

**Statement of  
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Asian American Legal Defense and Education Fund**

**Before the  
Presidential Commission on Election Administration**

**Pennsylvania Convention Center  
1101 Arch Street  
Philadelphia, PA 19107**

**September 4, 2013**

Good afternoon, my name is Jerry Vattamala and I am a staff attorney in the Democracy Program at the Asian American Legal Defense and Education Fund (AALDEF). AALDEF is a 39-year-old national civil rights organization based in New York City that promotes and protects the civil rights of Asian Americans through litigation, legal advocacy, and community education. AALDEF has monitored elections through annual multilingual exit poll surveys since 1988. For nearly twenty-five years, AALDEF has monitored elections for anti-Asian voter disenfranchisement, compliance with the federal Voting Rights Act's language assistance provisions (Section 203) and non-discrimination protections (Section 2), and implementation of the Help America Vote Act (HAVA). In 2012, AALDEF dispatched over 850 attorneys, law students, and community volunteers to 127 poll sites in 14 states to document voter problems on Election Day. The survey polled 9,096 Asian American voters, in 11 Asian languages.<sup>1</sup>

**The Asian American Population**

Asian Americans now constitute the largest segment of new immigrants to the United States and are the country's fastest growing minority group, estimated to number more than eighteen million.<sup>2</sup> In the 2010 census, just over 400,000 Pennsylvania residents identified themselves as Asian, making Asian Americans the third largest minority group in the state.<sup>3</sup> Though Asian Americans aim to participate in the electoral franchise, they are often unfamiliar with the American political process, or their participation is met with resistance. Asian Americans have had to overcome many barriers in order to exercise their right to vote – especially in 2012.

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<sup>1</sup> The eleven Asian languages were: Arabic, Bengali, Chinese, Gujarati, Hindi, Khmer, Korean, Punjabi, Tagalog, Urdu, and Vietnamese. Volunteers were conversant in thirty-two (32) Asian languages and dialects: Chinese dialects (Cantonese, Fujianese, Mandarin, Shanghainese, Sichuanese, Taiwanese, Teochew, Toisan, Wenzhounese), South Asian languages (Bengali, Farsi, Gujarati, Hindi, Kannada, Malayalam, Marathi, Nepali, Punjabi, Tamil, Telugu, Urdu), Southeast Asian languages (Burmese, Hmong, Indonesian, Khmer, Thai, Vietnamese), Filipino dialects (Ilonggo, Tagalog), Arabic, Japanese, and Korean.

<sup>2</sup> U.S. CENSUS BUREAU, OVERVIEW OF RACE AND HISPANIC ORIGIN: 2010, at 7 (2011), *available at* <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf>.

<sup>3</sup> U.S. Census 2010, 2010 Census Briefs: The Asian Population 2010, (Mar. 2010) at p. 7.

## **2012 Presidential Election**

### *In Pennsylvania*

Inadequate Language Assistance - Although Philadelphia is not covered under Section 203 for Asian language assistance, the City of Philadelphia agreed to provide interpreters at targeted poll sites for Asian American voters who speak Chinese, Khmer, Korean, and Vietnamese, pursuant to the 2006 settlement from *U.S. v. Philadelphia*.<sup>4</sup> Unfortunately, the City has significantly backslid on its promises from the settlement. The city provided a total of 4 Chinese, Khmer, Korean, and Vietnamese interpreters for the entire city, which was inadequate and resulted in Asian American voters being prevented from voting, particularly at the South Philadelphia Branch Library.

Excessive and Illegal Requests for Identification - AALDEF observed that Asian Americans were subject to excessive requests to present identification before voting, and that five voters in Upper Darby Township and three voters in Philadelphia complained that they were required to prove their citizenship when voting.<sup>5</sup> Even though poll workers were permitted to ask all voters for identification in the most recent election, AALDEF believes that the percentage of Asian American voters that were required to show ID was disproportionately higher than that of other groups.<sup>6</sup> Notwithstanding Act 18 (Pennsylvania's voter identification law), which was partially halted, Pennsylvania law does not require voters to provide identification in order to vote, unless they are voting for the first time at the poll site. According to our survey, 52 respondents were required to show identification, and of them, 26 (50%) were not first time voters and were not required to do so.

Violations of HAVA - AALDEF's observers saw several Asian American voters being turned away from the polls after their names were not found in the registration rolls. On one occasion, when an Asian American registered voter's name was not in the poll books at one poll site, rather than telling the voter his correct polling location, poll workers turned him away.<sup>7</sup> On another occasion, upon discovering that a registered voter was missing from the voter rolls, the voter was turned away without being offered a provisional ballot.<sup>8</sup> A third voter, whose name was also not found in the poll books at his regular poll site, was merely sent to the back of the voting area with a voter registration form.<sup>9</sup> We received a busy signal every time we called the Philadelphia County Board of Elections hotline or the Philadelphia City Commissioners' numbers to report an issue. Furthermore, the online poll site locator was down, so our volunteers could not assist voters look up their correct poll sites.

