



May 22, 2020

The Honorable Gavin Newsom  
Governor of California  
State Capitol Building, 1st Floor  
Sacramento, CA 95814

The Honorable Alex Padilla  
Secretary of State of California  
1500 11th Street, 6th Floor  
Sacramento, CA 95814

RE: Revised Recommendations for California’s November 2020 Elections

Dear Governor Newsom and Secretary of State Padilla:

We write to update some elements of our coalition’s [April 14 letter](#). As a group of advocates with many years of experience working to protect and expand voting rights in California, we respectfully submit this set of recommendations to help meet the challenges posed to November’s elections by the coronavirus pandemic. **The primary revision to our recommendations is a shift to proposing that the *minimum* statewide ratio for in-person voting locations should be one for every 10,000 voters starting four days before Election Day.**

We applaud Governor Newsom’s Executive Order to provide every registered voter a vote-by-mail (VBM) ballot. But as the Governor, the Secretary of State, and [legislative leaders](#) have recognized, this is just a starting point. It is vitally important to move forward with the shared understanding that VBM is not a solution for everyone. We must address the risks posed by the potential reduction of in-person locations and expanded reliance on VBM - especially to communities that are underrepresented in our democratic system. These risks are well-documented and supported by data.<sup>1</sup> They

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<sup>1</sup>Asian-Americans Advancing Justice, *Asian Americans Face Higher than Average Vote-by-Mail Rejection Rates in California* (2017), [bit.ly/AAAJIssueBrief](https://bit.ly/AAAJIssueBrief); Romero, Mindy S., California Civic Engagement Project (CCEP), *The California Voter Experience: Why African-American Voters Choose to Vote at the Polls or Vote-by-Mail, and How They Perceive Proposed Changes to California’s Voting System*. (2016) [bit.ly/CVEIssueBrief2](https://bit.ly/CVEIssueBrief2); Romero, Mindy S., CCEP, *The California Voter Experience: Vote-by-Mail vs. the Polls*. (2016) [bit.ly/CVEIssueBrief1](https://bit.ly/CVEIssueBrief1); Mindy S. Romero, CCEP, *Disparities in California’s Vote-by-Mail Use Changing Demographic Composition: 2002-2012*. (2014) [bit.ly/CCEPIssueBrief1](https://bit.ly/CCEPIssueBrief1); Romero, Mindy S., CCEP, *The California Voter Experience Study: A Statewide Survey of Voter Perspectives on Vote-by-Mail*

range from a historical distrust of voting without being able to see one's ballot safely cast, to needing in-person assistance, to the fact that VBM goes through a verification process that results in the rejection of some ballots due to either voter or administrative error - and that these rejections disparately impact certain groups. Although California has recently instituted laws designed to ameliorate issues associated with VBM, the process still holds the potential to disenfranchise communities of color, youth, language minorities, people with disabilities, people with low income, and those who are unhoused, housing insecure or geographically mobile. Finally, the reality is that even if sent a ballot and deluged with high-powered public education efforts, many voters will wake up on Election Day and expect to be able to access polling locations. While limited space availability and safety needs may require a reduction of the number of voting locations, the in-person options we retain must be sufficient to meet anticipated turnout.

Pandemic-driven changes to California's election processes should be temporary and accompanied by a well-funded public education campaign marked by continuing collaboration among the Secretary of State, county elections offices, good government and civil rights groups, and community based organizations.

