 million, an increase of 11.2%. The increase in California's Latino population accounted for more than two-thirds (68.6%) of the state's population growth during the past decade.<sup>1</sup>

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<sup>1</sup> The U.S. Census Bureau's Post-Enumeration Survey found an historic national net undercount of Latinos in Census 2020 of 4.99%. The Census Bureau did not provide an estimate of the undercount of Latinos in California. However, given that Census data also indicate that one out of four Latinos in the United States live in California (24.8%), a national net undercount of Latinos raises significant concerns about an undercount of Latinos in California, and the actual magnitude of Latino population growth in the state between 2010 and 2020.

However, despite the growth in the state's Latino population, Latinos are underrepresented in the state's eligible electorate, and there is a persistent gap between the registration and turnout rates of Latinos and non-Hispanic Whites. According to Census Current Population Survey (CPS) data on voting and registration in Presidential elections, there has been a significant increase in the California Latino population that is eligible to vote, and in the number of Latino voters. Between November 2012 and November 2020, the California Latino citizen voting-age population (CVAP) grew from 6.5 million to 8.3 million, an increase of 27.6%. During the same period, the number of Latinos who cast ballots in the state grew from 3.2 million to a record 4.5 million, an increase of 43.8%. However, in November 2020, while Latinos comprised 32.0% of California's CVAP, they comprised only 27.9% of those registered to vote, and only 26.9% of actual voters.

Additionally, in November 2020, California Latinos had lower voter registration rates and turnout rates than non-Hispanic Whites. According to CPS data, 60.4% of California's Latino CVAP was registered to vote, compared to 78.2% of the state's non-Hispanic White CVAP. Slightly over half (54.6%) of the state's Latino CVAP cast ballots, compared to 74.6% of the non-Hispanic White CVAP. Similar trends emerge in California's mid-term elections, where participation rates for all voters are lower than in presidential elections. For example, in November 2022, while a record number of Latinos cast ballots for a mid-term election – 3.2 million – only 42.1% of the Latino CVAP cast ballots, compared to 62.8% of the non-Hispanic CVAP. Ultimately, sizeable numbers of Latinos are not participating in California's electoral process. In November 2020, 3.3 million California Latinos who were eligible to vote did not register, and 475,000 registered Latinos did not vote.

Moreover, the participation gap is particularly acute for youth voters, and Latino youth in particular. For example, in November 2020, while 54.6% of the overall California Latino CVAP cast ballots, the comparable rates for Latino 18–24-year-olds (hereinafter "youth" CVAP or voters) was 44.0%. The gap was even greater between the turnout rates of the non-Hispanic White youth (66.6%) and Latino youth (44.0%).

Similarly, in November 2022, while 42.1% of the overall California Latino CVAP cast ballots, the comparable rate for Latino youth was 26.1%, which also significantly lagged behind the non-Hispanic White youth turnout in that election (39.5%). Given the relative youth of the Latino population compared to other California population groups, and the fact that approximately 21,600 Latino U.S. citizens in the state turn 18 each month, the low participation rates of young Latinos represent a significant threat to the future vitality and inclusiveness of California's democracy.

It should be noted that the participation gap between California Latinos who are registered to vote and the comparable non-Hispanic White population is less acute than the registration rate disparities or the differences in the turnout of CVAP between the two groups. For example, in November 2020, 90.5% of California's registered Latinos cast ballots, compared to 95.4% of non-Hispanic Whites, a smaller gap than in voter registration rates or

CVAP turnout rates for that election. Similarly, in November 2022, 69.4% of registered Latinos cast ballots compared to 83.6% of non-Hispanic Whites. While this mid-term election gap in turnout rates of non-Hispanic White registered voters and Latino voters (13.2 percentage points) is larger than that of the presidential election gap (4.9 percentage points), it is smaller than the mid-term gap in the turnout of Latino and non-Hispanic White CVAP (20.7 percentage points).

Similarly, within the California Latino and non-Hispanic White youth populations, the gaps between the turnout of registered voters tend to be smaller than the gaps between the turnout of CVAP. In the November 2020 election, the turnout of Latino youth registered voters was 86.6% compared to 92.0% of non-Hispanic White youth registered voters (a 5.4 percentage point difference). In the November 2022 election, the turnout of Latino youth registered voters was 59.2% compared to 66.6% for non-Hispanic White youth registered voters (7.4 percentage points).

Given that the gaps between the share of California Latino and non-Hispanic White CVAP which cast ballots is significantly greater than the differences between the comparable share of registered voters in each group that cast ballots, a key component of increasing Latino participation is to increase the share of eligible Latinos who are registered to vote. As seen in the 2020 presidential election, once Latinos are registered, the difference between their turnout and that of non-Hispanic Whites can be relatively small. Thus, as noted more below in "Strategies and Recommendations to Increase Latino Electoral Participation in California," strategies to increase Latino voter registration must be a strong element of coordinated and comprehensive efforts to close the participation gap.

## **II. Factors Affecting Latino Participation in California**

NALEO Educational Fund's research on Latino electoral participation has involved a variety of methods and helps illuminate the factors which affect Latino participation in the state, including barriers to participation. In 2012, the organization conducted the "Great Unengaged" project, which used both polling and focus groups to examine Latino political engagement. From focus groups held in Los Angeles and Fresno, with both English- and Spanish-dominant voters, we learned that many California Latinos lacked basic information about registering to vote and casting ballots. Many did not know where to find their polling place, or what to do if their names were not on the registration rolls. NALEO Educational Fund accompanied its California research groups with a survey of 450 voting-age citizens, some of whom were not registered to vote, and others who were registered to vote, but not active participants in elections. Forty-one percent of unregistered survey respondents said they did not know how to register to vote.

In addition, many of the participants in the California focus groups lacked information about how government works and about the candidates and issues that were on the ballot. In some cases, focus group participants believed that government or elected officials could not or would not make changes that would improve their lives, so there was no reason to participate in elections.

The findings of more recent research by the organization confirm the foregoing, and highlight additional barriers. In advance of Los Angeles County's implementation of VCA elections in 2020, the County held mock elections in 2019, to assess the impact of its new voting system and the use of VCA vote centers. NALEO Educational Fund held focus groups in the County with both English- and Spanish-dominant Latino registered voters. Again, many participants cited lack of political knowledge as a reason for not voting, such as not feeling prepared to vote or not knowing enough about candidates or elections, and thus being afraid to make a mistake when casting ballots. Participants also noted that it was important for voting to be convenient – polling sites needed to be close to where they lived, have good parking, and voting equipment that was easy to use. They also cited the value of having courteous and helpful poll workers who could provide language assistance in Spanish. Relatively few of the participants had heard of the mock elections, and some expressed confusion about the purpose of the elections. In addition, there were differences of perspectives about voting by mail (VBM) or in person. Some participants preferred to use VBM because of its convenience, while others preferred in-person voting because they did not trust that a VBM ballot would be counted.

In addition, for several election cycles, NALEO Educational Fund has conducted weekly tracking polls of Latino registered voters in the lead up to the November general election, and these polls also reveal factors which affect the electoral participation of California Latinos. For example, the California Latino electorate continues to indicate a preference for a variety of methods to cast ballots, and use all of the methods that the state provides. In the November 2022 poll, more than half of poll respondents (58%) indicated that they intended to use a VBM ballot, 21% indicated that they intended to vote early in-person, and 21% indicated that they intended to vote in-person on Election Day. About one-fifth of the respondents (22%) had little or no trust that a VBM ballot would arrive safely at an elections office and would be properly counted.

Moreover, not all California Latino poll respondents had information that would be helpful for voting in California, which sends a VBM ballot to every voter in the state. Thirteen percent of the respondents indicated they were not familiar with the process of obtaining a VBM ballot, and 2% believed that California did not offer a VBM option.

The November 2022 tracking poll's findings also confirmed a dynamic which NALEO Educational Fund has seen in the results of all of its tracking polls – the lack of efforts to reach or engage Latino voters in the state. Slightly

more than half (51%) of the poll respondents indicated that they had not been contacted by a political party, candidate, or other organization to ask them to register to vote or to cast a ballot.

