



Latino Policy & Politics Initiative

Voting Rights Project

August 20, 2020

Gwinnett County Board of Commissioners Chairman Charlotte J. Nash
Gwinnett Justice & Administration Center
75 Langley Drive
Lawrenceville, GA 30046

Re: Absentee Ballot Language Access Materials for Spanish-language limited-English Proficiency Voters

The UCLA Voting Rights Project has observed that Gwinnett County is failing to provide Spanish language assistance to Spanish-language Limited-English proficient absentee voters. We are writing to bring this shortcoming to your attention, and to ensure that Gwinnett County will fulfill its obligations under Section 203 of the Voting Rights Act in advance of the coming elections. Amid the COVID-19 pandemic, providing language access to absentee voters must be a priority for your office. Failing to comply with Section 203 undermines the rule of law and contributes to the sustained vulnerability of the County's minority voters.

As your Office knows, Gwinnett County was designated by the Director of the Census Bureau to provide language access materials to those of Hispanic heritage under Section 203 of the Voting Rights Act. As a result, Gwinnett County must conduct bilingual elections, assisting its large Spanish-speaking population at every step of the voting process.

Gwinnett County falls short of these requirements in two respects. First, in response to third-party efforts to render its voting "FAQs" page comprehensible to limited-English-proficient Spanish-speaking voters, the County included a Google Translate function on the page. While the FAQs page clearly qualifies as "instructions...relating to the electoral process" under the statute,¹ the inclusion of the Google Translate function does not satisfy the County's obligations under Section 203 because the translation is inaccurate.

The following excerpts from the translated page identify just some of the mistakes. The page reads: "Una solicitud de votación por correo es específica para las elecciones." This translates to: "An application to vote by mail is specific for the instructions." The page also reads: "La solicitud sólo es válida para una elección, a menos que el votante esté discapacitado o de edad avanzada." **This indicates that absentee ballot applications are only valid if the voter is old or incapacitated, contradicting earlier statements waiving any requirements to apply to vote by mail.** The page includes numerous smaller errors as well. For instance, where the

¹ 52 U.S.C. Section 10503(e).

page ought to read “box,” it deploys the term “el casillero,” which means “locker.” It confusingly uses the phrase “elección real,” meaning “real election,” though there is no obvious reason to qualify an election as such.

Aside from the quality of the translation, it is also difficult to locate the translated versions of the systems on the County webpage. Voters must enter the English language website, locate the Google Translate dropdown box, and select the Spanish translation. That is, the translate option is not immediately visible to a non-English speaking voter. Several consent decrees from the last decade require that online resources be *equally available* in English and Spanish.¹² This requirement includes that the Spanish version of election resources should be “easily visible and identifiable.”¹³ Forcing voters to navigate an English-language webpage to access translated materials does not meet this requirement.

Second, failing to provide Spanish language assistance at USPS offices amounts to providing inadequate in person language assistance at polling locations. To vote absentee, the Gwinnett County website instructs voters to “[p]lace postage on the preaddressed envelope,” and because “[p]ostage varies for each election...USPS can determine the correct postage.”² Because Gwinnett County directs voters to USPS to determine the necessary number of stamps to place on their ballot and ultimately post their absentee ballot, interactions with USPS offices are a step in the voting process. Just as voters visit a polling location to cast an in-person ballot, voters must visit a USPS office to cast a mail ballot. Nevertheless, outreach to USPS offices in Gwinnett County indicated that Spanish-language assistance is not available on site. Furthermore, signs and forms, including price boards, are only available in English. This is true of USPS offices nationwide,³ and the USPS offices in Gwinnett County are no exception. Yet there can be no doubt that when a jurisdiction compels a certain process which a voter must follow to cast their ballot, it is required to meet its Section 203 obligations for that process.⁴

Additionally, Section 2 of the Voting Rights Act and the 14th Amendment require that the County’s voters can vote free of discriminatory effects and undue burdens. The added steps of acquiring stamps paired with a lack of language access burdens the right of Spanish-speaking absentee voters to cast their ballot. To comply with the Voting Rights Act and constitutional standards, Gwinnett County should provide all election procedures in Spanish and provide Spanish assistance at USPS offices, or provide voters with a pre-paid absentee ballot envelope.

² Gwinnett County, Absentee and Advance Voting Frequently Asked Questions, <https://www.gwinnettcounty.com/web/gwinnett/Departments/Elections/FrequentlyAskedQuestions/AbsenteeVoting>

³ “USPS Office of Inspector General,” U.S. Postal Service Customer Service for Non-English-Speaking Customers | USPS Office of Inspector General, accessed June 26, 2020, <https://www.uspsig.gov/document/us-postal-service-customer-service-non-english-speaking-customers> (finding that the Postal Service is not providing adequate services for non-English/limited-English speaking customers and that a very limited number of retail clerks were able to assist Spanish-speaking customers at retail offices).

⁴ Section 203 clearly applies to “preliminary steps” to voting required of would-be voters. *In re County of Monterey Initiative Matter*, 427 F. Supp.2d 958, 962 (N.D. Cal. 2006), citing *Padilla v. Lever*, 429 F.3d 910 (9th Cir. 2005).

The UCLA Voting Rights Project trusts that your Office is well-intentioned and will endeavor to provide election materials and other election-related services to Spanish-speaking, Limited-English proficiency absentee voters. We would like to extend our services to translate your FAQs page into Spanish, should that be useful. We look forward to staying in touch and remain available at any time to provide whatever resources your County needs to best enable all your residents to vote.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sonni Waknin', with a long horizontal flourish extending to the right.

Sonni Waknin
Managing Legal Fellow
UCLA Voting Rights Project