Our recommendations to achieve a successful November election for all Californians pay particular attention to meeting the needs of California's most vulnerable voters.<sup>2</sup>

## **Overview of Key Recommendations**

1. **Every registered voter in California should receive a vote-by-mail (VBM) ballot.** The deadline to request a replacement VBM ballot should be extended beyond the current deadline of seven days before Election Day (E-7). Furthermore, to ensure that ballots postmarked by Election Day are not invalidated due to slow USPS processing, the deadline for VBM ballot receipt should be extended to two days before the certification deadline. VBM expansion should incorporate plans to educate voters about their options to receive a VBM

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*and Vote Centers.* (2017) [bit.ly/CVEIssueBrief3](https://bit.ly/CVEIssueBrief3); Romero, Mindy S., CCEP, *Disparities in California's Uncounted Vote-by-Mail Ballots: Youth, Language Preference and Military Status.* (2014) [bit.ly/CCEPIssueBrief3](https://bit.ly/CCEPIssueBrief3); Native American Rights Fund, *Vote by Mail in Native American Communities*, [narf.org/vote-by-mail](https://narf.org/vote-by-mail); Smith, Daniel A, *Vote-By-Mail Ballots Cast in Florida.* ACLU of Florida. (2018) [bit.ly/ACLUVBMFloridaReport](https://bit.ly/ACLUVBMFloridaReport).

<sup>2</sup> The topics we cover here are: vote-by-mail; in-person voting; poll workers; dropboxes; language access; disability access; voter registration and same day registration (aka conditional voter registration or CVR); provisional vote-by-mail; public comment opportunities; and public messaging, voter education and voter engagement. We do not address matters related to health but expect CDC guidelines to be followed to promote the welfare and safety of voters and elections workers. Likewise, we do not discuss specific mechanisms for funding or a budget ask. Allocating sufficient state and local funding will, however, be critical. Part of that funding should include grants to organizations to resource voter outreach work.

ballot in another language or vote with a Remote Accessible Vote-by-Mail (RAVBM) ballot. The Secretary of State and county elections officials should develop a robust strategy to receive requests for replacement ballots through increased hotline capacity and online platforms.

2. **County elections offices should establish the maximum number of in-person voting locations possible, with a required minimum of one location for every 10,000 voters starting no later than four days before Election Day (E-4).** Reductions in voting locations from current requirements should occur only if all registered voters are mailed a VBM ballot and the pandemic continues to limit locations and poll worker availability. All in-person locations must offer in-person voting, conditional voter registration, accessible voting machines, and resources to support language minority communities. Locations should be established based on an analysis of which communities are most in need of services and assistance.
3. **The use of ballot dropboxes should be maximized to expand voting opportunities, preserve voter trust, and limit the number of voters dropping off VBM ballots at in-person locations.** At a minimum, there should be one dropbox for every 15,000 voters beginning 29 days before Elections Day (E-29). Every county must provide at least one exterior dropbox available 24-7 up until 8 PM on Election Day.
4. **Counties should extend opportunities to the public to comment on and shape November election plans.** Voter's Choice Act (VCA) counties should issue an amended Election Administration Plan (EAP) and make it available for public comment for 30 days. Non-VCA counties should issue a similar document made available for public comment for at least 15 days. These election plans should include a list and schedule of in-person voting locations (even if tentative), budget and strategy for outreach and media, health and safety measures to be taken, and strategies to engage voters with limited-English proficiency and those with disabilities.
5. **Significant resources should be allocated for public education and engagement focused on communities that do not traditionally vote by mail.** Ideas, drawn from our extensive collective experiences with voter education, are provided in great detail in the last section.

## **Recommendations**

### **Vote-by-Mail (VBM)**

- As is now required by the Governor's Executive Order, every registered voter in California should receive a VBM ballot.
- There should be a statewide extension of the deadline for requesting a replacement VBM beyond E-7. The new deadline should be one that all counties are able to accommodate.
- The deadline for VBM ballot receipt should be extended to two days before the certification deadline. It will be important to note the actual date of the deadline in the county's public education collateral to voters.
- There should be a robust educational campaign with plain-language, readable, community-reviewed resources that help all voters but focus on the needs of those most vulnerable and underrepresented. Details are in the last section.
- Additionally, we support best practices to increase voter participation, reduce voter confusion, and ensure the counting of every eligible voter's ballot.<sup>3</sup>

### **In-Person Voting**

In-person voting locations should continue to offer key services: in-person voting, accessible voting machines, voting materials and support in other languages, and same day registration. Voters in underrepresented communities need access to these critical in-person voting services even with the expansion of vote-by-mail. Without the preservation of sufficient in-person voting locations, we could have mass disenfranchisement in November's election.