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<sup>4</sup> *U.S. v. Philadelphia*, No. 2:06cv4592, 2006 WL 3922115 (E.D. Pa Nov. 7, 2006).

<sup>5</sup> Letter from AALDEF to City Commissioners Clark, Schmidt, Singer, and Smith, (Feb. 4, 2013) at 5. Attached as Exhibit A.

<sup>6</sup> Letter from AALDEF to Laureen T. Hagan, Chief Clerk of Delaware Cty. Bureau of Elections, (Mar. 15, 2013) (regarding Observations of General Election in Upper Darby, Delaware County on November 6, 2012). Attached as Exhibit B.

<sup>7</sup> Letter from AALDEF to City Commissioners Clark, Schmidt, Singer, and Smith, (Feb. 4, 2013) at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

## *Nationally*

AALDEF monitors received more than 300 complaints of voting problems. Asian American voters were unlawfully required to provide identification to vote, mistreated by hostile or poorly trained poll workers, were denied Asian-language assistance, and had their names missing from or misspelled in the poll books. Asian American voters also faced long lines, machine breakdowns, misdirection to poll sites, and inadequate notification of poll site assignments or changes.

Although local election officials sought to comply with federal laws and provide assistance to voters, in 2012, we found the following significant violations:

- **Annandale, VA**

Asian American voters were segregated from white voters. At one point on Election Day, poll workers directed all Korean American voters to stand on a separate voting line which allowed white voters to vote first. Shockingly, this is not the first time we have observed Asian American voters being segregated into a separate "Asian" line. We observed Asian American voters in Boston's Chinatown being segregated into a separate line in the 2004 Presidential election.<sup>10</sup>

- **New Orleans, LA**

At three poll sites in New Orleans, limited English proficient Vietnamese American voters, many of whom were senior citizens, were told that interpreters could not assist them or otherwise translate the ballot for them, in violation of Section 208 of the Voting Rights Act. AALDEF attempted to appeal to local elections officials, yet the hotline number to report problems only led to a voicemail box.

- **Atlanta, GA**

Several Asian American voters in Georgia reported that they were not allowed to vote because they had not provided documentary proof of U.S. citizenship, as is required under Georgia's new proof of citizenship law. One Asian American voter in Cobb County, despite having a U.S. passport, was told that she could only vote by provisional ballot and to go to the County Clerk's office to prove her eligibility to vote.

- **New York, NY**

In Chinatown, Manhattan and Flushing Queens, poll workers refused to give out provisional affidavit ballots to voters. In Chinatown, poll workers were unaware that affidavit ballots were even translated into Chinese.

Required language assistance was inadequate. Queens County has been covered for Asian Indian language assistance under Section 203 of the Voting Right Act

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<sup>10</sup> Asian American Legal Defense and Education Fund, *Asian American Access to Democracy in the 2004 Elections* (2004), available at [www.aaldef.org/docs/AALDEF-AA-Access-to-Democracy-2004.pdf](http://www.aaldef.org/docs/AALDEF-AA-Access-to-Democracy-2004.pdf)

since October 13, 2011. However, the New York City Board of Elections did not provide Bengali language ballots to voters, nor were there “Interpreter Available” signs posted outside the sites.

- **Philadelphia, PA**

At the South Philadelphia Branch Library poll site, there were too few interpreters to assist Vietnamese American voters. Before Election Day, Philadelphia officials said they had only trained four Asian language interpreters for the entire city. As a result, Asian American voters were turned away from the polls.

- **Hamtramck, MI**

Many poll sites in Hamtramck failed to provide Bengali ballots, make translated materials available, or provide interpreters, as is required under Section 203 of the Voting Rights Act. In one case, the translated sign displaying the Voter Bill of Rights had nothing to do with voters' rights. Poll workers also complained that voting machine scanners would not read the translated Bengali ballots.

Asian Americans had to overcome many barriers to exercise their right to vote, including the lack of language assistance, racist and poorly trained poll workers, incomplete voter lists and denials of provisional ballots, improper identification checks, and poll site confusion.

