THE EXPERIENCE OF LATINO ELECTED OFFICIALS AND CIVIC LEADERS WITH VOTING DISCRIMINATION:

THE CONTINUING NEED FOR THE TEMPORARY PROVISIONS OF THE VOTING RIGHTS ACT

Dr. James Thomas Tucker

July 2006



Acknowledgments

The NALEO Educational Fund and its staff are grateful to the 190 Latino elected and appointed officials and civic leaders who provided extensive information about their experiences with voting discrimination and the difference the Voting Rights Act makes in stopping it.

Our deepest appreciation for former NALEO Educational Fund staff members Susie Valenzuela and Jennifer Gill; Ms. Valenzuela placed hundreds of calls to members of NALEO's elected official constituency, encouraging them to respond to the survey. Ms. Gill also assisted with contacting survey respondents. We are also grateful for the work of Evan Bacalao, NALEO Educational Fund Research Associate, for his tireless efforts in helping to prepare the survey instrument, coding data, and providing invaluable insight into conducting this study; Jon Greenbaum, Director of the Voting Rights Project at the Lawyers' Committee for Civil Rights Under Law, for providing many helpful suggestions on survey questions and for his work on the early survey instrument; Rosalind Gold, Senior Director of Policy, Research and Advocacy for the NALEO Educational Fund, for her incalculable assistance on every facet of this study and her direct work with members of NALEO's constituency in regional strategy sessions and leadership conferences to encourage their responses; and Arturo Vargas, Executive Director of the NALEO Educational Fund, for his unyielding support for this project and the NALEO Educational Fund's work on reauthorization of the expiring provisions of the Voting Rights Act.

Table of Contents

I.	Executive Summary.	3
II.	Survey participants and methodology.	5
III.	Respondents who have personally experienced or observed discrimination in running for or holding a public office.	6
IV.	Respondents who have personally experienced or observed discrimination in voting.	11
V.	Respondents reporting the need for Spanish language assistance in their communities, its availability, and quality.	14
VI.	Respondents who have experience with the submission of voting changes under Section 5 of the Voting Rights Act.	17
VII.	Respondents who have experience with federal observer coverage under Sections 6-9 of the Voting Rights Act.	18
VIII.	Conclusion	20
Endnotes		21
Appendix A:	Survey Instrument	25

I. Executive Summary.

Latino voters have been protected under the permanent provisions of the Voting Rights Act since it was originally signed into law in August of 1965. Specifically, Latino voters were protected from voting discrimination under Section 2 of the Act. Spanish-speaking voters educated in Puerto Rico were entitled to receive election materials and assistance in Spanish under Section 4(e) of the Act. Federal courts also were given authority under section 3 of the Act to authorize federal observer coverage in jurisdictions where voting rights violations occurred.

In 1975, Alaska Native, American Indian, Asian, and Spanish language minority voters became protected under the Act's temporary provisions. Certain covered jurisdictions are required to provide language materials and oral language assistance in elections pursuant to Section 203 of the Act. In addition, many jurisdictions with large populations of Latino voters, including the entire states of Arizona and Texas and certain counties in California, Florida, and New York, became subject to the preclearance provisions of Section 5 of the Act. Under Section 5, all voting changes must be submitted to the Attorney General of the United States for approval before they are implemented, to prevent discrimination against minority voters. The federal observer provisions in Sections 6-9 of the Act have facilitated compliance and enforcement of these protections. Each of these provisions was renewed when President Bush signed the Voting Rights Act Reauthorization Act into law on July 27, 2006.

In order to assess the perspectives of Latino elected officials and civic leaders on the continuing need for coverage under the temporary provisions of the Voting Rights Act, the NALEO Educational Fund conducted a survey of its elected and appointed official constituents and civic leader stakeholders. The survey respondents provided substantial evidence of the continuing need for this coverage.

- 52.6 percent of surveyed Latino elected officials and civic leaders reported that they have personally experienced or observed discrimination in an activity related to running for or holding a public office.

- More than 30 percent of all respondents reported experiencing or observing discrimination in campaigning, appointments, racial or ethnic appeals, racially polarized voting, and redistricting.

- 52.0 percent of surveyed Latino elected officials and civic leaders reported that they have personally experienced or observed voting discrimination against Latinos or other minorities.

- Approximately one-quarter or more of all respondents reported experiencing or observing discrimination in voter assistance, voter challenges, checking in at the polling place, polling place locations and changes, and poll worker recruitment.

- 86.2 percent of surveyed Latino elected officials and civic leaders reported a need for Spanish-language assistance in public elections activities where they reside.

- Although most respondents indicated election materials are offered in Spanish, some indicated that some or all materials are not and less than half indicated that language assistance is available in Spanish at all stages of the elections process.

- Only 12.9 percent of surveyed Latino elected officials and civic leaders reported having experience with Section 5 submissions.

- Many Latino elected officials and civil leaders urged the United States Department of Justice to de-politicize the Section 5 preclearance process and to heed the recommendations of career lawyers over the decisions of political appointees.

- Only 18.3 percent of surveyed Latino elected officials and civic leaders reported that federal observers or monitors had been present for elections in their jurisdictions.

- Most Latino elected officials and civic leaders who had experience with federal observer coverage had favorable reports about its impact on minority voter participation.

In summary, while Latino voters have been able to make much progress under the temporary provisions of the Voting Rights Act, much work remains to be done. Examples of continuing discrimination and the exclusion of Latino voters provide compelling evidence for the twenty-five year extension of the expiring provisions of the Act.

II. Survey Participants and Methodology.

This survey assesses the perspectives of Latino elected and appointed officials and civic leaders about the continuing need for the three temporary provisions of the Voting Rights Act of 1965: Section 5 of the Act, which requires that certain jurisdictions with a history of voting discrimination submit any voting changes to the Attorney General of the United States for approval before they are implemented or enforced; Sections 6 through 9 of the Act, which authorize the Attorney General to deploy federal observers to certain jurisdictions to prevent voting discrimination, enforce compliance with the Act, and assess progress in jurisdictions under federal court orders; and Section 203 of the Act, which requires that certain jurisdictions provide language assistance to voters in their native languages, including Spanish.

The respondents are members of the constituency of the National Association of Latino Elected and Appointed Officials (NALEO). They include Latino elected and appointed officials from virtually every level of federal, state, and local government, as well as Latino civic leaders. The NALEO Educational Fund initially solicited its Latino elected and appointed official constituency and civic leaders stakeholders to participate in the survey. We then conducted targeted outreach to secure responses from a group of approximately 500 elected officials and stakeholders who had attended policy technical assistance sessions or expressed an interest in the Voting Rights Act. A total of 190 of individuals responded between February and late May 2006.

Figure 1: Number of Latino elected or appointed officials responding to survey, by State.



