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COMMUNITY**

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**New York State Senate  
Standing Committee on Elections  
New York Voting Rights Act (S7528)**

**Tuesday, March 3, 2020**

Good morning, my name is Amy Torres, presenting testimony on behalf of The Chinese-American Planning Council (CPC). CPC thanks Chair Myrie and the members of the Senate Standing Committee on Elections for convening the opportunity to testify on the New York Voting Rights Act (S7528). CPC's mission is to promote the social and economic empowerment of low-income, immigrant, and Asian American and Pacific Islander (AAPI) communities. CPC was founded in 1965 as a grassroots, community-based organization in response to the end of the Chinese Exclusion years and the passing of the Immigration and Naturalization Act of 1965. Our services have expanded since our founding to include three key program areas: education, family support, and community and economic empowerment.

CPC is the largest Asian American social service organization in the U.S., providing vital resources to more than 60,000 people per year across all five boroughs of New York City. We accomplish this through more than 50 programs at over 30 sites in Brooklyn, Manhattan, and Queens, ranging from family support, education, and economic and community empowerment. CPC's community members come from more than 40 countries, speaking 25 distinct languages and dialects. Often, CPC sites and programs fill gaps in language access, cultural competency, and community trust for seniors, parents, children, and new arrivals. In addition to our direct services, CPC conducts non-partisan civic engagement and voter registration across our sites. With firm belief that the right social services can incite social change, CPC empowers our constituents to act as agents to advance and transform communities. For these reasons, CPC is well-poised to comment on the New York State Voting Rights Act (S7528) and appreciates the opportunity to share our recommendations.

**AAPI Communities, Language Access, and Political Participation**

The communities CPC serves have historically been marginalized and alienated from the political process, but their growth rate within the electorate demand the attention of state policy makers. AAPIs are the fastest growing racial group in New York State.<sup>1</sup> Existing AAPI voters make up one of every three immigrant voters nationally and in New York State, one in four voters is a naturalized immigrant.<sup>2</sup> AAPIs are eligible to naturalize and register to vote at some of the highest rates compared to other immigrant groups,<sup>3</sup> and in 2017, over 86,000 immigrant New Yorkers naturalized.<sup>4</sup> AAPIs and newly naturalized citizens are beginning to buck trends in voter turnout and are increasingly engaged in the electoral process.<sup>5</sup> After the last Presidential general election, 30 percent of AAPIs polled in AALDEF's national exit poll reported that they voted for the first time. The highest rates of first-time voters were among South Asians, with 43 percent of Bangladeshi, 40 percent of Pakistani, 27 percent of Asian Indian, and 23 percent of Indo-Caribbean Americans voting for the first time.<sup>6</sup> AAPI voter turnout increased to 40 percent during the 2018 midterm elections, an increase of 13 percent over 2014.<sup>7</sup>

Despite the growth of this electorate, several societal and systemic barriers prevent AAPI voters from fully exercising their influence at the polls and realizing their political power. Language diversity is vast within the AAPI community. Asian Americans come from over 30 nations, speak over 100 major languages and countless dialects. AAPIs also hold multiple identities across and outside ethnic, cultural, and national ties -- a reflection of the region's centuries of trade and migration as well as colonization from Western countries. Language diversity and identity present challenges for voters and Boards of Elections alike -- mistranslations of Chinese ballot instruction in the 2000 election for State Supreme

<sup>1</sup> [Office of the State Comptroller, "Asian Community in New York State, 2016"](#)

<sup>2</sup> [American Immigration Council, "New Americans in the Voting Booth: The Growing Electoral Power of Immigrant Communities, 2014"](#)

<sup>3</sup> [Department of Homeland Security, "Legal Immigration and Adjustment of Status: Persons Naturalized Table 3, 2018"](#)

<sup>4</sup> [Department of Homeland Security, "Persons Naturalized by State or Territory of Residence: Fiscal Years 2015 to 2017"](#)

<sup>5</sup> [Pew Research Center, "Historic highs in 2018 voter turnout extended across racial and ethnic groups, 2019"](#)

<sup>6</sup> [Asian American Legal Defense and Education Fund \(AALDEF\), "The Asian American Vote, 2016"](#)

<sup>7</sup> [Pew Research Center, "Historic Highs in 2018 voter turnout..." Jens Manuel Krogstad... \(2019\)](#)

Court Justices led to the nullification of many votes from Chinatown & the Lower East Side. Across the country, Boards of Elections overlook or misdirect language resources for this group, particularly when reliant on surname analysis.