In 2022, we also conducted research in the City of Los Angeles focusing on the City's mayoral election, which included late April-early May polling of Latino registered voters in the city. Again, Latinos expressed preferences for different methods of voting, with 41% of those who were likely or certain to vote indicating they intended to vote in-person, 34% indicating they would mail in a VBM ballot, and 18% indicating that they would drop the VBM ballot off at a drop box location (7% did not know at that point how they would cast their ballot).

However, there were also "information gaps" among all the poll respondents, with 12% indicating that they did not know how to cast a ballot in the election. When asked about information they had received in the prior six months, 40% indicated that they had not received information about how to vote by mail, and 42% indicated that they had not received information about the availability of voting at a Los Angeles vote center. Ultimately, 29% indicated that they did not know where to look for information about VBM, and 32% indicated that they did not know where to look for information about vote centers. In addition, our polling also revealed that more than two-thirds (64%) of respondents had not been contacted by any of the mayoral candidates. The information gaps also differed by age, with only 41% of 18–29-year-olds knowing about the upcoming elections, compared to more than 60% of those over 40.

In addition to the City of Los Angeles polling, the organization also conducted May 2022 focus groups with Latino registered voters, and a series of September 2022 Latino voter forums throughout the city. Consistent with the findings of our 2012 "Great Unengaged" research, one of the primary themes that emerged from our focus groups and forums was that many Latinos felt that the government and elected officials neglected their needs, and that they were unheard by these officials. They cited community problems such as lack of sanitation services, limited access to green spaces, poor police response or presence, and lack of adequate street lighting. Ultimately, many participants expressed distrust in government and skepticism about whether elected officials would address their community concerns.

One of the most revealing indicators of "information gaps" about elections within the Latino community are the types of calls that we get to our 888-VE-Y-VOTA hotline from Californians. Set forth below is a table which shows the total calls in both 2020 and 2022, and the share that different types of calls represent of the total.

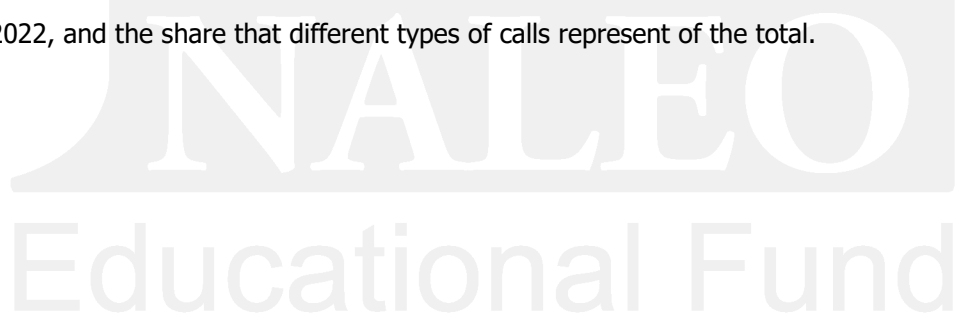


Table 1

California Calls to 888-VE-Y-VOTA Hotline Regarding Election Matters, 2020 and 2022

|   | <u>2020</u>            | <u>2022</u>            |
|---|------------------------|------------------------|
| Total Calls   | 2,378                  | 2,386                  |
|   |                        |                        |
| Reason for Call   | <u>Share of Total*</u> | <u>Share of Total*</u> |
| Registration and eligibility  | 33.7%                  | 69.0%                  |
| Election and polling place information                                    | 31.4%                  | 16.1%                  |
| Early voting/absentee voting  | 17.4%                  | 9.5%                   |
| Voter identification  | 6.9%                   | 0.7%                   |
| Ballot information (candidates and contests)                              | 6.3%                   | -                      |
| Information about election officials                                      | 1.7%                   | 0.2%                   |
| Problems with voter registration  | 0.3%                   | 0.9%                   |
| Problems at polling location on Election Day or voter not allowed to vote | 0.6%                   | 0.2%                   |
| Problems with VBM or early in-person voting                               | 0.3%                   | 1.3%                   |
| Provisional ballots   | -                      | 0.2%                   |
| Caller declined to state  | 1.4%                   | 2.0%                   |

*\*Totals may not add up to 100% because of rounding*

The foregoing data underscore the critical need of Latino voters to obtain basic information about the registration and voting process. In 2020, only 1.2% of our calls were about problems experienced by callers, and in 2022, only 2.6% of the calls were about these problems (these calls included problems with voter registration, at polling locations on Election Day, VBM, early in-person voting, or issues with provisional ballots). While optimally, no Latino community member should experience any problems with electoral process, the fact that in both years, over 96% of the calls related to specifics about how to navigate the fundamentals of California’s election system highlights the benefits that more robust voter education would confer on the Latino electorate.

Finally, an emerging factor affecting Latino participation in California elections is the increased prevalence of MDM focused on the electoral process. This is particularly important trend in the Latino population, given that some of the entities disseminating MDM are doing so through Spanish-language digital or social media outlets, which many Latinos rely on for information about politics. Several MDM narratives that create mistrust in the electoral process have been circulated through Spanish-language social media. These include the narrative that elections are rigged and the 2020 presidential election was stolen, as well as narratives that VBM or voting equipment are not secure and contribute to voter fraud and illegitimate election results. The increasing use of



Artificial Intelligence in digital and social media creates an even greater risk for the creation and dissemination of MDM around election issues. While more research is needed to assess the specific impact of MDM on Latino electoral participation, it is clearly impairing the ability of Latinos to obtain accurate information about voting.

### **III. Strategies and Recommendations to Increase Latino Electoral Participation in California**

NALEO Educational Fund's research and experience with Latino voters highlight the need for a comprehensive and sustained strategy of non-partisan voter education and engagement to increase participation within the Latino community, together with changes in policies and practices to make voting and registration more accessible, and to improve the voter experience. To implement the recommendations set forth below, there must state investment in a partnership and coordinated efforts between the SOS, local election officials, community-based organizations, policymakers, English- and Spanish-language media, philanthropic institutions and other stakeholders.

#### A. State Investment in Comprehensive and Robust Non-Partisan Voter Education and Outreach

NALEO Educational Fund's research and its experience with hotline callers consistently reveal that many Latinos lack basic information about how to register to vote and cast ballots. In addition, many Latinos are being neglected by outreach and mobilization efforts. The latter may result in part from the tendency of political parties and candidates to target "frequent" voters, and their efforts ignore the many Latinos who have lower participation rates. In addition, when federal contests are involved, the parties and candidates often do not conduct robust voter mobilization efforts in California because it is not considered a "battleground" state. While November 2022 CPS data reveal that 25% of the Latino national CVAP are Californians, political campaigns tend to target states with far smaller Latino populations, such as Arizona, Florida, Georgia, North Carolina, or Midwest states, which campaigns view as having more competitive elections for Presidential and Congressional contests.

NALEO Educational Fund recommends that the state invest in a partnership between the SOS, local election officials, and CBOs to conduct non-partisan voter education and engagement within the Latino and other underrepresented communities in California. Our research reveals why this effort should involve a variety of approaches that are tailored to diverse segments of the Latino community. One of our earliest "Get-Out-the-Vote" (GOTV) field experiments conducted in 2002 with Professor Donald Green, found that live phone calls were a more effective means of mobilizing Latinos than mailers or robo-calls. Methods of communication have evolved significantly since then, and our research generally indicates that Latinos are now frequent users of social media and get much of their information from digital and social media sources. However, notwithstanding Latino social media use, GOTV to Latinos must involve nuanced targeting. For example, we conducted field experiments within the California Latino electorate (2018) and the Los Angeles City Latino electorate (2019 special election) to assess the efficacy of various GOTV approaches. We learned that SMS or texting approaches

were more effective with younger voters, while phone calls with a possible SMS follow-up were more effective with older voters.

Our research has also confirmed what others who have conducted Latino GOTV have found, such as the Analyst Institute. "Warm contact" with Latino voters, where social media contact is preceded by a mailer or other contact approach, tends to be more effective than one social media contact. One of our experiments showed that peer-to-peer texting can be effective in increasing Latino turnout, but we have also concluded that there needs to be more research on what combination of mailers, phone calls, and digital and social media contacts have the greatest impact in mobilizing various Latinos.