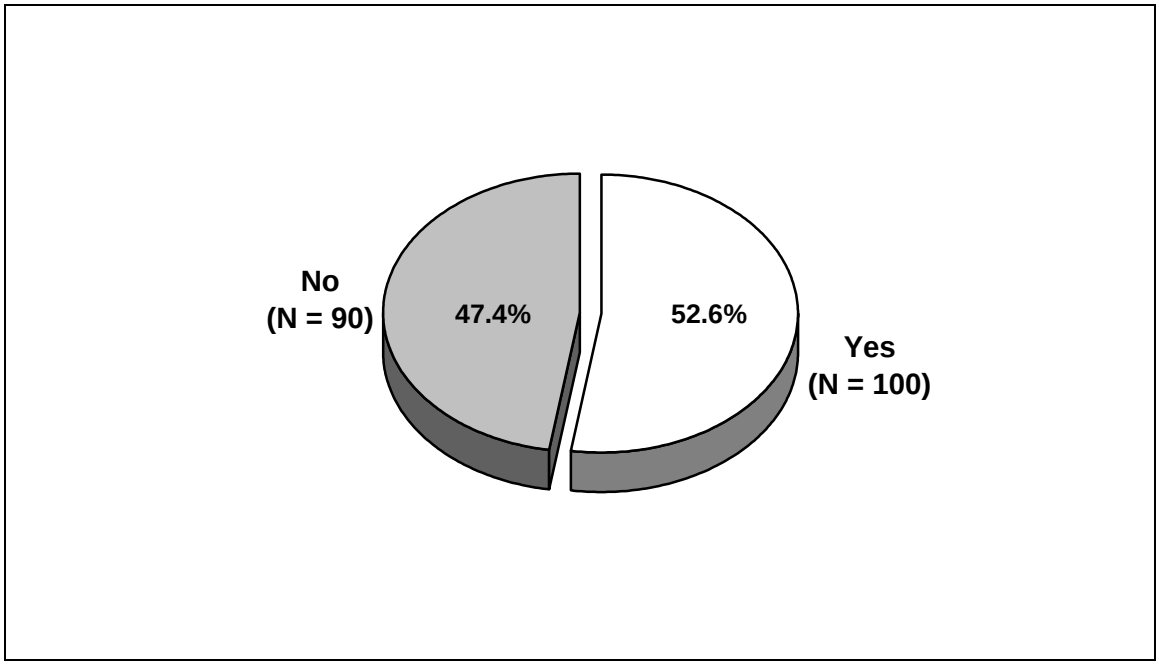
Figure 1 depicts the number of NALEO respondents, by state. The percentages generally are proportionate to the number of Latino elected officials in the identified states, with the greatest number of responses (over half) coming from California and Texas, where over half of all Latino elected and appointed officials serve in public office.

With the exception of approximately twenty-five responses, all of the surveys were completed through an online questionnaire available through an Internet link. A copy of the survey instrument is included as Appendix A to this report.

III. Respondents Who Have Personally Experienced or Observed Discrimination in Running for Holding a Public Office.

As Figure 2 indicates, a majority of the 190 respondents, 52.6 percent (N = 100), indicated that they had personally experienced or observed discrimination in an activity related to running for or holding a public office.

Figure 2: Elected officials reporting that they have personally experienced or observed discrimination in an activity related to running for or holding a public office.



There are several activities in which respondents indicated they had experienced discrimination. In many cases, respondents reported that they have both experienced and observed discrimination.

Figure 3: Types of activities related to running for or holding a public office for which elected officials reported they have personally experienced or observed discrimination.

Election Activity	Number Who Have Experienced	Number Who Have Observed	Number Who Have Both Experienced & Observed	Total	Percent of all Respondents
Campaigning	27	24	21	72	37.9%
Appointments	19	27	18	64	33.7%
Racial or ethnic appeals	22	22	17	61	32.1%
Racially polarized voting	20	19	19	58	30.5%
Redistricting/district boundaries	17	27	13	57	30.0%
Changes in power after election	15	21	17	53	27.9%
Candidate nomination process	11	28	11	50	26.3%
Candidate slating	9	25	11	45	23.7%
Candidate qualifying process	10	23	10	43	22.6%
Election rules or procedures	12	18	11	41	21.6%
Changes in procedure after election	9	18	11	38	20.0%
Method of election	5	21	10	36	18.9%
Other	9	9	7	25	13.2%

Campaigning was the most common activity for which discrimination was reported, with more than one-third (37.9 percent) reporting they had personally observed or experienced it. Some of this discrimination was by election officials, including a "double standard in how election laws and campaign laws are enforced."[1] For example, another respondent reported that a limited-English proficient Latino circulator of a petition was told by Anglos that "her signatures were invalid (though they weren't)" and they told her that she needed "to sign a withdrawal affidavit."[2] In another jurisdiction, "dirty campaign tactics [are] utilized against Latinos and African-Americans."[3] One respondent observed that discriminatory campaign activities are commonplace at "political forums, public events, dinners, etc."[4] In other instances, a respondent noted discrimination occurred in a 2005 school board election,[5] while another reported they occurred "in countless city and school board elections during the past thirty years."[6]

Some discriminatory campaigning activities include direct threats or intimidation. One respondent reported that public officials engaged in that conduct, including "overly aggressive police and fire involvement in political campaigns which leads to harassment of campaign workers and voters, especially those of different ethnicity and language ability."[7] The respondent further reported:

> Campaign workers for a Latino candidate were stopped and detained and asked for "papers." Campaign workers were told that they could not get out the vote before 8 a.m. [Latino] voters were told that they had to put a sign in their lawn for a non-Latino candidate because it had a police insignia on it.[8]

Still another Latino official reported, "A school administrator approached a neighbor who had put up one of my signs in front of their house."[9] In another instance, a respondent noted, "Individuals were threatened if they publicly came out in support of a candidate that was not of their particular group. Members of the community received threatening phone calls and [were told] that they were going to lose their jobs, etc."[10] One respondent noted that after local police harassed election workers, it "was reported to DOJ" (the United States Department of Justice).[11]

Disparate appointment opportunities were the second most common discriminatory activity reported, including 33.7 percent of all respondents.[12] Many Latino elected officials reported that Latinos were completely shut out of official appointments, which were limited to non-Latinos.[13] In other cases, it is simply a "lack of effort … to appoint a minority on the Board."[14] For instance:

> The people asked to apply for an appointment were mainly Anglo, until I started to convince some Hispanics to apply. The Board appointed a non-minority to keep the Board all Anglo.[15]

This discrimination continues even after Latinos are elected. As one official stated, "I have served in the city council for [several] years and have yet to be selected as mayor. [Another Latino] served ten years and yet was never vice mayor. The other … [Anglo] members continue to pass the baton for mayor back and forth!"[16]

The nomination process, like appointments, also has been used to discriminate against Latinos. Over one-quarter of respondents, 26.3 percent, reported experiencing or observing discriminatory nominations.[17] Sometimes this discrimination is overt, such as a direct effort "10-15 years ago … to keep a Latino from being nominated … because of ethnicity."[18] Often, it was less direct, with officials simply failing to consider Latino applicants.[19]

Candidate-slating also has caused many Latinos to be excluded from any meaningful opportunity to run for office, even if they can be nominated. Candidate-slating allows private individuals or groups to informally prepare a slate of preferred candidates before

the election, rendering the election itself nothing more than a formality. Almost one-quarter of respondents, 23.7 percent, reported discriminatory candidate-slating practices in their jurisdiction.[20] As one respondent explained:

> Another form of discrimination against minority candidates is the practice of slating by majority incumbents. During my first attempt at … office, the incumbents' slate did not allow me a fair and open chance at one of [the] available positions. In a more current example, the slate has chosen a neophyte, majority male candidate to fill an open position prior to a primary, closing the doors on a highly qualifies Latina who has held public office and been a well-recognized state party official.[21]