<b>AALDEF Voter Survey, November 6, 2012</b>	
<u>Complaint/ Problem</u>	<u>Voters</u>
Required to prove US citizenship	249
Name missing / incorrect	307
Voted by provisional ballot	215
No interpreters / translated materials	183
Poll workers poorly trained	165
Directed to wrong poll site/precinct voting booth	105
Poll workers were rude/hostile	136

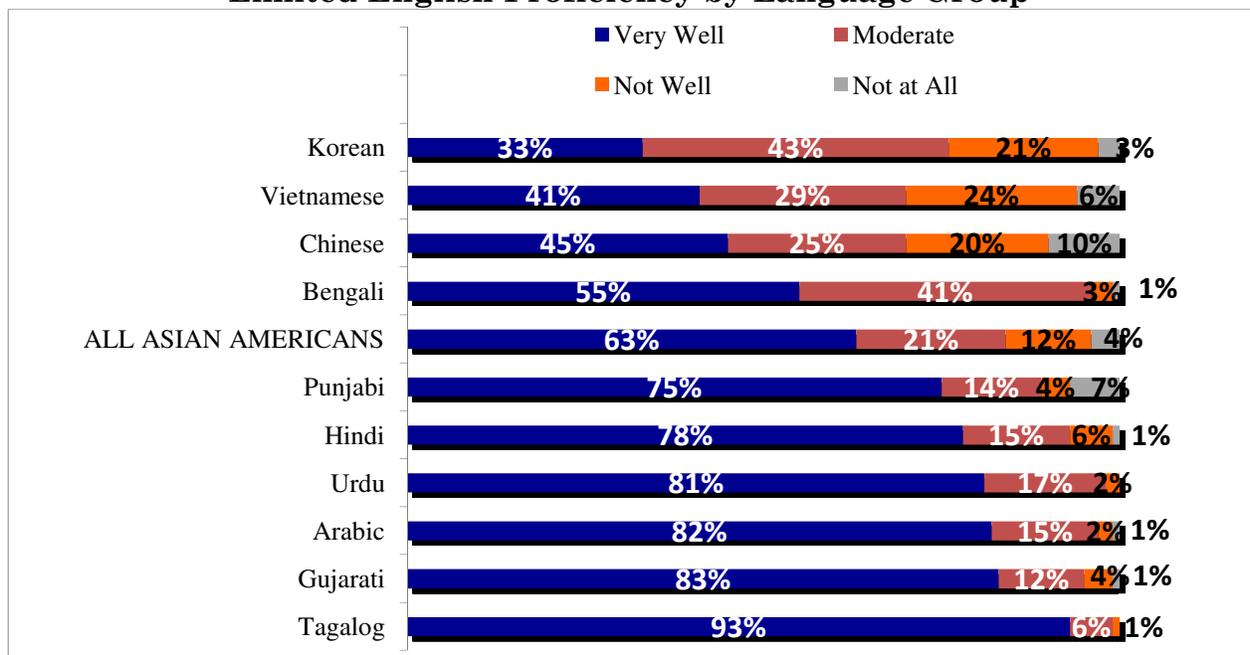
Limited English proficient Asian Americans had much difficulty in voting. In AALDEF’s survey, 79% of all respondents were foreign-born naturalized citizens. 24% had no formal education in the United States,<sup>11</sup> and only 18% identified English as their native language. 37% were limited English proficient,<sup>12</sup> of which more than one quarter (27%) were first-time voters.

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<sup>11</sup> Other surveys, including the census, phrase questions on educational attainment without making distinctions between the education completed abroad and the education acquired in the U.S. The percentages presented in this report reflect educational attainment only in the U.S.

<sup>12</sup> Limited English proficiency is determined by one’s ability to read English less than “very well.” U.S. Census Bureau, Census 2000 Summary File 3, Table PCT62D: “Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over” (2001); H.R. Rep. No. 102-655, at 7 (1992), as reprinted in 1992 U.S.C.C.A.N. 766, 771.

### Limited English Proficiency by Language Group



22% of respondents indicated that they preferred to vote with the help of an interpreter and/or translated materials.

Language assistance, such as interpreters or translated voting materials, if any, was far from adequate. Notwithstanding federal mandates, poll workers were ignorant of or hostile to providing language assistance to voters. In our survey, 183 Asian American voters complained that there were no interpreters or translated materials available to help them vote.

Section 203 requires the translation of ballots so that limited English proficient voters can fully and independently exercise their right to vote. However, the full translation and readability of translations continued to be an issue in the 2012 elections. Legally required translated ballots were not available to voters or had omissions. New York City failed to translate ballots into Bengali for the four elections after the 2011 Census designation, despite all the other covered jurisdictions doing so. Bergen County, NJ, Hamtramck, MI, Quincy, MA, and Harris County, TX omitted the transliterations of candidates' names on ballots so voters had difficulty identifying their candidates of choice. Transliterating candidates' names is the most crucial component of a comprehensive translated ballot. The U.S. Department of Justice has determined that Section 203 mandates fully translated ballots, which includes the transliteration of candidates' names.<sup>13</sup>

Voters have the right to be assisted by persons of their choice under Section 208 of the Voting Rights Act. Unlike Section 203, this provision applies across the nation. These assistants may accompany voters inside the voting booth to translate the ballot. The only exception under this federal law is that they may not be the voters' union representatives or employers. Poll workers, however, obstructed this right.