The need to use multiple modes of reaching Latinos is also confirmed from research indicating that California's Latinos obtain information about politics from a variety of sources across the political spectrum. For example, our 2022 tracking poll found that 73% of Latinos tended to obtain this information from YouTube, 66% from cable TV outlets such as CNN or MSNBC, 64% from Facebook, 63% from Instagram or TikTok, 56% from cable TV outlets such as Fox News, and 53% from Spanish-language news outlets.

In addition, when conducting outreach to the Latino community, there must be a targeted and nuanced approach to the "messages" and "messengers" used. In our 2012 "Great Unengaged" California polling research, we found that messages focusing on the ability of Latinos to move their communities forward, or to fight discriminatory measures such as Arizona's SB 1070 legislation, were the most convincing as potential motivators for Latino participation. In our later research involving digital advertising, we found that messages with a "call to action," such as "Register to Vote Now," and those that included an issue-driven theme such "Express your views on education" produced higher "click through" rates than other approaches.

In terms of influential messengers, we found that among public figures, Latino elected officials and prominent news anchors were more convincing than entertainment celebrities or professional athletes. What might be considered "community celebrities," such as teachers, first responders, and health care professionals were also particularly good messengers. Family members and friends were also among the most trusted messengers, and among family members, parents – particularly mothers - and spouses were particularly good messengers. Our 2019 VCA mock election research also confirmed the value of friends and family members as good messengers to reach Latinos about voting and election matters.

Finally, many of our research projects have shown the need to tailor the language of materials and outreach modes to take into account that some Latinos prefer materials in English, some in Spanish, and some prefer bilingual materials. This preference is partly related to the age of Latino voters, with older voters tending to

prefer Spanish-language materials, but the preference is also affected by other factors such as whether the Latino voters are native-born or naturalized citizens.

Ultimately, our research indicates that robust and effective outreach to educate Latinos about the election process, and to mobilize them to register and cast ballots requires efforts involving multiple modes of contact, and effective messages and messengers which take into account the age and language preferences of diverse Latino community members. A “one size fits all” approach will not be adequate to meet the needs of the Latino community. Moreover, our research suggests the importance of sustained contact with community members, as opposed to intense mobilization around specific elections, followed by the absence of outreach and or contact. We believe these sustained efforts might be particularly helpful for those community members who feel fundamentally disconnected from political participation, or need more information about the electoral process.

Moreover, we believe that the state’s investment in comprehensive voter education and outreach should involve a partnership between many different entities that each have critical roles to play. For example, the SOS has the ability to reach community members throughout the state, and can develop campaigns with messages that resonate with a wide variety of voters, as was the case with SOS’ “Vote Safe” campaign implemented at the start of the COVID-19 pandemic. SOS Dr. Shirley Webber has implemented a “More Days, More Ways to Vote” campaign which focuses on VCA counties and uses VCA Ambassadors to amplify this message. SOS Webber has also used her “bully pulpit” by making appearances throughout the state to urge participation, including several appearances at colleges and universities.

However, the state needs to provide greater resources so that the SOS can expand its efforts and more fully partner with local election officials and CBOs on voter outreach and education. Local election officials are on the “front lines” of election administration, and are well-positioned to understand the needs of the communities they serve. [Survey research by Dr. Mindy Romero](#) conducted during the pandemic in 2020 found that a significant number of Latino voters used county voter information guides and county websites as important sources of information for about voting and elections. Many counties also conduct voter education through dissemination of materials and local events.

As noted above, CBOs that work closely with the Latino community must also be essential partners in voter education and mobilization activities, given that they are “trusted messengers” with strong relationships with Latino voters. In many cases, these relationships have been built through a variety of civic engagement efforts beyond voter mobilization, including naturalization and Census outreach. CBOs who have in-depth knowledge of diverse segments of the Latino community are also crucial to developing and conducting outreach strategies that target these efforts in the most effective manner possible.

Given the diverse sources of information that Latinos rely on for political information, and their diverse language preferences, any outreach partnerships to increase Latino participation in California must also involve both English- and Spanish- language broadcast and digital media. Moreover, while the state of California must invest resources in a comprehensive and coordinated voter education and outreach campaign, philanthropic institutions have an important role to play in both direct investment, and in encouraging other entities in the private sector to either invest in or become partners in non-partisan voter engagement.

#### B. Enhancing Language Access for Latino Voters

Our research and experiences with Latino voters also demonstrate the continued need for enhanced access to information about and assistance with the electoral process for Latino voters who are not yet fully proficient in English. According to the Census Bureau's 2021 American Community Survey data (1-year estimates), 18% of California's Latino CVAP, or 1.5 million citizens, have limited English proficiency (LEP). Language access is also particularly important for California's Latino naturalized citizens, who in November 2020, comprised 26% of all Latino voters, as well as those native-born Latino voters who have lacked educational opportunities. California's election materials, which include complicated ballot measures and long ballots, can be difficult to navigate for many of these LEP voters.

As part of the California Language Access Workgroup (LAWG), a group of advocates and CBOs working in diverse language minority communities, NALEO Educational Fund helped develop a report, ["Breaking Barriers to the Ballot Box: Expanding Language Access for California Voters,"](#) which sets forth a Roadmap with recommendations on enhancing language access to registration and voting in the state. The most salient recommendations in the Roadmap for Latino community include: setting statewide standards to improve and expand the dissemination of in-language resources; greater investment by public and private institutions in resources for local election officials and CBOs so they can effectively and consistently help all Californians cast a ballot; mandated reporting on county language access services; and more robust efforts by state officials to develop and implement language access enforcement mechanisms. The Roadmap also sets forth recommendations for expanding future efforts to enhance language assistance in the state, such as advancing statewide standards for poll worker training, continued dissemination by the SOS of "best practices" materials, developed in collaboration with the LAWG and other stakeholders; and a partnership between the SOS and the LAAC to enhance the collection of data about current language access practices. We believe that this Committee should view the "Breaking Barriers" report and its Roadmap as an invaluable resource for understanding the challenges faced by all of the language minority voters in the state, and for charting a course ahead to address these challenges.

### C. Improve the Voter Experience for Latinos and Other Underrepresented Population Groups

Our research with Latino voters, as well as extensive research with other underrepresented California voters consistently documents the continued need for California to improve all aspects of the voter experience and enhance the ease and convenience of casting ballots. California has made significant progress in this area – it provides VBM ballots to all voters, makes early voting available throughout the state, and provides Conditional Voter Registration (often known as “same day voter registration”) at all polling places. In addition, VCA vote centers provide the opportunity for voters to obtain a ballot for any part of the county the voter is registered in, no matter where the vote center is located. However, in some elections, such as the March 2020 California primary, voters experienced long lines to cast ballots, and several problems with voting equipment. Moreover, as noted above, Latinos who cast ballots in person value short travel times and good parking for vote centers.

The state has certain mechanisms to enhance the voter experience, such as the requirement that VCA counties develop an Election Administration Plan, and establish local LAAC’s and Voter Accessibility Advisory Committees, which focus on the needs of voters with disabilities. While these mechanisms are useful, they may not encompass the perspectives or address the needs of all underrepresented voters in a county, such as lower income members of racial and ethnic groups who are not from language minorities. Thus, we recommend that counties establish advisory committees or some other manner of obtaining feedback from community members who are from underrepresented communities in their jurisdictions. In some cases, counties have existing committees which provide advice about outreach and community engagement. Counties should look closely at the effectiveness of the committees, and consult with CBOs and other stakeholders who are trusted by their communities to obtain recommendations about how to continue to enhance the efforts of these committees.

### D. Examine and Enhance the Role of Educational Institutions in Promoting Voter Engagement

Researchers at a variety of institutions, including the University of California at Riverside, the Public Policy Institute of California, and the Power of Democracy (led by top judicial officials in the state) have all emphasized the value of robust and effective civics education in California’s schools, and well as the need for basic informational materials about our state’s governance that are accessible to community members. Given the significant number of Latino voters who we have found may be deterred from voting because of lack of knowledge about candidates and issues on the ballot, improved civics education in the state can lay a better foundation for navigating the complexity of California’s ballots, and improving the understanding of the role different elected officials play in addressing the issues that affect their day-to-day lives. In addition, given the increased prevalence of MDM, civics education in the state should also include “media literacy,” to help students carefully assess the accuracy of information they obtain from digital and social media.