From registration through to the polls, a lack of tailored language access services continues to present barriers for AAPIs, where rates of Limited English Proficiency (LEP) run as high as 70 percent for Asian immigrants in NYC living in poverty.<sup>8</sup> The language used on voter registration forms nears high school level - out of reach for new Americans with Limited English Proficiency or with little familiarity with the civic system. Even once barriers to registration are overcome, election literature is often highly technical. For comparison, the level of English required to pass the naturalization exam is third- and fourth-grade level<sup>9</sup> but a 2011 report on “voter roll-off,” or the likelihood that voters skip key ballot questions because of complex language, found that in New York State, voters would need a mean of 19 years of formal education in order to read, understand, and make decisions about ballot measures.<sup>10</sup> Further, many AAPI voters are hesitant to insist that a translator of their choice accompany them into the voting booth if a BOE interpreter is unavailable or not clearly identifiable. This hesitation is especially pronounced as AAPI voters increasingly report facing scrutiny at the polls over identification, naturalization status, and other perpetual foreigner myths.<sup>11</sup>

CPC is thrilled to see the New York State Voting Rights Act introduced and is humbled to provide testimony today. We include recommendations to address the needs of low-income, immigrant, and AAPI New Yorkers and while CPC supports S7528 in its entirety, our testimony today is focused on:

- I. Maintenance of voting and election data & Assistance for language-minority groups
- II. Preclearance
- III. Civil liability for voter intimidation

### **Maintenance of Voting and Election Data & Assistance for Language-Minority Groups**

CPC is pleased to see a central repository of election data included in the NYSVRA as well as assistance for language-minority groups based on the American Community Survey (ACS) and a lowered threshold of 2% and 4,000 of the Citizen Voting Age Population (CVAP). For the reasons outlined previously, diversity within and across the AAPI community is vast and the growth rate of the community prevents responsive policies when reliant on decennial census reports. Outside of New York City, few language minority groups are guaranteed language assistance in elections, even where some of the fastest growing communities of immigrant and racial groups also happen to be among the poorest, or comprised of refugee resettlement groups whose ethnicities and national origins have not traditionally settled in the United States in significant numbers<sup>12</sup>.

Statewide databases have successfully aided Voting Rights Acts in other states and while CPC supports the creation of a statewide database here, we also caution that unlike California<sup>13</sup>, New York State (whose AAPI population is 2nd in the nation only to California) does not often collect data on Asians as a racial group or when it does, aggregates all ethnic subgroups together, affecting the community’s ability to advocate for services or be considered in policy decisions. New York’s inadequate data collection mechanisms are why Asian Americans were left out of New York State’s formula for at-risk Census funding, despite the Federal Bureau designating AAPIs to be the least familiar with the decennial Census and the most likely to believe its data would be used against them.<sup>14</sup> The State made its decision based on the SUNY Rockefeller Institute’s At-Risk Community Index, an index derived from State agency and county reports which do not uniformly collect information on AAPIs.<sup>15</sup>

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<sup>8</sup> Asian American Federation, “Hidden in Plain Sight: Asian American Poverty in NYC, 2018”

<sup>9</sup> USCIS, “Study Guide: Writing Vocabulary for the Naturalization Test”

<sup>10</sup> Reilly, Shauna & Richey, Sean, “Ballot Question Readability and Roll-Off: The Impact of Language Complexity, 2011”

<sup>11</sup> Asian American Legal Defense and Education Fund (AALDEF), “2018 Asian American Voters Exit Poll”

<sup>12</sup> Asian American Federation, “Hidden in Plain Sight: Asian American Poverty in NYC, 2018”

<sup>13</sup> State of California, “AHEAD (Accounting for Health and Education in API Demographics) Act” AB-1726

<sup>14</sup> US Department of Commerce, US Census Bureau, “2020 Census Barriers, Attitudes, and Motivators Study Survey Report”

<sup>15</sup> SUNY Rockefeller Institute, “At-Risk Community Index”

CPC recommends that wherever possible, ACS data is supplemented by other data collected through public offices, even if those offices are not state-wide. CPC believes that the NYSVRA's explicit favor for the ability of qualified voters to cast valid, meaningful ballots should affirmatively direct local Boards of Elections to tailor and provide language assistance and interpretation in elections that need them, but reliance on data that is slow to respond to growth or to disaggregate leaves many emergent needs flattened or rendered invisible, even when local BOE's act in the best interest of the electorate. For example, "Chinese" continues to be the top Asian language spoken in the State, but new migration trends within the last ten years show that a need for assistance in other Asian languages is growing, particularly with communities that have not historically settled in New York State<sup>16</sup> or for which neither the State nor Census Bureau . "Other Indic Languages" is the second highest Asian language category in the state, and while the ACS includes this general category in its reports for legislative districts, one must look at Public Use Microdata Samples (PUMS) to identify specific languages. PUMS data does not correspond to legislative districts, but the "Other Indic Languages" category was the largest Asian language group in 21 Assembly Districts and 8 Senate Districts. New York City's 2016's Intros 251-2014A<sup>17</sup> and 551-2014A<sup>18</sup> which disaggregate data collected by City agencies by languages spoken and ethnic origin. Once collected, City agency data is subject to annual review and public reporting. Submission of this data is voluntary at the point of service, and while it may not be complete, it's annual collection and disbursement across City Agencies makes it an asset in filling the aforementioned gaps in ACS publications.