Latino candidates often cannot get any endorsements from non-Latino organizations and have to rely exclusively on groups from their own ethnic communities.[22] Frequently, majority groups will unify "with the only reason being racial."[23]

Nearly a third of respondents reported racial appeals during elections.[24] Local media made many of these appeals. One respondent decried "disrespectful and discriminatory" statements by a newspaper about the Latino mayor and city council, referring to them as the "tortilla republic."[25] Several elected officials reported that local press and editorials contained "clearly racially prejudicial overtones,"[26] "very racial comments in print,"[27] "subtle racial appeals,"[28] "making the language and the background of the candidate an agenda item during campaigns,"[29] or simply refusing to provide any "positive information" on Latino candidates.[30]

In many jurisdictions, private citizens were no better than the local media in making racial appeals based upon Spanish heritage, surnames, or accents. One Latino elected official reported being told that "because of my last name I couldn't win my election" and "having been born in Mexico, I was questioned about my loyalty" to the United States.[31]

In another jurisdiction, "an Anglo candidate targeted only Anglo residents" and campaign workers stated "to voters, 'don't you want someone like you to represent you' in reference to an Anglo candidate."[32] Elsewhere, discriminatory campaign mailers were used.[33] In addition, "there were several instances of candidates who spoke English with an accent and were belittled because of it."[34]

Often, Anglo voters and Anglo elected officials acknowledged they were apprehensive about supporting a Latino candidate purely based upon their ethnicity or surname. Some of this disparate treatment included "the way someone is addressed or … looked at when walking into meetings or forums."[35] One Latino elected official observed, "My surname is not obviously Latino. [There was] some constituent discomfort when my ethnicity [was] revealed."[36] Another respondent reported:

> The power brokers in my community were surprised that I was so articulate because I have a Spanish name. People who didn't know me

> assumed my qualifications were less than my rivals. I was constantly questioned about my qualifications when my rivals were not.[37]

Similarly, a Latina elected official stated, "Some community citizens were apprehensive on having a female Hispanic as board president."[38]

These racial appeals clearly had an impact on elections: 30.5 percent of all respondents reported racially polarized voting in their communities, with the overwhelming majority of these respondents also reporting the presence of racial appeals during election activities.[39] Sometimes, dilution of the Latino vote was facilitated by Anglos placing a second Latino candidate on the ballot.[40] As one elected official indicated, "Within the Democratic Party, all Latinos are given a primary election and hardly ever make it past the primary" because of racially polarized voting.[41] Another candidly noted, "The Board had always had a majority "White" board and wanted to keep it that way."[42]

Thirty percent of respondents reported redistricting or gerrymandering practices that discriminated against Latinos.[43] In some cases, these practices combined with racial bloc voting to defeat Latino candidates of choice:

> [We] tried to change a white dominated county… The population breakdown in the 1970s and 1980s was slightly a Hispanic majority over white. The results of the election were overwhelmingly in favor of the white candidate. It was rumored that bloc voting was taking place as well as redistricting.[44]

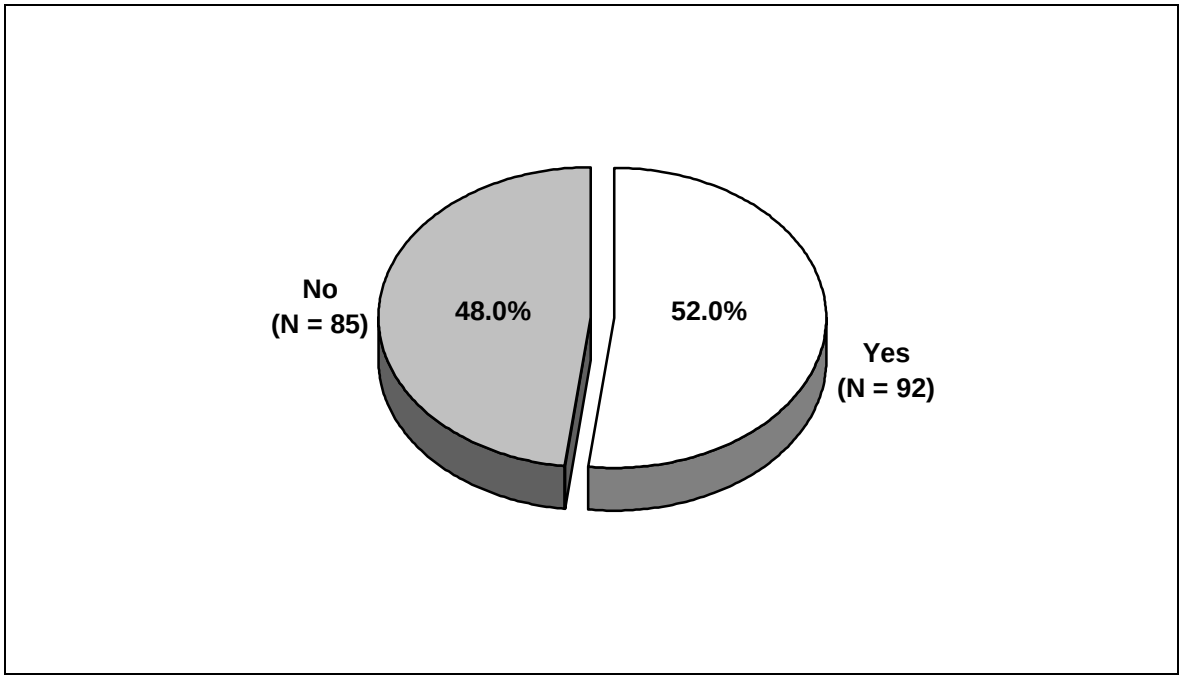
In many jurisdictions, redistricting reportedly trailed demographic changes. As one respondent noted, "Even though there was a huge increase in Latino population in [the] County, after 2000 Census/redistricting, there was no correlative increase in opportunity seats for Latinos at all jurisdictional levels."[45] Instead, "past redistricting has shored up incumbent territories by pushing Latinos into other districts."[46]

Finally, one in five respondents reported that when Latino candidates were successful in being elected, they were often faced with new rules or procedures that limited their voice on the elected body.[47] One respondent explained, "Once elected, the majority changes the rules to limit the powers of minority members. Also, minority elected officials receive higher scrutiny than non-minorities."[48]

IV. Respondents Who Have Personally Experienced or Observed Discrimination in Voting.

Figure 4 shows that nearly the same percentage of the 177 respondents, 52.0 percent (N = 92), indicated that they had personally experienced or observed discrimination against Latino or minority voters in a public election-related activity. Figure 5 depicts the types of activities in which respondents indicated they had experienced discrimination.

Figure 4: Elected officials reporting that they have personally experienced or observed discrimination against Latino or minority voters in any public election-related activities.



Voter assistance practices were the most frequently reported form of election-related discrimination, with nearly a third of respondents experiencing or observing it.[49] One respondent reported, "Poll watchers are mostly white older folks who will not take the time to help elderly Latinos."[50] Another indicated, "Spanish-speaking voters [were] not given assistance when voting for the first time and [were] not … allowed a friend to assist or translate."[51] One respondent even said, "I was ordered to not use Hispanic information at the polling place in a community that is 75% Latino."[52]

Much of the discriminatory voter assistance comes in the form of inadequate language assistance for limited-English proficient Latino voters who need to receive information in Spanish to cast a meaningful ballot. Many respondents indicated that local election officials failed to recruit, hire, and train enough bilingual poll workers.[53] Even where some language assistance is offered to Spanish speakers, it often is insufficient. One respondent stated:

> The county does not always have Spanish speakers at early voting locations. There is a lot done to have Spanish speakers at the polls, but they are hard to recruit and not every location has one. There is room for improvement.[54]

In a few cases, inadequate language assistance is a thing of the recent past, such as one instance in which the respondent observed "a Hispanic citizen being turned away from the polling place" approximately four to six years ago, before proper assistance was available.[55]

Figure 5: Types of public election-related activities for which elected officials reported they have personally experienced or observed discrimination against Latino or minority voters.