Educational institutions also can provide opportunities for non-partisan voter education and civic participation that can increase the engagement of the state’s youth. For example, California offers 16- and 17-year-olds the

opportunity to pre-register to vote. Attached to this testimony is a Handbook prepared by NALEO Educational Fund which includes recommendations on how educational institutions can promote pre-registration. Also, California's pool of poll workers tend to disproportionately include older adults. Colleges and universities should provide class credit or otherwise encourage students to serve as poll workers. These students often possess the skills needed to navigate the technological complexities of modern voting equipment, and we have heard many report that the experience of serving as a poll worker enhanced their interest in greater civic participation.

#### E. Continuing to Enhance the Accessibility of Voter Registration in California

California's implementation of automatic voter registration (AVR) at its Department of Vehicles (DMV) has had a significant positive impact on Latino voters. [Research by the Center for Inclusive Democracy](#) found that 43% of California's new registered voters since the implementation of AVR in the state had registered through the DMV. Specifically, in the 2020 general election, which was held a little over two and half years after this implementation, the majority (54.1%) of new registrants and re-registrants registered to vote at the DMV. For the Latino community, over one-quarter of Latino registrants in the 2020 general election were new DMV registrants or DMV re-registrants, a dramatic increase from around 1% prior to implementation of AVR at the DMV in the 2016 general election. This research noted that AVR at the DMV did not translate into a commensurate increase in voter turnout among Latinos, which indicates that voter mobilization of Latinos who register to vote is still a crucial component of strategies to close the voter participation gap.

California can continue to improve the implementation of AVR in the state by ensuring that the interface at the DMV where persons obtaining DMV services are offered the opportunity to vote is as clear and accessible as possible to all users. As members of the SOS's New Motor Task Force, we are continuing to work to improve data tracking, transparency, and accountability mechanisms, as well as efficiency in application processing. In addition, the state should examine the feasibility of implementing AVR as part of other services provided by the state, such as enrollment in Covered California or Medicaid.

Finally, we note that there are policymakers, advocates, and community groups which are promoting changing California's "front end" AVR system to a "back end" system, where certain voters would be automatically added to the voter rolls based on documents provided to the DMV as opposed to registering at the time they conduct transactions at the DMV. For the reasons set forth in the letter attached to this testimony, together with the American Civil Liberties Union CA Action and the League of Women Voters of California, we strongly oppose "back end" AVR, which as of this writing, is contemplated in SB 299. We share the vision of SB 299's proponents of increasing the number of eligible Californians who are registered to vote, and thereby making our democracy more responsive and inclusive. However, we believe that the implementation of "back end" AVR would be extremely costly, increase voter confusion, impair the ability of the SOS to ultimately obtain accurate information about the language materials' preferences and political party affiliation of registered voters, and lead to

erroneous determinations of eligibility for registration that could have particularly detrimental consequences for the California non-citizen population.

#### F. Proactive Implementation of Strategies to Combat MDM

Given the increasing prevalence of MDM and its detrimental impact on the quality of information community members receive about voting and elections, we recommend that the SOS and county registrars proactively develop and implement both long-term and rapid response strategies to monitor media sources and counter MDM that may emerge about the electoral process. This is another area where partnerships with non-partisan CBOs and civic organizations who are familiar with the Latino community and Spanish-language media are crucial. These organizations examine MDM trends, study the emerging narratives, and assess their effect on underrepresented communities. Election officials and non-partisan organizations can leverage each other's efforts to have the greatest impact possible. As noted above, we also recommend that educational institutions and election officials promote "media literacy." Finally, California should examine the feasibility of having an appropriate state regulatory agency establish reporting requirements for social media companies to detail the efforts they undertake and fund to combat the spread of online MDM. The state should also urge them to significantly increase their capacity to monitor and remove harmful information in languages other than English.

#### **IV. Conclusion**

California is a national leader in adopting a wide range of policies to make registration and voting more accessible to its diverse population, including online voter registration, the New Motor Voter law, dissemination of VBM ballots to all registered voters, the VCA, same day voter registration, and state language access requirements that go beyond those of the federal Voting Rights Act of 1965. Yet the "participation gap" continues to remain, and there still needs to be significant progress to ensure that the Latino community, the state's largest population group, is fully engaged in the state's electoral process. We believe that Members of the Assembly Elections Committee and the state legislature understand that without full Latino participation, California cannot have a robust and responsive democracy. We also believe that you share our vision of a California where all eligible community members can make their voices heard at the ballot box, and we look forward to continuing to work with you to achieve this important goal.

NALEO  
Educational Fund

2017

# PAVING THE PATH TO THE POLLS:

A Handbook on Preregistration





# ACKNOWLEDGMENTS

NALEO Educational Fund thanks the many people who contributed time and expertise for this *Handbook*. First, the recommendations in this *Handbook* are largely based on the research and policy analysis in the report *Path to the Polls: Preregistering California's Youth to Build a More Participatory Democracy*, which was authored by Alana Miller of the Frontier Group, Emily Rusch of CALPIRG Education Fund, and Rosalind Gold and Ofelia Medina of NALEO Educational Fund. We also thank Executive Director Arturo Vargas of NALEO Educational Fund for his input and suggestions, and Freddy Pech and Chali Prasertsri of the NALEO Educational Fund for the design of the *Handbook*.

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The National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund is the leading non-partisan 501(c)(3) national organization that facilitates full Latino participation in the American political process, from citizenship to public service.

NALEO Educational Fund carries out its mission through three strategies: mobilizing the Latino community; developing the leadership and governance skills of Latino public servants; and promoting a policy framework that enhances Latino access to U.S. civic life.

For more information about the NALEO Educational Fund, please visit [www.naleo.org](http://www.naleo.org).

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“ [A legislature] should be an exact portrait,  
in miniature, of the people at large.”  
JOHN ADAMS

## INTRODUCTION

Too many young people in California are not voting. We can increase their turnout by preregistering 16- and 17-year-olds. These youth will appear on the voter rolls the moment they turn 18.

The California legislature enabled this new process in 2016. However, it only allows preregistration. It does not preregister anyone. Educators, election officials, and community organizations have to step in to ensure youth are preregistered, and this *Handbook* tells you how to do so effectively.

### Why Preregister?

Voting is the bedrock of our democracy. When voter turnouts are representative, they express the will of the people, which shapes the will of the government. Our leaders respond better to all parts of society and our nation grows stronger.

Young people are not making their presence felt at polling places. In the 2016 California elections, over half (59 percent) of all eligible voters cast ballots, yet only 43 percent of all eligible 18- to 24-year-olds did. Only half of those eligible 18- to 24-year-olds had even registered to vote.

Underrepresented racial and ethnic youth predominate statewide, yet they are the least likely to register. Half of California's 1.1 million 16- and 17-year-olds are Latinos. As a whole, underrepresented racial and ethnic groups are also younger, comprising 72 percent of the state's 16- and 17-year olds, but 61 percent of the total population. These groups are also the fastest growing populations in the state.

The votes of young people matter. Youth are voting on policies that affect the rest of their lives. When fewer of them cast ballots, elected politicians may be less responsive to their concerns and to the future itself.

### Preregistration Has Proven Benefits

Preregistration works. Young people can start on the path toward political participation at many sites, from high schools to naturalization ceremonies to community events.

**It increases youth voter turnout.**

**It fosters lifelong voting.** Coupled with programs that reach and mobilize youth, preregistration fosters engagement in the political process.

## Making the Most of Preregistration

To make preregistration succeed, we have to understand the challenges to moving preregistration forward. This *Handbook* shows you how to address the five primary obstacles to preregistration:

- **Lack of knowledge among teens.** Many do not understand preregistration or the steps to becoming voters. Civics curricula too often omit this information.
- **Insufficient motivation.** The process can be daunting for a new voter. Preregistration reinforces the tendency to vote when young people become eligible.
- **Limitations of outreach.** Many teens, especially those underrepresented in the electorate are not easily reached by the institutions where voter registration typically takes place – such as schools or the Department of Motor Vehicles (DMV).
- **Insensitivity to citizenship status.** Since only U.S. citizens can register to vote, the preregistration process may risk stigmatizing and alienating non-citizen youth. This is a particularly challenging problem in California, given the significant number of foreign-born teens in its population.
- **Change of residence after 18.** Even when preregistered, voters often move soon after turning 18, usually to go to college, and they do not update their registration records. This is one of the biggest hurdles for state election officials.