CPC also recommends that the statewide database consider lag times between ACS publications and New Yorkers aging into CVAP or naturalizing as citizens. While the formula is not explicit in the bill's current form, new reforms like pre-registration of 16- and 17- year olds and over 80,000 New Yorkers naturalizing each year may require a formula that presumes new voters entering the electorate over the 2 to 3 year period that ACS data is released.

## **Preclearance**

CPC is pleased to see a preclearance program included in the NYSVRA. One of the largest hurdles in CPC's civic engagement and voter education work is location and change of address for pollsites and receiving timely responses from local BOEs when flagging potential for suppression or disenfranchisement. CPC was thrilled to support Early Voting last session, but in summer of 2019, raised concerns that the proposed NYC sites did not fully support communities in Brooklyn, Lower Manhattan, and Queens. Last year, Queens was the only NYC county with a borough-wide office on the ballot. In Queens, 56% of households report speaking a language other than English at home<sup>19</sup> and in Eastern Queens, where a significant part of the borough's AAPI community lives, rail transportation is limited to East-West directional lines and local bus routes serving riders between or across rail lines. CPC expressed concern to the BOE that many of the early voting sites were on these North-South bus routes, some of which were the slowest in the borough (1 mph or less than the borough average).<sup>20</sup> Some additional sites were added by fall 2019, a timeline that put many community groups beyond capacity for public awareness, and the number of sites was still insufficient. Queens remains the second most populous borough in the City and is slated to become a majority-minority borough by 2020. For language assistance, the BOE contact for AAPI organizations to send recruits for poll workers and interpreters was on parental leave without a deputy from the time of additional sites through the election, leaving many would-be hires unable to seek placement at early voting sites.

A preclearance program would put the onus onto authorities rather than voters and advocates to spot and avoid potential disenfranchisement. Community-based and civic engagement groups already face limited resources and often do not have the litigation capacity to challenge decisions in election administration. These organizations should be spending their time on mission-driven work in the field to activate and empower voters rather than challenging their BOEs on case-by-case issues. Putting the burden on back on election authorities would revive one of the most effective civil rights laws in US history, truly bringing New York from "worst to first" in voting rights.

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<sup>16</sup> [Asian American Federation, "New York State Assembly Districts, 2019"](#) and ["New York State Senate Districts, 2019"](#)

<sup>17</sup> [New York City Council, "Collection of demographic data regarding ancestry and languages spoken"](#)

<sup>18</sup> [New York City Council, "Collection of demographic data regarding multiracial identification"](#)

<sup>19</sup> [US Census Bureau, "Quick Facts, American Community Survey 2017" Queens County](#)

<sup>20</sup> [Regional Plan Association, "Overlooked Boroughs Technical Report, 2015": Connectivity](#)

## Civil liability for voter intimidation

With xenophobic, anti-immigrant rhetoric at the federal level and a rise of hate crimes closer to home, immigrant and newly naturalized voters are fearful of retribution for exercising and standing up for their rights. CPC staff and community members have long shared stories about incidences of bias, presumption of foreign status, and microaggressions, but we are now hearing more stories of people choosing to stay silent or skip reporting incidents in cases where they fear escalation. At the polls, CPC community members have reported feeling rushed, unable to read their full ballot in time, or too afraid to ask questions about interpretation or whether a companion could accompany them into the booth. A CPC staff who serves as a pollworker on election day reported being told, “Only citizen voters are allowed in the pollsite” when reporting to his shift. Currently, the only New York State law protection against voter intimidation is a criminal statute whose language is centered on explicit threat of violence, force, or injury.<sup>21</sup> While that law includes intimidation, the baseless fear mongering over non-citizen voter fraud emboldens bad actors in their tactics to intimidate and deceive voters at the polls. The aforementioned spectre and precedence of violence is often enough to intimidate voters from affirming their rights, even when threats are not explicit or physical. The NYSVRA would provide another element of protection against intimidation and would lower the financial burden and risk associated with litigation.

CPC thanks the State Senate Standing Committee on Elections and Chair Myrie for their leadership on the New York State Voting Rights Act. We are thrilled to witness the continuing reforms that expand democracy in our State. We appreciate the opportunity to testify at this historic moment, and look forward to continuing to partner with you on issues that advance and transform low-income, immigrant, and AAPI communities.

*Further question or comment on CPC’s testimony can be submitted to Amy Torres, Director of Policy and Advocacy at [atorres@cpc-nyc.org](mailto:atorres@cpc-nyc.org)*

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<sup>21</sup> [New York State, “Violations of the Elective Franchise”](#)