Election Activity	Number Who Have Experienced	Number Who Have Observed	Number Who Have Both Experienced & Observed	Total	Percent of all Respondents
Voter assistance	6	36	13	55	31.1%
Voter challenges (citizenship, ID, etc.)	8	33	7	48	27.2%
Checking in at the polling place	8	24	15	47	26.6%
Polling place locations and changes	9	21	15	45	25.4%
Poll worker recruitment	9	24	11	44	24.9%
Voter registration	11	20	9	40	22.6%
Absentee voting	10	21	8	39	22.0%
Early or mail-in voting	10	20	8	38	21.5%
Casting a ballot at the polls	5	19	9	33	18.6%
Casting a provisional ballot	8	16	8	32	18.1%
Voter purges	6	15	6	27	15.3%
Counting of ballot	4	12	7	22	12.4%
Other	4	0	0	4	2.3%

Approximately twenty-seven percent of all respondents reported personally experiencing or observing discriminatory use of voter identification requirements or challenges to suppress the Latino vote.[56] According to one respondent, "I have seen challenges and other things based on race."[57] For example, another respondent indicated, "I was asked if I was a citizen. Also, when I tried to drop my absentee ballot off, I was asked to show

ID."[58] Even where voter identification requirements are facially neutral, they can still have a disparate effect on Latinos. One respondent reported, "Indiana now requires a picture ID from voters at the polls, and at the same time the state is closing Motor Vehicle offices in poor areas."[59]

According to roughly one-quarter of all respondents, polling place locations and changes likewise have a disparate impact on Latino voters.[60] In some instances, this involved last-minute polling place changes that were not adequately communicated to Latino voters:

> Polling places were moved right before the primary election in 2004, due to supposed [Americans with Disabilities Act] code compliances, which so happened to be in minority ethnic districts. [Election officials] sent out a "white" postcard stating the change, in small type. Our turnout was so bad that year.[61]

Likewise, a respondent noted, "People would go to the advertised place to vote and would find that their site was closed and directed to go to another polling place," with "[t]he majority of polls closed … in Latino populated areas of the city."[62] In some cases, early voting locations have been changed at the last minute, having a negative impact on Latino voter participation.[63]

Untimely polling place changes can combine with discriminatory provisional voting procedures to disenfranchise Latino voters. Under the Help America Vote Act (HAVA), all states are required to adopt non-discriminatory procedures for ensuring that a voter whose name does not appear on a voter registration list is offered a "provisional ballot" that will be counted if the voter's eligibility is later confirmed.

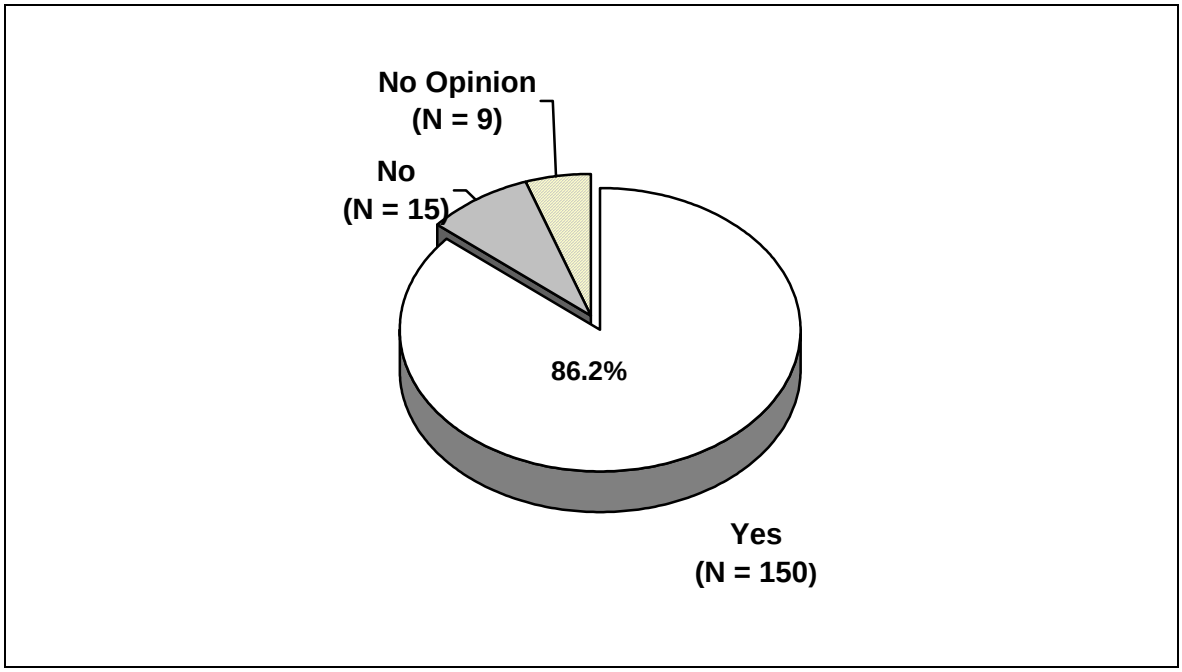
One respondent reported that when the names of Latino voters did not appear on the voter registration list, they "were not told of [the] ability to vote with a provisional ballot."[64] This can be a particular problem for Latino voters who have recently moved and are eligible to vote.[65] Another respondent reported, "Folks were not allowed to vote once they were inside the building and 8 p.m. approached. They were not provided with provisional ballots when [they] requested one."[66] In a separate instance, Latino voters were "told that they already voted when they hadn't" and were "told that they no longer vote in the district when they do," turning them away without a provisional ballot.[67]

Many respondents reported that election officials directly discriminated against Latino voters in their treatment at the polls. For example, "election officials purposely turn[ed] voters away by using delay tactics and rude behavior … using derogatory language to intimidate and chase away voters."[68] Frequently, "Latinos were questioned more thoroughly by poll workers."[69] In addition, another respondent observed "minority voters having to wait longer than non-Latino voters to cast their ballots."[70] Such discriminatory treatment at the polls severely impairs Latino voter participation.