County elections officials should develop plans to maximize in-person voting opportunities. Reductions to voting locations from current requirements should only occur if all registered voters are mailed a VBM ballot and the pandemic persists in limiting locations and poll worker availability.

It is vitally important to provide an adequate minimum requirement for in-person voting locations as well as an early vote period to ensure that locations are not overrun with voters on Election Day - a circumstance that could pose health risks to voters and poll workers alike. Based on past election data, our collective experience as voting rights advocates, and conversations with county elections officials across the state, we believe the proposed requirement is sufficient to meet the remaining demand for in-person voting in an election where everyone receives a VBM ballot.

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<sup>3</sup> These include encouraging counties to use Intelligent Mail Barcodes on VBM ballot envelopes, [VBM envelope design best practices](#) to avoid voter confusion and the rejection of VBM ballots, BallotTrax to allow voters to see how their ballot was handled, and voter outreach to update old signatures on file.

- At a minimum, each county should provide one in-person voting location for every 10,000 registered voters beginning E-4. Any county with under 20,000 registered voters shall offer at least 2 in-person voting locations. We do not make these recommendations lightly and understand the severe impact that a reduction in voting locations can have on underrepresented communities. We also understand that the pandemic has significantly challenged elections officials' ability to secure both voting locations and poll workers to staff locations. We encourage all county elections officials to exceed these baseline requirements and offer expanded in-person voting opportunities to the best of their ability in order to avoid the disenfranchisement of our most vulnerable communities.
- Counties that wish to offer fewer in-person voting locations or fewer days of voting than required must submit a reasonable alternative plan to the Secretary of State for approval.
- Elections officials should use the power granted to them in California law to request or require government buildings to make themselves available as voting locations. Furthermore, the Governor should mandate that registrars have use of government facilities to the fullest extent possible.
- Additional recommendations on accessibility requirements are in sections below.
- Finally, we support best practices for in-person voting that increase voter participation, ensure all eligible ballots are counted, and reduce voter confusion.<sup>4</sup>

### **Poll Workers**

- Every effort should be made to require or incentivize state and local government employees to work at voting locations to help facilitate in-person voting.
  - Incentives might include providing government employees with an extra day off in exchange for working the election.
- Every effort should be made to allow counties to hire election workers from among the unemployment rolls and have unemployment benefits cover wages.
- Poll worker stipends should be maximized to reflect the increased difficulty of the work this cycle.
- Additional stipends should be paid to recruit poll workers who bring relevant language skills.

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<sup>4</sup> In-person voting sites should be placed in or proximate to densities of non-VBM voters, voters with language needs, and voters with disabilities. The fifteen location factors outlined in the VCA, as well as public health considerations, should be used when determining in-person voting locations. See [Cal. Elec. Code Section 4005\(a\)\(10\)\(B\)](#).

## **Dropboxes**

Dropboxes expand voting opportunities and maintain voter trust. Establishing dropboxes will limit the number of voters who visit in-person locations to drop off VBM ballots and preserve these locations to serve voters who need access.

- At minimum, there should be one drop box for every 15,000 voters beginning 29 days before Election Day (E-29).
- Every county must provide at least one drop box that is located exterior to a building and available for ballot drop-off on a 24-7 basis until 8 PM on Election Day.