We have divided the rest of this *Handbook* into two parts, based on who you are. If you are a teacher or school administrator, see the “For Educators” section that follows, and if you are an election official, see “For Election Officials.” However, the whole *Handbook* is relevant for both of these groups, as well as statewide policymakers and organizations that work closely with youth, and we recommend reading both parts.

# FOR EDUCATORS

Teens face a novel process. They have never voted before and their friends have not either. Many lack the social networks that could inform them about preregistration and spur them to sign up. They may not know the registration laws and may miss a deadline. They are less familiar with election procedures and the ballot form itself.

They are also new to the broader political system and they may understand less about the issues themselves, partly because they hear less from candidates and political campaigns. Campaigns mobilize voters and provide information, but they target registered voters, those with a party affiliation, and especially frequent voters and the politically engaged.

These are all key reasons why young people turn out less often. They also show why educators play such a crucial role. Teachers can fill these gaps. They are in daily contact with students, and they are often trusted sources of information and advice. In addition, 16- and 17-year-olds are generally well represented in the public schools.

Here are important steps for educators:

## Teach Voting

A [2013 state law](#) already requires that U.S. government and civics classes include information about voting. In addition, the California Department of Education's [History-Social Science Framework](#) for curriculum, released in July 2016, seeks to guarantee that students discuss preregistration and voter registration in general.

It is during this time that class discussions about preregistration should take place. It is also important to show students the whole voting process and especially describe the benefits of voting.

Take them through every stage. Overall, teach them:

- Who is eligible to preregister.
- Where and how to preregister, including [online](#), by mail, or at the DMV.
- How to obtain and understand the voter information pamphlet, as well as other materials.
- How to request, fill out, and return an absentee ballot.
- What to expect on Election Day: how to find a polling place and the steps to follow there.

Three other states—Hawaii, Florida and Louisiana—allow preregistration at 16, and in Hawaii many schools integrate high school voter education with preregistration drives on campus, which adult volunteers can run with the help of students. In recent years, social media and other online resources have made the process more accessible and appealing to students.

## Commit

Seek full buy-in from faculty members and administrators. If they do not care, students are less likely to as well.

## Choose the Right Messengers

Individual teachers should help decide who conducts and promotes voter preregistration—themselves, trained students, nonpartisan community groups, or election officials. The key is finding knowledgeable messengers who can influence students. Surveys show that effective messengers include:

- Peers;
- Respected teachers;
- Community leaders; and
- In general, people whose advice teens listen to.

Be sure to address the remarkable diversity of California’s young population. For example, staff promoting preregistration should reflect the racial and ethnic diversity of the youth they are trying to engage. They should have the cultural competency to reach them, and young people should see them as trusted sources of information. In addition, all materials, information, education and outreach efforts must be accessible to youth with disabilities.

## Teach Civics Comprehensively

Voting is all about candidates and issues. Young people need to know why and for what they are voting. Focus on the issues that matter to them today and those they think will matter most in the future. Treat youth like adults, stressing that those in elected office care about voters and that every vote is important.

Research suggests that civic engagement programs have lasting impacts on a teen’s interest in elections. Consider offering an interactive curriculum with classroom instruction, political debate with peers, [mock elections](#), interviews with family members about views on voting, and even helping with local voter registration drives. For effective mock elections:

- Hold classroom discussions on the topics beforehand.
- Draft ballot questions that mimic actual ballot items.
- Include questions of special interest to California teens.
- Regularly assess program participation rates and outcomes.

Many times, youth engagement efforts have taken the form of school assemblies where music and popular culture enliven voter registration instruction. If this is the case, ensure that you have a staff member serve as a liaison to your office. This staff member should answer any questions students might have and walk them through the preregistration forms.

## Protect Non-Eligible Students

Preregistration must not stigmatize non-citizen students, and preregistration outreach should clearly cover the eligibility requirements for voter registration, which include U.S. citizenship. If non-citizen teens inadvertently preregister, it could have serious consequences for their immigration status. Thus, if schools conduct preregistration in the classroom, school administrators and teachers must safeguard students who cannot preregister because of sensitive immigration issues. Overall, California must develop methods that protect their privacy, yet provide ways for all eligible students to preregister.

There is no uniform way to address the fact that some students may not be eligible. However, there are many strategies. For instance, provide students with paper voter registration forms and informational materials. These materials will let students preregister elsewhere later, so no one in class will know who has preregistered and who has not. They should list websites or physical addresses where students can obtain and submit voter preregistration forms. The materials will also help if students have questions or need to check with their parents. They also help eligible students, who may not want to preregister in front of friends who are potentially ineligible.

In addition, classroom presenters, teachers, student leaders, and other educators should:

- Present clear information about U.S. citizenship as an eligibility requirement, and know how to discuss eligibility in a non-stigmatizing manner.
- Clearly indicate that preregistration is an option, not a requirement.
- Emphasize that if a student chooses not to preregister, other students, school administrators or outside authorities will not know of the decision.
- Stress the full range of civic participation opportunities, including those available to non-citizens, such as volunteering as a poll worker.

# FOR ELECTION OFFICIALS

Election officials oversee the process and play a vital role. Here are some basic steps to increase the likelihood that young people preregister and will vote when they are first eligible.

## **Expand Partnerships to Preregister Where the Young People Are**

By law, the last two full weeks in April and September are High School Voter Education Weeks. These are excellent opportunities for elections officials to show students and others how to become registered voters. The California Secretary of State's office provides useful, printable materials on its [website](#), including registration forms, motivational flyers to post on school billboards, and a list of best practices for classroom instruction.

Election officials should extend voter education and preregistration opportunities beyond traditional high school settings, including:

- Private schools;
- Homeschooling organizations;
- Juvenile detention facilities;
- GED tutoring programs;
- Naturalization ceremonies;
- Homeless youth programs;
- After school programs; and
- Foster youth services agencies.

In addition, while some students might preregister at the DMV, California election officials can take advantage of many other community preregistration opportunities. The best venues are also places 16- and 17-year-olds frequent, such as:

- Malls, libraries, and coffee shops. In rural areas, community centers and religious venues are also good locations.
- Community groups trusted by youth, including organizations that conduct nonpartisan youth voter registration and mobilization. Many of these organizations have expertise working with youth and are well-positioned to promote preregistration. Election officials should also consult with their advisory groups that address issues of accessibility for language minorities and voters with disabilities to identify appropriate community partners.
- Local government cultural and recreational programs.
- Community events and festivals.

As election officials conduct preregistration efforts, they should reach youth through the communication tools they use all the time, such as computers, smartphones and other mobile devices. Young people are digital natives, very much at home online. Election officials should incorporate information on preregistration through all of their digital outreach, including mobile apps, websites and social media strategies.

In addition, all information and materials on preregistration must be accessible to youth with disabilities.



## Make the Process Effective

When minors preregister, it is important to keep their information off the official voter rolls that campaigns can access, until they turn 18. However, as election officials, you must be able to use their addresses, phone numbers, and email addresses to follow up with them, and especially to ensure that they update their registration if they move. In addition:

- Consider adding space for a cell phone number to the voter registration forms or accompanying materials.
- Clarify the privacy rights and uses of this information.
- Create a means for academics and nonprofit organizations to gain information about the preregistered population, if they agree to use it solely for nonpartisan, non-commercial purposes, such as research or poll worker recruitment.

Finally, election officials should work with the state to store its data on preregistration outcomes, so policymakers can see which young people they are not yet reaching and avoid mistakes of the past. The system should track items such as number of preregistrations by key demographic categories, including age, sex, race and ethnicity. With sound information on what works and what does not, state officials will be in a much better position to iron out implementation problems and improve support.

