



Guidance on Language Access

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Overview of Laws Pertaining to Language Access for Pennsylvania Voters

The statutory provisions cited below apply to all elections conducted in the Commonwealth (including local elections).

Voting Rights Act of 1965

The Voting Rights Act of 1965, 52 USC § 10101 *et seq.* (“VRA”)¹, was enacted by Congress to end race-based discrimination in voting. Since its inception in 1965, the VRA has been expanded to include protections for individuals with disabilities and to cover language minorities and language minority groups in the United States.

Additional information from the United States Department of Justice regarding the VRA and compliance can be found here: <https://www.justice.gov/crt/about-language-minority-voting-rights>.

What is a “language minority group” under the VRA?

The VRA defines language minorities and “language minority groups” as “persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.” 52 USC § 10503(e).²

Section 2 of the VRA (52 USC § 10301)

Eligible voters must enjoy an equal opportunity to participate in the voting process, regardless of race or color, or membership in a designated language minority group under Section 203 (see below).

Section 208 of the VRA (52 USC § 10508)

Under Section 208, “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice,” although the voter cannot receive assistance from the voter’s employer or officer of the voter’s union (or an agent of either). Also, the judge of elections may not provide the voter with assistance.

For purposes of the VRA, voters with limited English proficiency (LEP) are included in the category of voters who are permitted to receive assistance in the polling place. Voters who have limited English proficiency do not speak English as their primary

¹ The VRA was formerly codified at 42 USC § 1973 *et seq.*

² The Department acknowledges and recognizes that individuals who are members of the populations defined in this provision may prefer different terms for those identities. For the purpose of this guidance document, the Department is utilizing the definition set forth in the VRA. Use of the VRA terminology should not be construed as formal adoption by the Department of these terms in any other context.

language and have a limited ability to read, write, speak, or understand English. Persons with limited English proficiency may be proficient in English for certain types of communication, but still have limited English proficiency for other purposes.

Section 4(e) of the VRA (52 USC § 10303(e))

Section 4(e) of the VRA provides special protections for voters who were educated up to the sixth grade in a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, where the predominant classroom language was a language other than English.

These citizens cannot be denied the right to vote in any election because of their inability to read, write, understand, or interpret English. Accordingly, federal law requires counties to provide these voters with written and/or oral assistance in voting. For voters educated in Puerto Rico, this requires assistance in Spanish.

Section 203 of the VRA (52 USC § 10503)

Section 203 sets forth stringent requirements for certain jurisdictions that receive a designation for certain language minorities based on the composition of the population.

If a jurisdiction covered by Section 203 provides any “registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots” to voters, it must do so in the language of the designated language minority in addition to English.

Whether a political subdivision is “covered” by Section 203 is determined by the U.S. Census Bureau, using the American Community Survey every five years. Designation for a political subdivision occurs when a single language minority group within the political subdivision:

- 1) has a population of more than 10,000 voting age citizens with limited English proficiency, or
- 2) has a population of 5 percent or more of the total voting-age citizens in the jurisdiction with limited English proficiency; and
- 3) has a literacy rate below that of the national average.

As of December 8, 2021, Pennsylvania has three counties that have been designated as covered political subdivisions under Section 203 for the following language minority groups:

Lehigh County: Spanish

Berks County: Spanish

Philadelphia County: Spanish, Chinese (including Taiwanese).³

Pennsylvania Election Code

Under the Election Code, a voter who, because of an inability to read or write, is unable to read the names on the ballot without assistance, is entitled to receive such assistance by a person of the voter's choice. 25 P.S. § 3058. The voter, however, is not permitted to enter the voting booth with such assistance without completing a declaration of the voter's need for assistance in writing.

Like Section 208 of the VRA, the "inability to read or write" in the Election Code has been interpreted to extend to those voters who are limited in their ability to read or write English.

Language access requirements applicable to all counties:

Voter's Right to Assistance under the VRA and the Election Code

Under both Section 208 of the Voting Rights Act and the Pennsylvania Election Code, 25 P.S. § 3058(a), voters who experience difficulty with English can receive assistance at the polling place. Under these provisions, voters are generally entitled to assistance from the individual of the voter's choice, with some exceptions.

