



National Asian Pacific American Bar Association

## Statement Opposing Voter Suppression Efforts

Endorsed January 2016

Amended January 2018

**WHEREAS**, the National Asian Pacific American Bar Association (NAPABA) is the national association of Asian Pacific American attorneys, judges, law professors, and law students, representing the interests of over 50,000 attorneys and over 80 national, state and local Asian Pacific American bar associations; NAPABA members include solo practitioners, large firm lawyers, corporate counsel, legal service and non-profit attorneys, and lawyers serving at all levels of government; and NAPABA is committed to addressing civil rights issues confronting Asian Pacific American communities and people of color;

**WHEREAS**, the right to vote is a cornerstone of America's democracy, yet this fundamental right is threatened by numerous voter suppression efforts including limitations on access to voter registration; restrictions against early voting; election day restrictions; deceptive practices; and obstacles for minority voters, including those who are limited English proficient (LEP);

**WHEREAS**, although efforts to limit voter registration through proof-of-citizenship requirements – which have a particularly burdensome impact on minority voters due to racial disparities in access to citizenship documents because of socioeconomic disparities that correlate with race – were set back by the U.S. Supreme Court's June 2013 ruling in *Arizona v. Inter Tribal Council of Arizona*,<sup>1</sup> alternative measures or efforts to circumvent the Court's ruling to require proof of citizenship of eligible voters still remain a threat;

**WHEREAS**, restrictions against early voting or absentee voting negatively impact many voters who have difficulty getting to the polls on election day, including working individuals who cannot afford to take time off from work or whose job schedules lack flexibility, the elderly and disabled (both of whom have difficulty traveling to the polls), and low-income individuals who do not have easy transportation to the polls;

**WHEREAS**, laws that require voters to present valid government-issued photo identification have proliferated in recent years, amounting to a modern day poll tax that disproportionately burdens persons of color, the elderly, the disabled, people in rural areas, Native American voters, low-income people, and homeless people, all of whom are less likely to carry photo identification because many members of these groups cannot afford the time and expense required to obtain these documents;

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<sup>1</sup> The U.S. Supreme Court struck down Arizona's Taxpayer and Citizen Protection Act (Proposition 200), a state law that required additional documentary proof of citizenship beyond the proof already required by federal law. The Court held that the National Voter Registration Act (NVRA), which was specifically enacted to increase voter registration and participation, preempts Proposition 200 for purposes of federal elections. NAPABA joined an amicus brief opposing Proposition 200.

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40 **WHEREAS**, naturalized Americans, including Asian Pacific Americans (who are still primarily  
41 foreign-born) will incur the steep costs of obtaining certificates of naturalization;  
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43 **WHEREAS**, such photo identification requirements open the door to discrimination at the polls  
44 against racial, ethnic, and language minority voters by giving poll workers an unacceptable level  
45 of discretion in determining which voters from whom they will ask for identification and whose  
46 identification they will accept;  
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48 **WHEREAS**, supposedly racially neutral voter identification requirements disparately impact  
49 Asian Pacific American voters and others with “foreign-sounding” names or those who “look  
50 foreign;”  
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52 **WHEREAS**, eligible voters from communities of color have in recent years been targeted by  
53 voter suppression efforts on election day that include the use of deceptive practices whereby  
54 eligible voters have been intentionally provided with false or misleading information about the  
55 voting process or voting requirements in order to prevent them from casting their votes;  
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57 **WHEREAS**, Asian Pacific Americans are the fastest growing group in the country and the  
58 number of eligible Asian Pacific American voters is expected to double by 2040;  
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60 **WHEREAS**, Asian Pacific Americans are registered to vote at a lower rate relative to other  
61 groups, but once registered, Asian Pacific Americans vote at rates comparable to other  
62 Americans  
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64 **WHEREAS**, Asian Pacific Americans represent a growing percentage of the population in cities,  
65 states, and congressional districts across the country;  
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67 **WHEREAS**, more than one-third of Asian Americans are LEP<sup>2</sup> and, thus, face language barriers  
68 when attempting to vote;  
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70 **WHEREAS**, Congress, recognizing that certain minority language citizens experienced  
71 historical discrimination and disenfranchisement due to limited English speaking abilities,<sup>3</sup>  
72 added Section 203 of the Voting Rights Act in 1975 to require jurisdictions that met a certain  
73 threshold to provide language assistance throughout the voting process;  
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75 **WHEREAS**, Congress, finding that citizens who either do not have written language ability or  
76 who are unable to read or write English proficiently were more susceptible to having their votes  
77 unduly influenced or manipulated, and thus were more likely to be discriminated against at the  
78 polls, added Section 208 to the Voting Rights Act in 1982, providing that voters have the right to  
79 have anyone assist them in the voting process so long as that person is not the voter’s  
80 employer or union representative;  
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<sup>2</sup> See Asian American Legal Defense and Education Fund, *The Asian American Vote 2012*, 2 (2013) and Asian Americans Advancing Justice, *Voices of Democracy: Asian Americans and Language Access During the 2012 Elections*, 2 (2013).

<sup>3</sup> See U.S. Department of Justice, *About Language Minority Voting Rights*, at <http://www.justice.gov/crt/about-language-minority-voting-rights#provisions>. Last accessed January 4, 2016.