## Promote Voting after Preregistration

**Send Confirmation Letters:** Connect with teens after they preregister and explain in simple and welcoming language that they can vote when they turn 18, as long as they keep their registration address up to date. Provide clear instructions about maintaining their records. This is a simple, effective strategy.

**Send Follow-up Letters, Emails and Texts:** Once teens have preregistered and you have sent a confirmation letter:

- Send them a notification when they turn 18 to remind them that they can now vote.
- Send them an additional message right before Election Day reminding them to cast a ballot. In this message, give new voters easy access to all the information they need to cast their vote. These messages can include maps of polling locations, photos of ballots, other ballot information, and lists of sources to contact with questions. Information about polling locations and methods for casting ballots will be particularly important as some California counties move forward to implement new “Voter’s Choice Act” election systems in 2018 and 2020. Generally, these counties will replace local precinct-site voting with a system where voters can cast ballots in-person at vote centers in the ten days leading up to an election at any vote center in the county. In addition, most counties using this system will mail a vote-by-mail ballot to all if its registered voters. Because the adoption of this system represents a significant change in how and where voters cast ballots, election officials should ensure that new voters learn about it before Election Day.

## **Reach Out to Preregistered Youth Who Move**

In a survey by Pew Research Center, 40 percent of all California voters did not realize that the post office will not automatically update their registration addresses when they move. First-time voters are particularly apt to fail to stay up-to-date on the voter rolls. Among the solutions:

- Notify them by email to update their registration addresses.
- Place election representatives on college campuses to re-register students who have moved.
- Show students pop-up reminders when they select classes.

As of this writing, California's public colleges and universities are working closely with the Secretary of State to examine approaches that would offer voter registration to students upon college/university class registration.

# CONCLUSION

We vote to implement the will of all our people. That is what democracy is and why it works. Whenever the voice of any group is not well heard, our democracy suffers. Young people—especially underrepresented young people—are heard poorly in California today, and we need cost-effective, proven ways to get them on the voter rolls. Preregistration is an excellent strategy to help, and as we take advantage of it, with broad new voter education and outreach, we will make the electorate more like society itself, and our democracy more effective.

NALEO Educational Fund recognizes the important work of educators and election officials, who serve on the frontlines of efforts to educate youth and promote their participation in the electoral process. We greatly appreciate your leadership, and look forward to continuing our work together to strengthen California's democracy.



March 10, 2023

**VIA Online Portal to Author, Senate Committee on Elections and Constitutional Amendments & Senate Committee on Transportation**

The Honorable Monique Limón  
California State Senate  
1021 O St., Ste. 6510  
Sacramento, CA 95814

**Re: OPPOSE – SB 846; Voter  
registration: California New Motor  
Voter Program.**

Dear Senator Limón:

We regret that we must respectfully oppose your SB 846, which would change California's "Motor Voter" system into a "back-end opt-out" automatic voter registration (AVR) model that would remove voter information questions from certain California Department of Motor Vehicles (DMV) applications and make it considerably harder for DMV customers to choose not to register or update their registration or to indicate their voting preferences. Although we very much share the goals of increasing California's voter registration rate and protecting ineligible individuals from accidental registration, we believe that the approach proposed by SB 846 has significant potential to increase voter confusion, incorrectly deny eligible voters registration opportunities, create erroneous registrations, and strip important voter preference information from registration records.

California has made significant advances in voter registration accessibility in recent years. Almost 88 percent of eligible Californians were registered to vote before the November 2020 General Election – the highest percentage in the past 80 years.<sup>1</sup> This historic rate of voter registration is, in large part, a result of the Motor Voter program currently in place at the DMV,<sup>2</sup> which allows eligible people to conveniently register or update their voter registration when completing a driver's license or state identification card (DL/ID) transaction at the DMV. When California launched the DMV automated voter registration program in April 2018, it became the largest and one of the first states in the nation to implement automated voter registration through the DMV. Over the last five years, the program has resulted in almost 20 million new or updated

<sup>1</sup> Cal. Sec. of State, *Record 22 Million Californians Registered to Vote Heading into General Election*, (Oct. 30, 2020), available at [bit.ly/SoSPressRelease103020](https://bit.ly/SoSPressRelease103020).

<sup>2</sup> The DMV has been required to provide voter registration opportunities at the time of DL/ID transactions since the passage of Section 5 of National Voter Registration Act (NVRA) in 1993 (the original "Motor Voter" law). 52 U.S.C. § 20504. The front-end AVR system currently in place at California's DMV was implemented in 2018 a result of AB 1461 (the "New Motor Voter" law). Cal. Elec. Code § 2260 et seq.

voter registrations.<sup>3</sup>

Yet even with the accomplishments of the Motor Voter program, we know that continued voter participation gaps in California mean that critical issues of local and statewide importance are being made by a predominantly whiter, older, and wealthier electorate that does not represent what this state truly looks like. While registration rates are increasing overall, we still have almost 5 million unregistered eligible Californians – a disproportionate number of whom are youth, people with disabilities, Black, Latino, Asian American, Native, Indigenous, and other people of color, those with limited English proficiency or who have low incomes.<sup>4</sup> Nonetheless, despite our shared goals of closing these voter registration and participation gaps, we believe the approach proposed by SB 846 has significant potential to increase voter confusion, incorrectly deny eligible voters registration opportunities, create erroneous registrations, and strip important voter preference information from registration records.

1. The Model Proposed by SB 846 Increases the Potential for Harm from Erroneous Voter Eligibility Determinations by the DMV

When it comes to preventing erroneous registrations, SB 846 seeks to solve a problem that we have no indication actually exists. The solution it recommends, however, would impose significant risk of creating real and serious new problems in the Motor Voter system. Under the existing system, DMV customers who attest to their eligibility and who do not opt-out of the program are automatically registered to vote. Because this system allows customers to choose whether to be registered to vote or have their registration updated at the time of their DL/ID application, renewal, or change of address – that is, at the “front-end” of their DMV transaction, it both gives them clear notice about the DMV voter registration process and allows them to evaluate and verify their own eligibility status.<sup>5</sup> Supporters claim that by instead making the DMV responsible for determining voter eligibility, and by preventing certain customers from having any opportunity to answer questions about their ability to vote while completing their DMV transaction, SB 846 will be more protective for noncitizen Californians

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<sup>3</sup> Cal. Sec. of State, *DMV New Motor Voter Registration Transactions Monthly and Yearly Totals by Category*, April 2018 to Present (accessed March 7, 2023).

<sup>4</sup> Cal. Sec. of State, [15-Day Report of Registration for the November 8, 2022, General Election](#), Oct. 24, 2022; Romero, Mindy S., Center for Inclusive Democracy, USC Sol Price School of Public Policy, *November 2020 General Election: Latino and Asian-American Vote*, available at [bit.ly/USCPriceReportNov2020](http://bit.ly/USCPriceReportNov2020); Romero, Mindy S., Center for Inclusive Democracy, USC Sol Price School of Public Policy, *California's Youth Vote: November 2020 Election*, available at [bit.ly/USCPriceYouthNov2020](http://bit.ly/USCPriceYouthNov2020).

<sup>5</sup> This is consistent with both the provisions in the NVRA that require DL/ID applications to provide customers with the opportunity to attest to their eligibility to vote and with all other modes of voter registration in California, including paper voter registration affidavits and the California Online Voter Registration system. See, e.g., 52 U.S.C. § 20504(c)(2)(C).

than the current system. Evaluating this claim requires two inquiries. First, will the approach proposed by the bill decrease or increase the number of ineligible people who are accidentally registered to vote? Second, if, hypothetically, any ineligible individuals do become accidentally registered to vote as a result of their DMV transaction, will SB 846's approach provide additional shelter for them from unfair legal consequences?