Examples of individuals who can provide assistance:

- Friend
- Family member
- Community advocate/voter protection volunteer
- Other person of voter's choice (subject to the prohibitions below)
- Poll worker
- Interpreter

There is no limitation on the number of voters that can be assisted by one individual, as long as each voter elects to have that individual assist them.

³ DOJ guidance states that, where a language minority group may have more than one form of written language or spoken dialect, a covered jurisdiction should provide written assistance for a language minority group in the written form and in the spoken dialect most prevalently used amongst the members of the group in the covered jurisdiction. See 28 CFR §§ 55.12(b), 55.13. Here, Philadelphia has been designated a covered jurisdiction for a single language group that includes citizens of Chinese and Taiwanese heritage. Accordingly, the Department has determined that the written form commonly referred to as "traditional Chinese" and the Mandarin dialect are appropriate for Philadelphia.

Who cannot provide assistance:

- The voter's employer or an agent of the employer
- An officer or agent of the voter's union
- The Judge of Elections

What an assistant can do:

- Read the ballot aloud to the voter
- Explain how to complete the ballot and cast the vote
- Answer the voter's questions
- Enter into the balloting area with the voter
- Pose questions to poll workers on behalf of the voter

What an assistant cannot do:

- Attempt to influence or influence the voter's selections for a candidate or referendum on the ballot
- Disclose the voter's ballot selections

Procedures for poll workers when voter demands assistance:

- Once a voter has stated he or she needs assistance, the poll worker should not challenge this statement.
- The poll worker should review the poll book to determine whether the voter's record indicates a declaration of need for assistance, including a designation for a preferred language other than English.
- If the voter's record in the poll book does not indicate the need for assistance, poll workers should provide a voter with the form(s) necessary to add a declaration to the registration card at the polling place.
- Once the declaration form is completed, the voter is entitled to assistance.

All poll workers should be trained in the rules regarding assistance.

Multilingual access for voters educated in U.S. territories under Section 4(e) of the VRA

Special protections apply to voters who were educated in U.S. territories – such as Puerto Rico – where the classroom language was not English.

In such cases, the law provides that the voter's right to vote cannot depend upon his or

her ability to read, write, or understand English.

Is there a threshold population required to trigger compliance with Section 4(e)?

There is no minimum population threshold to trigger compliance with Section 4(e) of the VRA. As a result, these requirements may apply to any county in which communities of covered voters reside. To plan for the needs of voters with limited English proficiency who receive special protections, it helps to determine whether there are any polling places where there are eligible voters who were educated in U.S. territories such as Puerto Rico, particularly polling places where there are sizable populations of said voters.⁴

What assistance is required under Section 4(e)?

In practice, that means that the jurisdiction should provide written and/or oral assistance to voters protected by Section 4(e).

Each county must determine how to best provide language assistance needs to these voters. While the Department is providing some suggestions and best practices, below, the county should confer with its solicitor before adopting any such procedure. Prior to adopting official policies and procedures, it is also important to seek input from the impacted communities through the advocates who represent them.

Sufficient assistance may include one or a combination of the following:

- Offering translated ballots and other balloting materials (provisional and emergency ballots).
- Providing some or all precincts with translated instructions and sample ballots for voters to use to complete the English ballot.
- Translated voting instructions and notices at the polling place.

Oral assistance may include:

- Providing bilingual poll workers to assist voters at precincts with the highest concentration of LEP voters as identified by Census or other available precinct-level data for multilingual individuals.
- Contracting with telephonic or video interpretation vendors to offer on-demand interpretation services.

⁴ See *United States v. Berks County, Pennsylvania*, 250 F.Supp.2d 525 (E.D. Pa. 2003)

Language access requirements under Section 203 of the VRA, applicable to some counties

Who is covered by Section 203?

Section 203 of the Voting Rights Act requires counties to provide language assistance if the Census Bureau's American Community Survey shows they have a significantly large number or percentage (at least 10,000 or 5%) of eligible voters who are members of a language minority group and who have limited proficiency speaking English, and that their illiteracy rate is higher than the national population.