V. Respondents Reporting the Need for Spanish Language Assistance in their Communities, its Availability, and Quality.

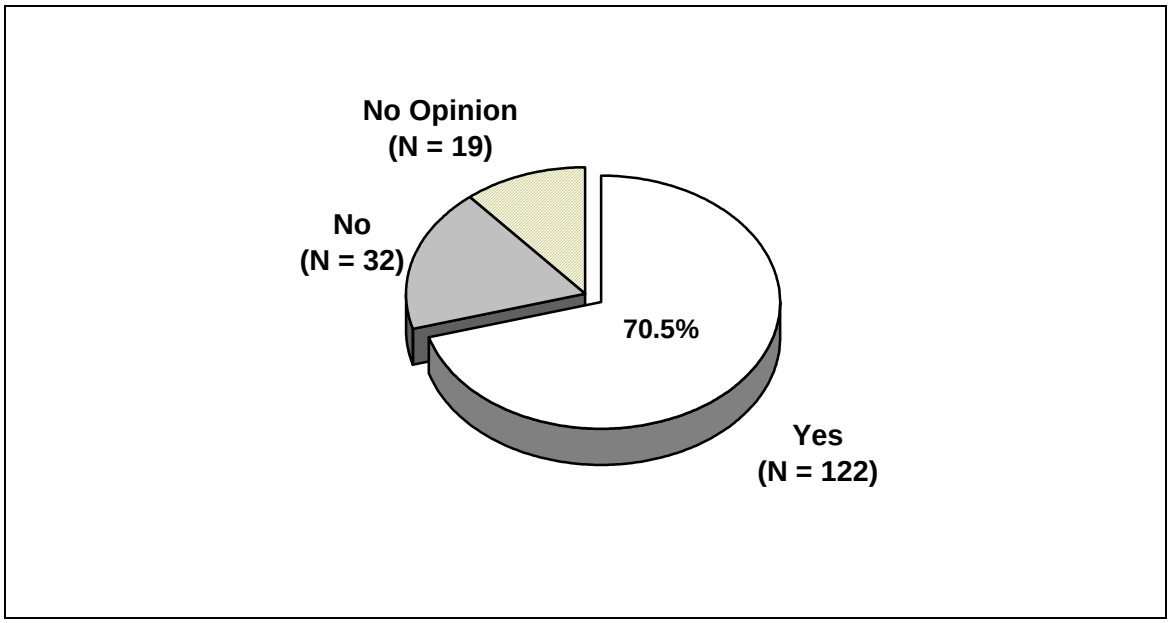
As depicted in Figure 6, an overwhelming majority of all respondents reported a need for Spanish language assistance in public elections in their communities. Among the 174 respondents, 86.2 percent (N = 150) indicated language assistance is needed, with only 8.6 percent (N =15) saying there is no need; the remaining 5.2 percent (N = 9) expressed no opinion.

Figure 6: Elected officials reporting a need for Spanish-language assistance in public election activities where they live.



Many of these respondents indicated that the need for language assistance is unmet. As depicted in Figure 7, nearly one in five (N = 32) reported that their jurisdictions do not make all written public election-related materials available in Spanish. These materials include ballots,[71] sample ballots and voter information guides,[72] voting instructions,[73] voter registration materials,[74] signs,[75] and "most documents, if not all."[76]

Figure 7: Elected officials reporting all written public election-related materials are available in Spanish where they live.



In several instances, only some elections materials are available in Spanish, often those provided by the Secretary of State. For example, one respondent observed, "only voter registration [forms] and I believe absentee ballots are in Spanish, everything else is not."[77] Another respondent opined, "I don't think we have enough written information in Spanish for the voters."[78] In some cases, Spanish language materials are "poorly written" and "confusing."[79] In other cases, respondents reported, "we do not have material in Spanish that fully explains the issue at hand, therefore making it difficult for a Spanish-dominant voter to make an informed decision."[80]

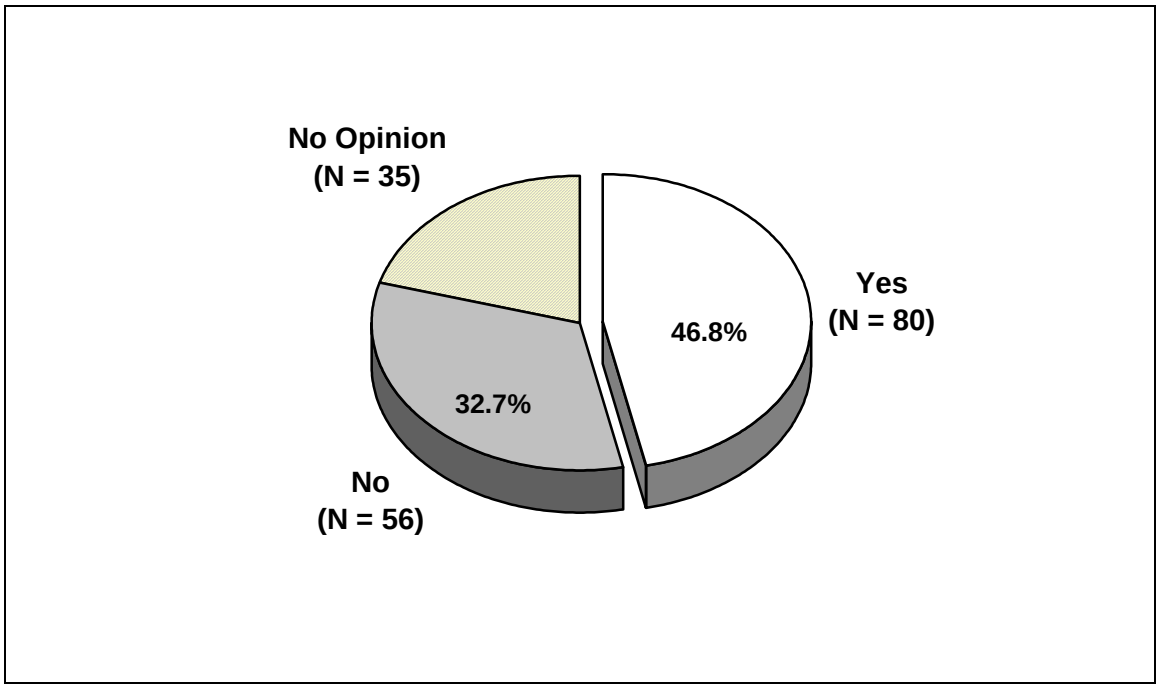
Federal language assistance requirements play a vital role in ensuring that Spanish materials and assistance are available to voters who need them. As one respondent explained:

> Until bilingual ballots were federally mandated for my voting district with a high multilingual, multicultural immigrant population, no voting information was available to new voters in their own language, from voter registration forms and completion instructions, to the actual voting process. There were no bilingual judges or assistants to help first-time voters.[81]

Absent the language assistance provisions of the Voting Rights Act, many jurisdictions will not provide assistance to voters in Spanish.

Lack of oral language assistance presents an even greater obstacle to Spanish language voters. As depicted in Figure 8, fewer than half (N= 80) of the 171 respondents to this question indicated that oral language assistance is available at some stage of the public elections process. It is likely that a much smaller percentage of jurisdictions provide oral language assistance in Spanish at all stages of the public elections process.

Figure 8: Elected officials reporting that oral language assistance is available in Spanish at some stages of the public elections process where they live.