Regarding the first question: as the result of a settlement agreement<sup>6</sup>, and the related chaptering of [AB 796 \(Berman 2021\)](#) which codified aspects of the settlement agreement and created the [Motor Voter Task Force](#), the signatories to this letter receive detailed voter registration processing data from the DMV and regularly consult with the Secretary of State and the DMV on the effective implementation of the New Motor Voter Program . Despite the information and insights that this access has provided us, we have not seen any evidence that the current system results in the accidental registration of a significant number of ineligible people. In fact, the existing "front-end opt-out" Motor Voter forms were specifically designed, with input from voter protection organizations like ours, to prevent such erroneous registrations. Currently, when a DMV customer reaches the end of the DL/ID portion of their application, renewal, or change of address form, they are presented with a series of voter registration questions. First, they are asked to select their preferred language for voter registration. Second, they are asked whether they are a US citizen; the form will not progress through the voter registration process unless the customer answers "yes."<sup>7</sup> Third, they are presented with a complete list of the California voter eligibility qualifications (including U.S. citizenship) and asked whether they meet all of those qualifications; again, the voter registration process will not progress unless the customer answers "yes." Even if a customer answers "yes" to both of these eligibility-related questions, their voter registration application will not be transmitted to the Secretary of State unless the customer also indicates on the next page of the form that they want to either register to vote or to update their registration.<sup>8</sup>

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<sup>6</sup> In 2015, the ACLU, LWVC, and our allies notified the DMV and California Secretary of State that they were noncompliant with the NVRA because the DMV violated the "simultaneous application" requirement by attaching a separate voter registration form to DL/ID applications and renewal-by-mail forms, forcing customers to provide duplicate information to register to vote or update their registration. Ultimately, this led to a lawsuit - *League of Women Voters v. Annis* – which was settled in 2018. See, e.g., *League of Women Voters, et al. v. Kim, et al.*, No. 3:17-cv-02665 LB, Doc. 105 (Mar. 9, 2021).

<sup>7</sup> The other answer choices for this question, as well as for the following question, are "no" and "decline to state." If a customer chooses either of these options, the DMV form will skip to the end, the DL/ID transaction will be submitted, and the customer will not be registered to vote. The page of the form that asks about citizenship also includes this language: "Under state law, eligible citizens will be registered to vote unless they choose not to in this section. If you're already registered to vote, this service helps make sure your information is up to date. It is a crime to intentionally provide incorrect information on a voter registration form."

<sup>8</sup> Further adding to the security of the current Motor Voter System, if a DMV customer is issued what is sometimes known as an "AB 60 license" because they were not able to submit satisfactory proof to the

We have seen no evidence that the forms currently in place are causing DMV customers who are ineligible to vote to become confused and incorrectly answer in the affirmative, over multiple separate screens, regarding their qualifications and desire to register to vote. The voter registration form in the current Motor Voter system is both designed to be secure, and is also designed to be clear and accessible to California DMV users regardless of whether their primary language is English. In fact, a study found that the voter registration portions of the DL/ID forms – which are offered in 10 language options – are the easiest part of the forms to read and understand for limited English proficient customers.<sup>9</sup>

Although SB 846 would replace this self-attestation system with one in which the DMV determines customers' level of access to voter registration opportunities, it provides no guidance for how the DMV would make such an important determination. The bill language does not specify whether voter eligibility would be decided by individual DMV field office technicians – which would likely create significant risk of erroneous, arbitrary, or unfair decisions – or by some software that the DMV would need to develop. If the determination is to be made by new software, the bill provides no safeguards that would require the DMV to develop such a complex system overhaul in a way that ensures the accuracy of its voter eligibility determinations and avoids the problems that accompanied the initial roll out of the DMV's last major change to the AVR system in 2018.<sup>10</sup> Similarly, the bill establishes no requirements for the DMV to adequately train its staff about the new voter registration system or to monitor, track, or report data about the system in a way that would help stakeholders resolve problems and develop future improvements to the program.

SB 846 is lacking essential good government and accountability mechanisms, even though a 2019 independent audit recommended that “future changes [to the Motor Voter Program] have defined quality assurance measures and clear decision-making protocols” in order to prevent the kinds of mistakes that accompanied the first months of the last Motor Voter roll out.<sup>11</sup> The problems

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DMV of their legal presence in the U.S., the DMV will not allow any voter registration for that customer to be transmitted to the Secretary of State. Cal. Elec. Code § 2263(d).

<sup>9</sup> Asian Americans Advancing Justice-California et al., *Building Stronger Asian American, Native Hawaiian and Pacific Islander Communities in California in 2019: Policy Recommendations for State of California Governor Gavin Newsom*, (2019), page 15, available at [advancingjustice-la.org/sites/default/files/AANHPI-Transition-Memo-2019.pdf](https://advancingjustice-la.org/sites/default/files/AANHPI-Transition-Memo-2019.pdf).

<sup>10</sup> See, e.g., Bryan Anderson, Sacramento Bee, *Election Officials Said DMV Wasn't Ready to Launch Motor Voter: California Went Ahead Anyway*, (Jan. 31, 2019), available at [sacbee.com/article224696945.html](https://www.sacbee.com/article224696945.html).

<sup>11</sup> See, e.g., Cal. Dept. of Finance, *Department of Motor Vehicles – Independent System Assessment: System Development Assessment Report*, (Feb. 21, 2019), available at [documentcloud.org/documents/6251287-Ernst-Young.html](https://documentcloud.org/documents/6251287-Ernst-Young.html).

with the initial release of the current Motor Voter software have now been resolved, and transforming the California Motor Voter program into the success it is today has involved many incremental improvements, significant advocacy and input from community stakeholders, the imposition of specific transparency and oversight mechanisms through court order, and new legislation passed in 2021 and still being implemented by the DMV. We should not replace the safe and effective existing program which has taken significant time and resources to develop, with one that would likely increase the risk that ineligible Californians would be erroneously registered, and eligible Californians would be erroneously denied the opportunity to register.

Regarding the second question – whether SB 846’s approach would provide additional shelter from unfair legal consequences if ineligible individuals do become accidentally registered to vote as a result of their DMV transaction – unfortunately the cases currently available provide little support for the theory that the back-end opt-out registration model would provide meaningful additional legal protection. SB 846’s proponents have argued that by removing the opportunity for noncitizens to accidentally attest to their eligibility to vote, the back-end approach will afford a legal defense to consequences under federal immigration law.<sup>12</sup> However, even if a back-end approach could theoretically provide some protection for noncitizens who are only erroneously registered and take no further action, the greater risk from SB 846 would likely stem from noncitizens who are incorrectly registered as the result of an administrative error by the DMV or Secretary of State, receive official confirmation from elections officials that they have been registered, receive a ballot in the mail automatically, and assume this means that they must be eligible to vote, and then proceed to cast a ballot during the next election.<sup>13</sup> Federal courts have ruled that even noncitizens who did not attest to U.S. citizenship or were arguably misled during the voter registration process could still face severe consequences if they end up voting.<sup>14</sup>

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<sup>12</sup> See, e.g., 18 U.S.C. §§ 1015(f), 611; 8 U.S.C. §§ 1182(a)(6)(C)(ii)(I), 1227(a)(6)(A). Although California law already builds into the front-end Motor Voter program some protection from *state* consequences for ineligible people who become registered through the DMV, it is unclear how much the California statute can do to protect DMV customers from **federal** immigration consequences if noncitizens become registered or return a ballot. Cal. Elec. Code § 2269.

<sup>13</sup> As a practical matter, voting will likely present much more severe consequences for ineligible Californians than merely registering. Once mistakenly registered to vote, confused ineligible individuals may be likely to actually vote. All registered voters receive numerous notices addressed to them about upcoming elections and such government mailings could cause individuals to believe that the government is informing them of their eligibility to vote. And in California, now all voters receive more than just information: they automatically receive a mailed ballot before each election, which could compound the misimpression that the individual is eligible to vote.

<sup>14</sup> See, e.g., *Fitzpatrick v. Sessions*, 847 F.3d 913 (7th Cir. 2017); *Olaiya v. Mayorkas*, No. 18 CV 6801, 2021 WL 1057736 (N.D. Ill. Mar. 18, 2021); *Chernosky v. Sessions*, 897 F.3d 923 (8th Cir. 2018).



In analyzing whether California should replace its current front-end system with a new back-end system, it is important to consider both the specific circumstances in this state and legal doctrine. Not only is the legal theory behind SB 846 precarious, but the realities on the ground in California – including the size of California's DMV, the number of noncitizens using the state's DMV, the functionality of the current system, and the DMV's data quality, technological capabilities, and track record in implementing competent voter registration systems – indicate that converting the Motor Voter program into a back-end opt-out model would simply create far too much danger for Californians due to erroneous voter eligibility determinations by the DMV.