## **Language Access**

- Returnable mailers should be sent to every registered voter on which the voter can identify their language preference. The mailer should be translated in all required Section 203 and 14201 languages (in the state if sent by the SOS and in county if sent by a county elections office).
  - If a voter prefers a ballot in a language that is covered by Section 203 in their county of residence, the county elections officials should send a VBM ballot in the preferred language.
  - If a voter prefers a ballot in a language that is covered by Section 14201 in their county of residence, and a facsimile copy of that ballot is available in their preferred language, the county elections office should send that facsimile ballot to the voter with or in addition to the VBM ballot. If the county elections office cannot send a facsimile ballot proactively, it should be sent to the voter upon request, as per existing state law.
- The Secretary of State should be responsible for providing statewide language assistance (translation of documents, offering of language assistance hotlines, etc.) to the greatest extent possible. These efforts should supplement, but not replace, county elections officials' obligation to recruit bilingual poll workers.
  - A universal language hotline should be instituted and publicized before Election Day and in every in-person voting location in the state. The hotline should be adequately resourced and staffed to avoid the sort of long wait times that are currently being experienced on census language hotlines.
- The availability of facsimile ballots to VBM voters should be publicized intensively by the Secretary of State and county elections officials.

## **Disability Access**

- If reducing in-person voting locations, all locations must be physically accessible and have at least three accessible voting machines. All in-person voting locations must meet the Secretary of State's Polling Place Accessibility Checklist.
- The deadline to request a Remote Accessible Vote-by-Mail (RAVBM) ballot should be extended past the current deadline of seven days before Election Day (E-7).
- County elections offices should improve the promotion of RAVBM and accessible options for in-person voting for voters with disabilities on their elections websites.

## **Voter Registration and Same Day/Conditional Voter Registration (CVR)**

- The voter registration deadline should be extended beyond 15 days before Election Day (E-15) to through Election Day to allow voters to register to vote or update their registration, online or in-person, after the traditional voter registration deadline.
- The Secretary of State and county elections officials should devise a method for offering effective, accessible, remote CVR between 15 days before Election Day (E-15) through Election Day.

## **Provisional Voting**

- County elections officials should strive to create processes that will allow voters to vote with a non-provisional, "live" ballot whenever possible. This will help ensure that voters feel confident that their ballots were counted, as well as improve the efficiency of back-end ballot processing.
- A determination should be made as to whether or not there are instances where offering provisional VBM would be necessary.
- A plan should be devised to either cure registration problems that necessitate provisional voting or facilitate provisional VBM. This process may be the same or similar to the CVR process offered.

## **Public Comment Opportunities on Election Plans**

- Voter's Choice Act (VCA) counties should issue an amended Election Administration Plan (EAP) detailing their plans for November 2020 and make that EAP available for public comment for 30 days. Altering election planning for the pandemic will trigger the VCA's EAP amendment requirements in [Cal. Elec.](#)

[Code Section 4005\(a\)\(10\)\(H\)](#).<sup>5</sup> VCA counties should continue to hold public meetings to allow communities to provide input on election planning.

- Non-VCA counties should issue a document similar to an EAP detailing their plans for November 2020 and make that document available for public comment for at least 15 days. Additionally, we encourage non-VCA counties to hold public meetings to allow communities to provide input.
- EAPs should include: voting locations and hours, dropbox locations and hours, public outreach strategies and media plans (including to limited-English speaking communities and people with disabilities), budget for outreach and media, plans to make voting locations safe and healthy, and plans to ensure access to VBM and voting locations for limited-English proficient voters and voters with disabilities. Voting locations and dropbox locations and hours may be preliminary and subject to change.
- EAPs should begin with short plain-language summaries that are easily understandable by the public.
- EAPs should be posted on the county's website in required languages and accessible formats.
- Counties with Voting Accessibility Advisory Committees (VAACs) and Language Accessibility Advisory Committees (LAACs) should continue to hold their regular meetings, using phone or video if needed. If necessary, VCA counties should conduct the required language and disability workshops remotely.
- Within six months of the election the Secretary of State shall report to the public and legislature based on the reporting requirements in [Cal. Elec. Code Section 4005\(g\) et seq.](#)

## **Public Messaging, Voter Education and Voter Engagement**

*The length of this section reflects the complexity of shifting to a different voting model in a very short period of time.*

- Public messaging about California's November 2020 elections should not portray in-person voting as a last resort option or only for troubleshooting.
- Public messaging should highlight the differences in the November election model while simultaneously emphasizing the unique importance of voting to make one's voice heard in the face of significant public health challenges.
- If necessary, voting should be considered an essential function that would permit voters to leave home under any shelter in place orders.