As of December 2021, the Pennsylvania counties currently covered by Section 203 are Berks County (Spanish); Lehigh County (Spanish); Philadelphia County (Spanish and Chinese (including Taiwanese)).⁵

What does Section 203 require?⁶

Section 203 requires covered jurisdictions to provide non-English speaking citizens with the written information and oral assistance that they need to effectively participate in the electoral process. The assistance provided should be based on the particular needs of their community, but should include:

1) Translation of all written materials provided to the general electorate.

Written materials include:

- voter registration forms;
- voter application forms;
- ballots (including mail-in and absentee);
- sample ballots;
- provisional or affidavit ballots;
- emergency ballots;
- voter guides;
- polling place signage;
- websites maintained by election officials;
- social media; and
- informational and instructional materials concerning the opportunity to register, the deadline for voter registration, upcoming elections, and absentee voting.

⁵ Voting Rights Act Amendments of 2006, Determinations Under Section 203, 86 Fed. Reg. 69611, 69616 (Dec. 8, 2021), available at <https://www.federalregister.gov/documents/2021/12/08/2021-26547/voting-rights-act-amendments-of-2006-determinations-under-section-203#:~:text=Section%20203%20mandates%20that%20a,process%2C%E2%80%9D%20and%20if%20the%20rate>

⁶ For further guidance, see Attorney General's Guidelines on Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 76 Fed. Reg. 54111 (Aug. 31, 2011) (codified at 28 C.F.R. § 55.1 *et seq.*), available at <http://www.justice.gov/sites/default/files/crt/legacy/2011/11/04/28CFRPart55.pdf>

2) Website materials

For covered jurisdictions, this practice should equally apply to information on the county website and to assistance provided by phone. Additionally, mailings sent to voters should provide equivalent information in the covered language.

3) Oral assistance at polling sites.

Section 203-covered counties should have a program to recruit and deploy bilingual poll workers or interpreters on Election Day to effectively provide oral assistance to the voters who need it.

Assigning bilingual poll workers to precincts based upon the need for language assistance is an accepted practice for complying with Section 203. The goal of this targeting should be to provide a sufficient number of bilingual poll workers to effectively meet each precinct's needs.⁷

Common methods of strategically assigning poll workers to precincts based on needs include gathering information provided by community members and poll workers, analyzing Census data, reviewing past records of voter requests for language assistance, and reviewing voter registration lists for surname matching and/or place of birth.

4) Publicity regarding the availability of bilingual assistance.

Section 203-covered counties must make efforts to advertise and make it known that language assistance is available. Some examples include bilingual notices at voter registration and polling sites; announcements in language minority radio, television, and newspapers; and contact with language minority community organizations and direct services organizations.

Conduct outreach to community organizations and other institutions that serve as access points to the community and that can help spread the word about the availability of language assistance.

[DOS support for bilingual elections](#)

DOS provides support for all counties to provide multilingual materials through:

- A dedicated page for “Language Support” on the vote.pa.gov website.
- An ongoing project to convert all voter information pages on the vote.pa.gov website to provide professionally translated pages in Spanish & Chinese, starting with the highest-trafficked pages.

⁷ Commonly used data to assign assistance include census data, voter requests for language assistance on file, surname matching of voter registration lists, place of birth, and information provided by community members.

- Inclusion of Spanish and Chinese translations in paid media circulating in Section 203-covered counties.
- Full translation of the online Voter Services Portal (www.pavoterservices.pa.gov) available in Spanish and Chinese.
- Voter forms in the vote.pa.gov Resource Center translated in Spanish and Chinese.
- Ready to Vote media education campaigns in Spanish and Chinese.
- A year-round voter hotline (1-877-VOTESPA) offering services in 200+ languages.
- Current versions of the Pennsylvania Voter Registration and Mail Application and Declaration of the Need of Assistance to Vote forms translated in the following languages:
 - Spanish
 - Traditional Chinese
 - Simplified Chinese
 - Vietnamese

Counties seeking additional resources and support may contact the Department's Language Access Coordinator at RA-STLANGUAGEACCESS@pa.gov.