82 **WHEREAS**, Section 208 protections are crucial for Asian Pacific American LEP voters across  
83 the country, particularly in areas with low concentrations of Asian Pacific American LEP  
84 populations;<sup>4</sup>  
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86 **WHEREAS**, poll monitoring efforts by Asian Pacific American organizations have documented  
87 ongoing problems with compliance with Section 203, including a lack of translated materials and  
88 lack of bilingual poll workers, and with Section 208, including refusal to allow someone to assist  
89 the voter, and general hostility and discrimination against Asian Pacific American LEP voters;<sup>5</sup>  
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91 **WHEREAS**, most Asian Pacific American LEP voters rely upon their minor children—who  
92 cannot be registered voters—as 208 interpreters, and Texas has a state law<sup>6</sup> requiring all  
93 interpreters to be “registered voter[s] in the county in which the voter needing the interpreter  
94 resides” that is inconsistent with Section 208 and disproportionately prevents Asian Pacific  
95 American LEP voters from receiving interpreter assistance due to the dearth of mandatory Asian  
96 language assistance in the state;  
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98 **WHEREAS**, the U.S. Supreme Court’s ruling in *Shelby County v. Holder* in June 2013 struck at  
99 the heart of the Voting Rights Act, Section 5,<sup>7</sup> by invalidating the coverage formula used for  
100 determining which jurisdictions would be required to have changes to their voting procedures  
101 pre-approved;  
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104 **THEREFORE BE IT RESOLVED, that NAPABA:**  
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- 106 1. Opposes voter suppression efforts including but not limited to limitations on access to  
107 voter registration, restrictions against early voting, election-day restrictions, and  
108 deceptive practices for the reasons set forth above, and supports measures to combat  
109 such activity.  
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- 111 2. Supports efforts to increase voter registration, education, and turnout, especially in the  
112 Asian Pacific American community;  
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- 114 3. Supports efforts to protect the rights of limited English proficient voters, including having  
115 the U.S. Department of Justice send attorney monitors to observe elections in  
116 jurisdictions covered under Section 203 of the Voting Rights Act, as well as encouraging  
117 members to assist with NGO poll monitoring projects or serve as poll workers on  
118 Election Day.  
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- 120 4. Supports efforts to litigate against or otherwise oppose efforts by jurisdictions, including  
121 Texas, to restrict or deny the protections of Section 208 of the Voting Rights Act.

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<sup>4</sup> See Asian Americans Advancing Justice, *The Right to Assistance of Your Choice at the Polls: How Section 208 of the Voting Rights Act Should Work to Protect Our Vote and Our Democracy* (2014).

<sup>5</sup> See *The Asian American Vote*, *supra* note 2.

<sup>6</sup> Texas Election Code § 61.033.

<sup>7</sup> Section 5 requires jurisdictions with histories and ongoing practices of discrimination in voting practices and laws to “preclear” their voting changes with the U.S. Department of Justice or a three-judge panel of the U.S. District Court for the District of Columbia for determination that the proposed change was not motivated by a discriminatory purpose or will not worsen the position of minority voters in their jurisdictions. Prior to *Shelby*, these were the jurisdictions covered by Section 5: [http://www.justice.gov/crt/about/vot/sec\\_5/covered.php](http://www.justice.gov/crt/about/vot/sec_5/covered.php). NAPABA joined an amicus brief in *Shelby* to support the preservation of Section 5.

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- 123 5. Supports the Voting Rights Advancement Act (H.R. 2867 and S. 1659), which would
- 124 restore Section 5 coverage to the Voting Rights Act in response to the Supreme Court's
- 125 decision in *Shelby County v. Holder* by altering the coverage formula in Section 4(b),
- 126 expanding the ability of courts to bring jurisdictions under coverage, and including other
- 127 mechanisms to protect against voter discrimination, recognizing that additional
- 128 strengthening to the current bill language would be welcome.
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- 130 6. Supports the Voter Access Protection Act, which would prohibit election officials from
- 131 requiring individuals to provide photo identification in order to vote in an election for
- 132 federal office or register to vote in an election for federal office.
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- 134 7. Supports the Voter Empowerment Act, which will modernize the voter registration
- 135 system to expand access to the polls and decrease barriers to voting, prohibit voter
- 136 caging and deceptive practices, and increase accountability and integrity among election
- 137 officials and poll workers.
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- 139 8. Supports the Cardin-Schumer Deceptive Practices and Voter Intimidation Prevention
- 140 Act, which:
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- 142 • Prohibits deceptive practices in federal elections, including communication of false
  - 143 election and voting information to voters;
  - 144 • Creates a private right of action and a criminal penalty for deceptive practices;
  - 145 • Allows the Attorney General to promptly correct false information to affected
  - 146 communities; and
  - 147 • Requires regular and public reporting by the Attorney General to Congress to detail
  - 148 all allegations compiled and the investigations and prosecutions undertaken.
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- 150 9. Authorizes its president, board, and staff to communicate the content of this resolution to
- 151 its members, affiliate and associate organizations, other bar associations, members of
- 152 Congress, the Administration, the press, and others and to take steps to implement this
- 153 resolution, as they deem necessary.
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- 155 10. Supports this resolution as a policy priority until it is withdrawn or modified by
- 156 subsequent resolution.
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