Numerous respondents indicated that although their respective jurisdictions had some bilingual election workers, they were not available "in all cases."[82] Many respondents reported that there is "not enough oral language assistance throughout the public election process,"[83] including "at the city and county offices,"[84] "when they call the registrar of voters with a question,"[85] or "at the registration office in the clerk and recorder's office."[86] As a result, language assistance is unavailable for many election activities other than voting, including "registration, candidate information … mail in voting and early voting."[87]

Many respondents indicated that their jurisdiction does not have enough bilingual poll workers available to provide oral language assistance. One respondent explained, "It is available at certain locations. It is not available as a matter of doing business."[88] Another respondent indicated, "Not all polling places have bilingual personnel to assist with voting, especially in the suburbs where many Latinos are moving into what used to be an all Anglo community."[89] As one respondent observed, "It's a hit and miss situation … it just depends if the election clerks are bilingual, but there is no requirement for that."[90] Another noted that the Latino community has to request bilingual poll workers

"for each election," and if not, "they don't provide for one."[91] Student translators[92] and Spanish language media[93] can fill in some of these gaps. However, absent the availability of enough bilingual poll workers, some Spanish-speaking voters are turned away without being able to vote.[94]

Even where bilingual poll workers are available, they often are not proficient in Spanish. One respondent described the Spanish language skills of "those offering assistance" as "very often very low."[95] Another observed, "If the person registering does not bring a translator, the individuals at the poll location speak barely broken Spanish," and thereby can prevent the voter from casting a meaningful ballot.[96]

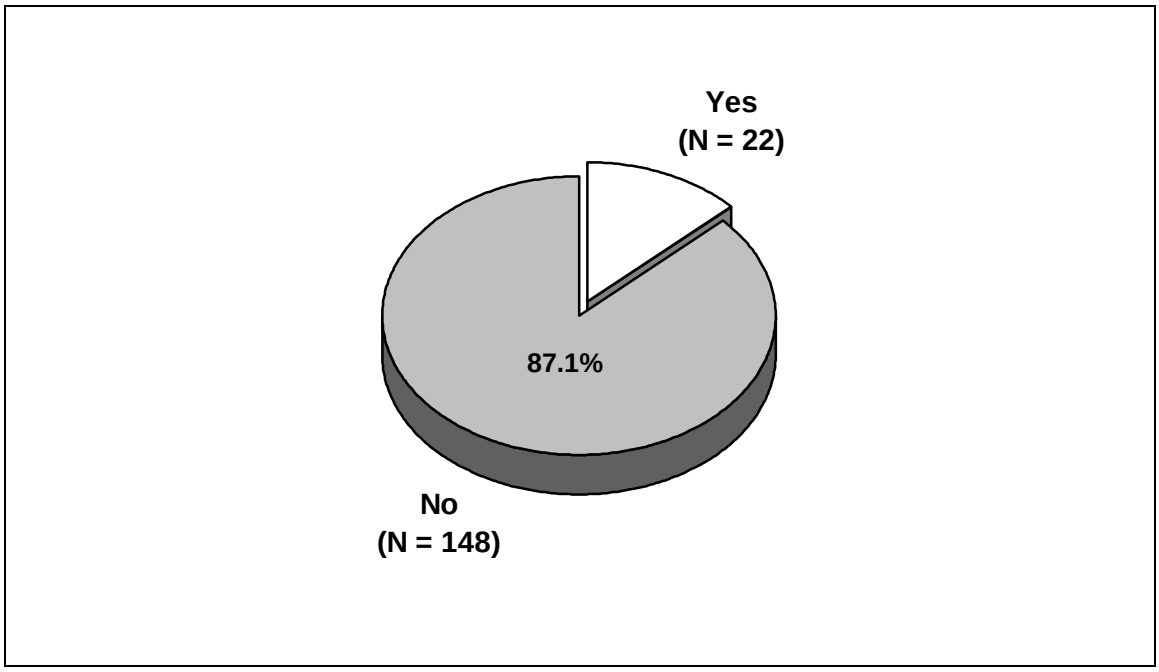
Elsewhere, Anglo election officials or voters prevent language assistance from being offered to voters in Spanish. One respondent stated, "Many individuals prefer directions in Spanish, but are not allowed to ask, and if they do they are told to just do their best."[97] In another case, a respondent wrote, "People need assistance and when a …site president or volunteer [from one political party] tries to help, the…Anglo…site president or volunteer [from the other political party] cries foul."[98] These comments demonstrate that while much progress has been made under the language assistance provisions of the Voting Rights Act, jurisdictions and their election officials still need to make significant progress toward ensuring full compliance with those provisions.

VI. Respondents Who Have Experience with the Submission of Voting Changes under Section 5 of the Voting Rights Act.

Few of the respondents reported that they have experience with the submission of voting changes to the United States Department of Justice under Section 5 of the Voting Rights Act. As depicted in Figure 9, only 12.9 percent (N = 22) reported such experience. It is unclear why such a small percentage of Latino elected officials have experience with the Section 5 submission process, particularly because over half of all Latino elected officials reside in Section 5-covered jurisdictions. More study is needed on this issue.

All of the narrative comments received from respondents on the Section 5 process pertained to the recent Texas redistricting plan that was recently struck down by the United States Supreme Court in *LULAC v. Perry*.[99] One respondent echoed the findings of the Supreme Court (before the decision was issued), noting, "The changes in congressional voting districts in Texas were discriminatory to Latinos and divided communities that historically had voted together."[100]

Figure 9: Elected officials reporting they have experience with the submission of voting changes to the United States Department of Justice under Section 5 of the Voting Rights Act.

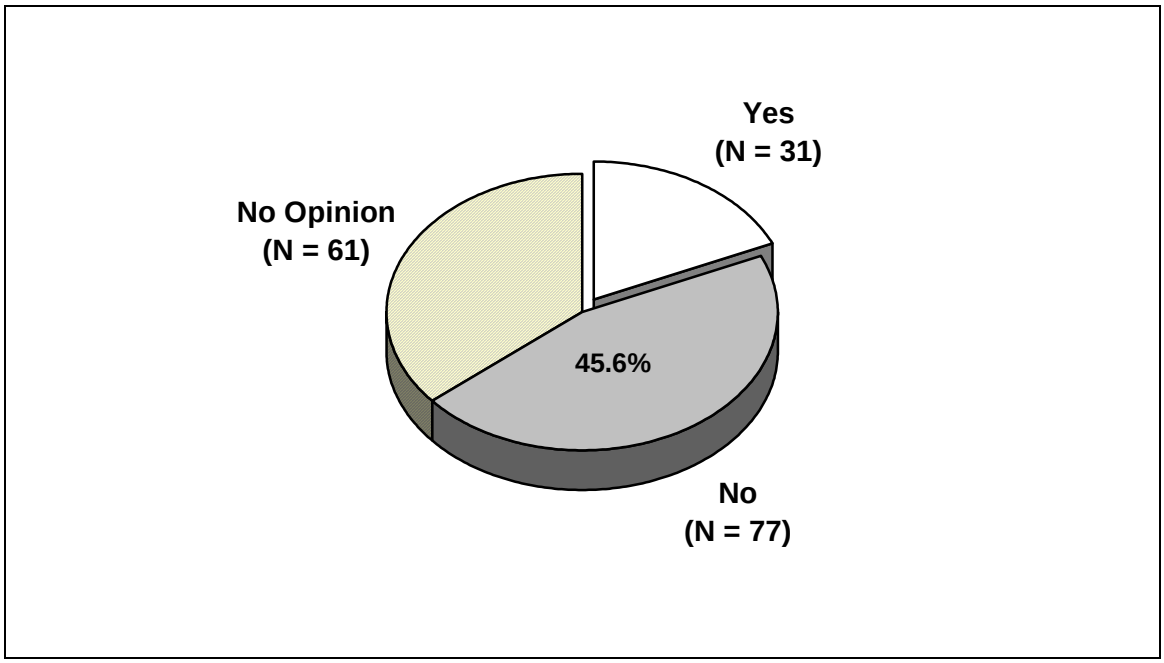


Largely as a result of the Texas redistricting case, many respondents specifically urged that the Section 5 submission process be de-politicized. One recommended, "Have a bi-partisan panel to remove the authority of political appointees overruling staff recommendations" at the Department of Justice.[101] Others agreed.[102] Another suggested "there should be a weighting system in place to put emphasis on career staff recommendations versus appointed staff overrides."[103] As one respondent concluded, "Keep politics out of it and force the DOJ attorneys to adhere to laws, rules, policies, and procedures" regarding Section 5 submissions.[104]

VII. Respondents Who Have Experience with Federal Observer Coverage under Sections 6-9 of the Voting Rights Act.

Similarly, few respondents reported experience with the federal observer provisions of the Voting Rights Act. Figure 10 depicts that only 18.3 percent (N = 31) of the 169 respondents reported that federal observers or federal attorneys have monitored elections in their local area.