[Implementing a language program⁸](#)

NOTE: Even if a county is not covered under Section 203, counties with sizable populations of eligible voters who primarily speak a language other than English are encouraged to implement these best practices to the extent possible. Section 203 designations change every five years, and population demographics are shifting in many counties. Counties that adopt best practices voluntarily will be in a better position if they later become covered by Section 203 due to demographic changes: They will already have the practices and culture in place to more easily satisfy their legal obligations.

1) Determining population needs

There are a number of resources that counties can use to determine the language assistance needs of its population.

- The Census Bureau provides estimates by county that quantify the number of individuals who have limited proficiency speaking English. [Census - Table Results](#)
- Additional maps can be found on the USDOJ's Language Map App, which may be accessed at <https://www.lep.gov/maps>. The Language Map App is an

⁸ Additional resources related to implanting a language access program are available from the U.S. government at <https://www.lep.gov/language-access-planning>.

interactive mapping tool that helps users find out the concentration of and languages spoken by LEP individuals in a community.

- PA Data Center provides county-level data with race and ethnicity breakdowns. [2020 Census Redistricting Data](#)

2) Standard for written translations

Covered jurisdictions should use professional translators, who may be either vendors or staff members, to ensure the translations are accurate. Where possible, community groups should have the opportunity to provide input and review the translations in advance to ensure the translations accurately convey the message, rather than a literal translation, and match local contexts and colloquialisms.

Elections officials may find useful Spanish and Chinese translations related to voting on the Department's website, vote.pa.gov.

Other standards for written materials

- Translated signs and notices should include the official logo/emblem of the county so that voters are aware that the materials are official documents.
- Otherwise, translated materials should resemble the formatting of English-version materials as closely as possible.
- While embedded translation software is commonly used on government websites, the accuracy of their translations cannot be guaranteed, and they should not be relied upon for official translations. The use of translation software, on its own, may not meet the standard for written translations of election materials.

3) Selecting bilingual interpreters and staff

Counties should consider administering a short, basic written and oral assessment to verify the disclosed level of target language proficiency. Generally, poll workers can assist with a basic to intermediate level of interpretation. Election staff, on the other hand, should have an advanced level of proficiency. Enlisting community stakeholders to help develop and verify proficiency may be helpful.

Unlike court interpreters, there is no certification process for interpreters at the polling place. Counties implementing a program to recruit and hire staff and/or volunteer interpreters should consider a number of factors while developing the program:

- Skill level: Interpreters should be fluent in written and spoken English and the language in which they are assisting voters. How will the county determine whether volunteers or applicants have the desired skill?
 - Call interested bilingual poll workers and have a conversation in the target language.
 - Conduct poll worker training in target languages to help familiarize them with election terminology.
- Status as a poll worker: Will interpreters serve a dual role as a poll worker?

- Training: Interpreters should be trained, at minimum, on the following topics:
 - Impartiality and the prohibition on electioneering
 - Importance of accurate interpretation
 - Preferred terminology and translations
 - Provide a preferred language table for election terminology.
[Glossaries of Election Terminology | U.S. Election Assistance Commission \(eac.gov\)](#)
 - Polling place rules and procedures, including basic familiarity with voting systems
 - Voter rights related to language assistance
 - Secrecy and confidentiality of the ballot

4) Notifying impacted communities to the availability of assistance

In order to provide meaningful access to language assistance, counties should make reasonable attempts to notify impacted voters of the availability of such assistance. Posting translated notices at polling locations is the bare minimum; counties may need to complete additional steps to notify impacted populations.

Engaging these populations may include:

- Targeted translated mailings where voters have indicated a language preference.
- Advertising in language minority radio, television, and newspapers.
- Contact with language minority community organizations and direct services organizations.

Counties are encouraged to foster relationships with community groups who can assist with implementation of language access programs. Community groups can offer assistance in a number of ways:

- Advising on cultural practices within the language minority group.
- Recruiting bilingual interpreters and poll workers.
- Reviewing written translations for clarity and community specific terminology.
- Communicating information about language assistance and election resources amongst members of the language minority group.

The Department encourages the creation of county-level working groups or advisory committees for the purpose of assisting the county with the development and implementation of language assistance programs. Members of said groups and committees can include a broad cross-section of members of the language minority community in addition to leaders of social service organizations, churches, social clubs, professional organizations, and in-language media outlets.

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