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<sup>5</sup> The VCA requires a comment period of 30 days if the amended plan is released 120 days before an election but does not require a comment period if the amended plan is released less than 120 days before the election. See Cal. Elec. Code Section 4005(a)(10)(H)(i)&(ii). In the latter scenario there should be a requirement for a 15 day comment period.



- Public messaging should be positive, inviting and simple, hue to plain-language and readability standards, and be community reviewed (like was done for the [Voter Bill of Rights](#)) to ensure these specifications are met.
- Statewide voter education should have a broad, consistent message that should also help direct voters to get the specific information they need about where, when and how to vote from their counties.
- Counties should be required to send out a set of mailed communications and social media, newspaper, radio and television outreach similar to those mandated or recommended in the context of VCA implementation. These communications should be strategically deployed at different stages of the pre-Election Day cycle.
  - For example, education about registering to vote should also note the importance of updating voter registrations so that there is accurate information about mailing addresses in the voter files. This is particularly important for voters who may have relocated because of the pandemic.
  - There should be a targeted campaign about the need to request in-language VBM materials and how to do so. There should also be a campaign to educate voters with disabilities about how to request a RAVBM ballot.
- Counties should work with community-based organizations (CBOs) that are familiar with underrepresented communities to prepare and disseminate materials with very specific information about all aspects of VBM - such as how to request a VBM ballot if one does not arrive in the mail or it gets lost or spoiled, what to be careful about when completing VBM materials, and how to return them.
  - Counties should also work with CBOs to implement diverse and targeted strategies to reach all sectors of voters who may not be familiar with VBM or that need voter education and engagement outreach. This includes the elderly who typically tend to vote in person, and those who are young, newly-naturalized, low-income, low literacy, from language minority communities, from communities of color, have disabilities, are unhoused or housing insecure, and voters who live in areas where people rely heavily on public transportation.
- The foregoing strategies should include working with ethnic media with both paid and earned media opportunities, and a strong digital media component that takes into account the fact that many voters use smartphones to access information.
  - To the extent feasible in the public health environment, in-person voter education and outreach should be used as well. State and county voter information hotlines should be adequately resourced as noted in the

“language assistance” section above. The state and counties should determine if it is feasible for call center workers to work remotely.

- The state and counties should coordinate hotline efforts with non-profit election information and protection hotlines.
- Because there is likely to be more voter confusion on days when in-person sites open and on Election Day, an effective troubleshooting system should be implemented for communication among county elections offices, in-person voting sites, and CBOs and advocates who are monitoring election problems.
- Counties should also consider the feasibility of a grant program for CBOs to assist them in partnering with the counties on voter education. All of these efforts are going to require a far greater investment of public and private funds for voter education and engagement efforts than in a typical election. The state and counties should help educate private philanthropic organizations about the critical nature of the investment.
- Education on the health and safety protocols being implemented at in-person voting locations should be done in a manner that will increase public confidence in the process.
- The Secretary of State should establish a clearinghouse of models or templates for voter education materials that counties can easily adapt to incorporate their election practices and to reach their specific voting populations.

Thank you for the opportunity to provide recommendations to maintain the integrity of our democracy and ensure that Californians are not disenfranchised as a result of this public health crisis.

We look forward to continuing our dialogue and collaborative work.

American Civil Liberties Union of California  
Asian Americans Advancing Justice - Asian Law Caucus  
Asian Americans Advancing Justice - Los Angeles  
California Common Cause  
Disability Rights California  
The League of Women Voters of California  
Mi Familia Vota  
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund  
NextGen California  
Partnership for Working Families  
Voting Rights Lab