Figure 10: Elected officials reporting that federal observers or federal attorneys have monitored elections in their local area.



Many respondents who have experience with federal observers or federal attorneys indicated that they have made a difference in providing Latino voters with equal access to the election process. One respondent indicated "their presence made a difference because of respect for authority."[105] Another respondent observed, "Monitors were placed in high minority voter polling sites. [They] assured people that minority families were welcome at the polls."[106]

Some respondents indicated that they were unaware of the federal observer program and wanted more information about it.[107] These responses demonstrate that the United States Department of Justice needs to engage in more outreach to Latino and other racial, ethnic, and language minority communities about the program.

Several respondents requested that federal observer coverage be more accessible to Latino voters and that there be a reduction in "red tape and layers of bureaucracy" that inhibits their use.[108]

Some respondents suggested how jurisdictions be selected for observer coverage. One asked that coverage be directed at areas with high numbers of limited-English proficient Latino voters.[109] Others suggested that observer coverage be done randomly or unannounced to more accurately reflect what happens at the polls in their absence.[110] One respondent indicated, "Districts that have been mandated to reduce potential voting rights and access violations should be routinely monitored over three subsequent elections."[111] Another respondent explained, with some exasperation, that elections were so bad in their jurisdiction, "Bring Jimmy Carter to observe. Really, we need a multinational observer team."[112]

In some cases, respondents suggested that federal observers need to be used in the least intrusive way possible. As one respondent indicated, "Make sure the federal monitoring of public elections does not interfere [with] or intimidate Latino voters."[113] Another stated, "If federal monitors are to be placed in traditional minority precincts, they should be sensitive to the community, [be] courteous, professional and not overzealous in conducting their duties as monitors."[114] Most suggested that this could be achieved by hiring "the monitors from the local area," "make sure they are minorities," and "that they speak Spanish."[115]

Others asked that federal observers and monitors include other activities in their observer coverage. As one explained:

> Federal monitoring of public elections only observes if voters are being discouraged or intimidated from voting but they do not take into consideration the uneven distribution of voting machines in low-minority versus high-minority precincts. I've observed lines out the door and around the block in many minority dominant districts for lack of enough voting machines, while across town in suburban precincts no lines are observed. Federal monitors should also consider this distribution when determining if elections violations are occurring.[116]

Another suggested that federal observers "review the voting records in high Latino populated areas," presumably to see if Latino and other minority voters were experiencing disproportionately low turnout.[117] Yet another respondent asked that federal observers and monitors "review the polling locations and the notices that are posted regarding polling locations. It is very difficult to find many voting sites on Election Day."[118] One respondent also asked that federal observers be "more visible prior to the election" and share information on "rights and abuses" occurring at the polls.[119]

VIII. Conclusion.

The Voting Rights Act has made the promise of our democracy a reality for millions of Latino citizens. This Nation has made great strides towards providing all citizens equal access to the political process, regardless of their race, color, ethnicity, or language ability. Nevertheless, as Congress recently found in renewing the expiring provisions of the Act for another twenty-five years, many barriers to participation remain for Latino voters. This survey of Latino elected and appointed officials and civic leaders corroborates the substantial record developed during the reauthorization process. It shows the direct impact the Voting Rights Act has on individual citizens who strive to exercise their fundamental right to vote. It also demonstrates that we still have a long ways to go before our democracy offers a full and fair opportunity for all of our citizens' voices to be heard.

Endnotes

[1] Respondent 153.

[2] Respondent 355.

[3] Respondent 269.

[4] Respondent 301.

[5] Respondent 353.

[6] Respondent 17.

[7] Respondent 139.

[8] Respondent 139.

[9] Respondent 304.

[10] Respondent 141.

[11] Respondent 316.

[12] *See* Figure 3.

[13] Respondents 347, 349, 354.

[14] Respondent 204.

[15] Respondent 291 (emphasis added).

[16] Respondent 201.

[17] *See* Figure 3.

[18] Respondent 351.

[19] Respondents 342, 347.

[20] *See* Figure 3.

[21] Respondent 359.

[22] Respondents 56, 139, 335, 359.

[23] Respondent 160.

[24] *See* Figure 3.

[25] Respondent 146.

[26] Respondent 121.

[27] Respondent 146.

[28] Respondent 337.

[29] Respondent 99.

[30] Respondent 349.

[31] Respondent 265.

[32] Respondent 262.

[33] Respondent 207.

[34] Respondent 150.

[35] Respondent 301.

[36] Respondent 124.

[37] Respondent 25.

[38] Respondent 48.

[39] *See* Figure 3.

[40] Respondent 172.

[41] Respondent 5.

[42] Respondent 56.

[43] *See* Figure 3.

[44] Respondent 89.

[45] Respondent 340; *see also* Respondent 337.

[46] Respondent 124.

[47] *See* Figure 3.

[48] Respondent 360.

[49] *See* Figure 5.

[50] Respondent 162.

[51] Respondent 139.

[52] Respondent 372.

[53] Respondents 5, 13, 27, 56, 83, 84, 316, 329, 354, 355; *see also* Figure 8.

[54] Respondent 371.

[55] Respondent 338.

[56] *See* Figure 5.

[57] Respondent 98.

[58] Respondent 305.

[59] Respondent 50.

[60] *See* Figure 5.

[61] Respondent 215.

[62] Respondent 36.

[63] Respondent 306.

[64] Respondent 139.

[65] Respondent 268.

[66] Respondent 280.

[67] Respondent 134.

[68] Respondent 189.

[69] Respondent 25.

[70] Respondent 342.

[71] Respondents 127, 190, 329.

[72] Respondents 50, 96, 127, 271, 281, 305, 329, 372.

[73] Respondent 26.

[74] Respondent 96.

[75] Respondent 141.

[76] Respondent 255.

[77] Respondent 233.

[78] Respondent 334.

[79] Respondent 254.

[80] Respondent 189.

[81] Respondent 359.

[82] Respondent 344; *see also* Respondents 17, 48, 69, 162, 304, 316, 340, 342, 355, 371.

[83] Respondent 288.

[84] Respondent 127.

[85] Respondent 305.

[86] Respondent 5.

[87] Respondent 307.

[88] Respondent 301.

[89] Respondent 339.

[90] Respondent 306.

[91] Respondent 280.

[92] Respondent 139.

[93] Respondent 335.

[94] Respondent 201.

[95] Respondent 254.

[96] Respondent 141.

[97] Respondent 26.

[98] Respondent 80.