2. SB 846 Would Make It Harder for Many Voters to Participate by Stripping Important Language and Party Preference Information from Registration Records

In addition to potentially increasing the risk of both erroneous registrations and the accompanying legal consequences of such registrations for ineligible people, SB 846 could also deteriorate the quality of California's voter registration records and make it harder for some voters to participate in future elections. As described above, SB 846's back-end model would remove all voter registration questions and information from certain DMV transactions and automatically register to vote any customer the DMV has deemed eligible unless the customer completes and returns an opt-out postcard mailed to them after their DMV transaction. We know that many people do not receive or do not notice these sorts of postcards<sup>15</sup> – indeed, this lack of awareness about and engagement with the opt-out postcard is the very vehicle that the back-end model relies on for increasing registration numbers.

By moving both the opt-out opportunity and important voter preference questions from the DMV transaction to a postcard that customers may receive in the mail weeks after their interaction with the DMV – if at all – and then relying on customers to return that postcard in order to indicate their language and party preference, SB 846 would undoubtedly mean that many voters who would have provided these preferences through the existing front-end questions<sup>16</sup> will

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<sup>15</sup> "In an age when email and other types of electronic messaging have become the dominant form of communication, many eligible voters will inevitably overlook a single notice sent via U.S. Mail. The U.S. Mail simply no longer plays the vital role it once did in American life. Email, texting, and online options for paying bills have supplanted the U.S. Postal Service, leading to a large decline in mail volume. The overall volume of mail has fallen by 36% since 2007. In the meantime, the percentage of junk mail has surged. Unwanted advertisements now account for 59% of all mail delivered by the U.S. Postal Service<sup>146</sup> and the average American receives forty-one pounds of junk mail per year." Anthony J. Gaughan, *Notice, Due Process, and Voter Registration Purges*, 67 Clev. St. L. Rev. 485 (2019), available at [engagedscholarship.csuohio.edu/clevstlrev/vol67/iss4/5](http://engagedscholarship.csuohio.edu/clevstlrev/vol67/iss4/5).

<sup>16</sup> These voter preference questions are currently integrated into the customer experience at the DMV; once a customer affirms their eligibility and desire to register or update their registration as described

fail to do so under a back-end model which makes providing this information much more challenging.<sup>17</sup> As currently written, SB 846 could also result in an overwrite of existing party preferences as “No Party Preference” on the records of voters who are already registered to vote if those voters fail to return a back-end opt-out postcard mailed to them after their DMV transaction. SB 846’s changes to how voter preference information is collected by the DMV would create additional and unexpected barriers to participation for many voters when they receive election materials that are not in their primary language or find that they cannot vote in a presidential primary election because they are not registered with their chosen party.<sup>18</sup>

### 3. The Back-End Opt-Out AVR Model Proposed by SB 846 Is Not the Solution to California’s Voter Registration Disparities

Although it would impose significant dangers, challenges, and costs for California, back-end opt-out AVR would likely not even be a particularly effective tool for closing our state’s voter registration gaps. SB 846’s low hypothetical reward – in terms of relatively minor increase to voter registration – is not enough to justify the high risk that the bill would lead to erroneous registration determinations by the DMV and decrease voters’ ability to provide important preference information. Because SB 846’s approach would rely on residency and identity documents that are presented to the DMV only at the time of a customer’s initial application for a DL/ID to determine voter eligibility, its back-end approach would only apply to one of the multiple Motor Voter workstreams. This means that DL/ID renewals and changes of address,<sup>19</sup> as well as initial DL/ID applications where customers present residency and identity documents that do not demonstrate either U.S. citizenship or noncitizenship, would all be processed using the current front-end Motor Voter questions.

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above, the DL/ID forms require the customer to answer these questions before submitting the voter registration portion of the application.

<sup>17</sup> “Sixteen states [including California] have either closed or partially closed primaries, which makes party registration an important part of the voter registration process. In AVR systems that register voters unless they decline via a mailer (also known as a “back-end” opt-out), voters must return a postcard to indicate the party with which they wish to register. This extra step is often not taken by voters. In Oregon, for example, only 14.5 percent of people registered through AVR in 2018 returned the mailer to select a party. As a result, close to 85 percent of new voters registered through AVR were automatically marked as nonaffiliated, an outcome that would matter greatly in some states [like California] and hardly at all in others.” Kevin Morris and Peter Dunphy, Brennan Center for Justice, *AVR Impact on State Voter Registration*, (2019), page 4, available at [brennancenter.org/sites/default/files/2019-08/Report\\_AVR\\_Impact\\_State\\_Voter\\_Registration.pdf](https://brennancenter.org/sites/default/files/2019-08/Report_AVR_Impact_State_Voter_Registration.pdf).

<sup>18</sup> See, e.g., Paul Mitchell, Capitol Weekly, *Surprise! How Some Voters Chose Partisanship*, available at [capitolweekly.net/ca120-surprise-how-some-voters-chose-partisanship](https://capitolweekly.net/ca120-surprise-how-some-voters-chose-partisanship).

<sup>19</sup> Since the current Motor Voter program rolled out at the DMV in 2018, almost 8.4 million voter registration applications have been processed through DL/ID renewals and changes of address transactions. *DMV New Motor Voter Registration Transactions*, *supra* note 3.

Therefore, SB 846's potential for increasing voter registration numbers or closing registration gaps is far more limited than some may realize.<sup>20</sup>

A significant majority of states that have adopted AVR policies use a front-end opt-out model,<sup>21</sup> and studies have indicated that the rare states that have chosen to adopt the back-end opt-out model do “not produce higher registration rates than states that chose a front-end opt-out model.”<sup>22</sup> Instead of placing false hopes in a back-end Motor Voter registration system, California should focus its resources on more effective, evidence-based approaches to increasing voter registration and closing turnout disparities. For example, thoughtfully and carefully extending the AVR model currently in use at California's DMV to other social services points-of-contact – such as applications for health coverage through Covered California – has the potential to bring voter registration to additional groups of under-represented Californians, including low-income voters who may be less likely to interact with the DMV.<sup>23</sup> Further, continuing to improve our existing front-end Motor Voter program by requiring better data tracking, transparency and accountability mechanisms, and improved efficiency in application processing would also be a more practical way to ensure that this already successful program is as fair and accessible as possible.

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<sup>20</sup> Further, having two alternate voter registration processes – back-end opt-out or front-end opt – for customers who are completing the same kind of DMV transaction creates many additional challenges. It will greatly add to confusion for potential voters and for DMV workers about what steps exactly are needed to accomplish voter registration. It will also create an additional burden on the DMV to be required to build an alternative system while maintaining the existing system, which is already a fairly resource-intensive task.

<sup>21</sup> As of February 2023, seventeen states plus D.C. have adopted front-end opt-out AVR systems, while only five states have adopted back-end opt-out AVR systems. National Conference of State Legislatures, *Automatic Voter Registration*, (2023), available at [ncsl.org/elections-and-campaigns/automatic-voter-registration](https://ncsl.org/elections-and-campaigns/automatic-voter-registration). Congress also expressed its preference for a front-end opt-out AVR system by including it in the For the People Act (H.R.1, 2019) and the Freedom to Vote Act (S.2747, 2021).

<sup>22</sup> A 2019 study by the Brennan Center found that California's front-end AVR model had increased the state's registration rate by 26.8%, but Oregon's back-end model had only increased that state's registration rate by 15.9%. *AVR Impact on State Voter Registration*, *supra* note 17.

<sup>23</sup> “States should choose implementing agencies likely to reach many residents... The addition of agencies beyond the DMV would be especially useful in ensuring a diverse electorate, as low-income residents are the least likely to own cars and interact with the DMV.” *Id.* at 16.

Although we greatly appreciate and share SB 846's goals of increasing voter registration and preventing the harms of accidental registrations, we believe this bill is not the way to accomplish those goals. Its approach is simply too high risk for a low and speculative reward. For all of these reasons, our organizations unfortunately must oppose SB 846.

Sincerely,



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Deputy Director  
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