[99] 126 S. Ct. 2594 (June 28, 2006).

[100] Respondent 360.

[101] Respondent 311.

[102] Respondent 16.

[103] Respondent 360.

[104] Respondent 340.

[105] Respondent 17.

[106] Respondent 265.

[107] Respondents 141, 146, 294.

[108] Respondent 89.

[109] Respondents 123, 372.

[110] Respondents 52, 83, 99, 305.

[111] Respondent 359.

[112] Respondent 254.

[113] Respondent 281.

[114] Respondent 311.

[115] Respondents 17, 41, 360.

[116] Respondent 33.

[117] Respondent 271.

[118] Respondent 11.

[119] Respondent 207.

Appendix A: Survey Instrument



Questions marked with a * are required

NALEO Educational Fund Voting Rights Act Questionnaire

This questionnaire will take approximately five minutes to complete. The status bar at the top of the screen will inform you of how much of the questionnaire you have completed as you answer the questions.

As part of the effort to reauthorize the Voting Rights Act, we are seeking to document instances in which Latino and/or Spanish-speaking voters continue to experience discrimination in voting. In addition, we are seeking to document experiences where the Voting Rights Act has enhanced the electoral opportunities for Latino and/or Spanish-speaking voters. We would appreciate your assistance in our efforts. **Please take a few moments to complete this questionnaire.**

All responses to this questionnaire will be kept strictly confidential. We are asking for your contact information to allow us to keep you informed about our progress on reauthorization and, if necessary, to follow up with you about your responses.

Please complete each entry.
Preferred Salutation

-- Select --

First Name *

Last Name *

Name of Elected or Appointed Office (e.g., State Representative, Mayor, Councilmember, School Board Member, School Board Trustee, etc.) *

Name of Jurisdiction you Represent (e.g., Smallville, Middleton School District, etc.) *

Business or Mailing Address

City

State *

-- Select --

Postal Code

E-mail Address *

Would you like to receive e-mail alerts from the NALEO Educational Fund? *

Yes No

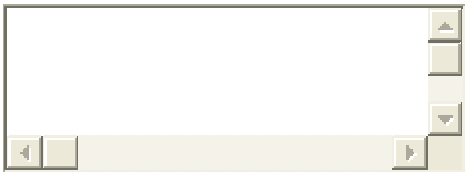
As a Latino elected or appointed official or a candidate for office, have you **personally experienced or observed** discrimination in any activity related to running for or holding a public office? *

Yes No

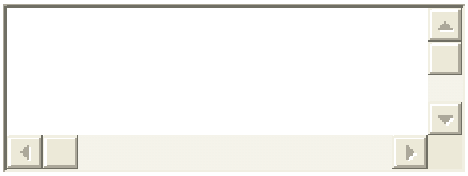
In which of the following activities related to running for or holding a public office have you **personally experienced or observed** discrimination against other Latino or minority candidates? (check all that apply)

	Experienced	Observed	Both	Neither
Candidate nomination process	☐	☐	☐	☐
Candidate qualifying process	☐	☐	☐	☐
Appointments	☐	☐	☐	☐
Campaigning	☐	☐	☐	☐
Election rules or procedures	☐	☐	☐	☐
Redistricting/district boundaries	☐	☐	☐	☐
Method of election	☐	☐	☐	☐
Candidate-slating	☐	☐	☐	☐
Racial or ethnic appeals	☐	☐	☐	☐
Changes in power after election	☐	☐	☐	☐
Changes in procedure after election	☐	☐	☐	☐
Racially polarized voting	☐	☐	☐	☐
Other	☐	☐	☐	☐

For "other" discrimination, please specify.



Please describe the circumstances of the discrimination you identified above.



Have you **personally experienced or observed** discrimination in any public election-related activities? *

☐ Yes ☐ No

In which of the following public election-related activities have you **personally experienced or observed** discrimination against Latino or minority voters? (check all that apply)

	Experienced	Observed	Both	Neither
Poll worker recruitment	☐	☐	☐	☐
Voter registration	☐	☐	☐	☐
Early or mail-in voting	☐	☐	☐	☐
Absentee voting	☐	☐	☐	☐
Voter purges	☐	☐	☐	☐
Polling place locations and changes	☐	☐	☐	☐
Checking in at the polling place	☐	☐	☐	☐
Casting a provisional ballot	☐	☐	☐	☐
Voter assistance	☐	☐	☐	☐
Voter challenges (citizenship. ID, etc.)	☐	☐	☐	☐
Casting a ballot at the polls	☐	☐	☐	☐
Counting of ballot	☐	☐	☐	☐

Other (please specify)

For "other" discrimination, please specify.

Please describe the circumstances of the discrimination you identified above.

Is there a need for Spanish-language assistance in public-election activities where you live? *

Yes No Do not know

Are all **written public election-related materials** (voter registration materials, sample ballots, absentee ballots, publicity, signs, forms, ballots, etc.) available in Spanish where you live? *

Yes No Do not know

Please describe the **written public election-related materials** that are not available in Spanish where you live:

Is **oral language assistance** available to voters who need assistance in Spanish at any stage of the public elections process (registration, at election office, at polling place, etc.) where you live?
*

☐ Yes ☐ No ☐ Do not know

Please describe any stages of the public elections process for which **oral language assistance** is not available to voters who need assistance in Spanish:

Do you have any experiences with the submission of voting changes to the United States Department of Justice under Section 5 of the Voting Rights Act?
*

☐ Yes ☐ No

Do you believe that any of these voting changes discriminated against Latinos or other minority voters?
*

☐ Yes ☐ No ☐ Do not know

Did the United States Department of Justice object to any of the voting changes that you believe were discriminatory?
*

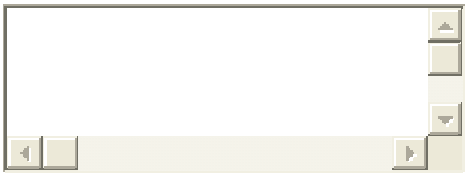
☐ Yes ☐ No ☐ Do not know

Please describe the circumstances of the discrimination you identified above.

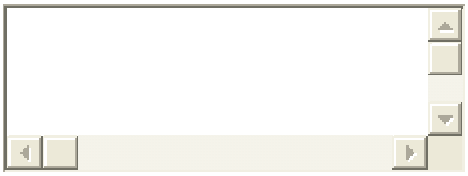
Did the United States Department of Justice approve/preclear any of the voting changes that you believe were discriminatory?
*

Yes No Do not know

Please describe the circumstances of the precleared change(s) identified above:



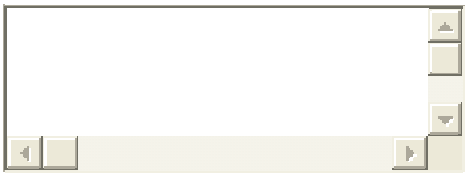
Please provide any suggestions on how to improve the Section 5 preclearance process:



Have federal observers or federal attorneys monitored elections in your local area?
*

Yes No Do not know

Please describe the circumstances of federal observer or federal attorney coverage identified above, including what difference, if any, the coverage made:



Have you ever requested to have federal observers or federal attorneys monitor an election?
*

Yes No

Were federal observers or federal attorneys sent to monitor the election?
*

Yes No Do not know

Please provide any suggestions on how to improve federal monitoring of public elections:

Please contact rgold@naleo.org if you have any questions regarding this survey.