<sup>13</sup> Section 5 Objection Letter to Kathy King, General Counsel, New York City Board of Elections, from Deval L. Patrick, Assistant Attorney General, U.S. Department of Justice, Civil Rights Division (May 13, 1994).

At poll sites in New Orleans, LA, poll workers did not allow limited English proficient voters to bring interpreters with them into the voting booth. In every state where AALDEF conducted poll monitoring, limited English proficient voters complained about the lack of assistance.

AALDEF sent complaint letters to the Department of Justice<sup>14</sup> and election officials in each of the jurisdictions we monitored.<sup>15</sup> These letters reviewed the most significant problems in detail and offered concrete recommendations for improvements. These letters were sent to elections officials in the following jurisdictions:

CA: San Diego  
DC: Washington  
FL: Miami-Dade  
GA: DeKalb County, Gwinnett County  
LA: New Orleans  
MA: Boston, Lowell, Malden, Quincy  
MD: Montgomery County  
MI: Troy, Ann Arbor, Canton, Dearborn, Gaines, Novi, Detroit, Hamtramck  
NJ: Hudson County, Bergen County  
NV: Clark County  
NY: New York City  
PA: City of Philadelphia, Delaware County  
TX: Harris County, Fort Bend County  
VA: Arlington, Fairfax, Chesterfield, Henrico, Virginia Beach

We have attached these letters for the Commission's review and respectfully refer the Commission to these letters for a detailed accounting of our observations of voting barriers encountered by Asian American citizens from this past presidential election.

## **Conclusion**

Several steps must be taken to address the barriers faced by Asian American voters. AALDEF makes the following recommendations.

### National Recommendations

- Congress must update the coverage formula of the Voting Rights Act in light of *Shelby County v. Holder*, so that Section 5 preclearance can be implemented as soon as possible.

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<sup>14</sup> Letter from AALDEF to Assistant Attorney General for Civil Rights, Tom Perez and Chief of the Voting Section, Civil Rights Division, Department of Justice, Chris Herren, (June 27, 2013). Attached as Exhibit C.

<sup>15</sup> These letters are attached as Exhibit D.

- Congress should consider legislation to allow for universal voter registration, which will alleviate many of the registration problems that Asian American voters encountered.
- Congress should amend HAVA to clarify that voting by provisional ballot should also be used to correct errors and omissions in voters' registrations.
- The U.S. Department of Justice should continue its vigorous enforcement of Section 203 of the Voting Rights Act for Asian language assistance and increase enforcement of Section 208 to ensure that voters can be assisted by persons of their choice.
- The U.S. Department of Justice should more forcefully investigate and enforce full compliance with HAVA, including the proper and nondiscriminatory application of identification requirements, the availability of provisional ballots, and the posting of Voter Bill of Rights signs at poll sites.

#### Local Recommendations

- Voluntary language assistance should be provided to limited English proficient voters to supplement federal requirements. There should be translated voter registration forms, voting instructions, and ballots, as well as interpreters and bilingual poll workers at poll sites.
- Poll workers should be reprimanded or removed from their posts if they are hostile or discriminate against Asian American voters, or deny language assistance to voters.
- Voters whose names cannot be found in lists of registered voters located at poll sites must be given provisional ballots. Local election officials should count the ballots of all these registered voters when their ballots are cast in their neighborhoods and local districts, even if they were at the wrong poll sites.
- Errors in the registrations of new voters must be corrected so that ballots are not disqualified. Voting by provisional ballot should be used as opportunities to correct such errors.
- Poll workers need better training in election procedures and voters' rights, especially on...
  - the requirements for language assistance and the proper use and posting of translated voting materials and signs under Section 203, where applicable;

- voters' rights to be assisted by persons of their choice, who may also accompany voters inside voting booths under Section 208;
- how to properly direct voters to their assigned poll sites and precinct voting booths;
- proper demands for voter identification checks under HAVA; and
- proper administration of provisional ballots under HAVA.

AALDEF will continue to work with national, state, and local legislators, policy makers, and election officials to ensure full compliance with the Voting Rights Act and Help America Vote Act and to guarantee that all Americans can exercise their right to vote. We respectfully offer our assistance to the Commission in such a process.

**Fig. 1 Poll Sites Monitored by the Asian American Legal Defense and Education Fund  
November 6, 2012**

State	County	City	Poll Site
CA	San Diego	San Diego	Challenger Middle School
			Garage – White Residence
DC	District of Columbia	District of Columbia	Martin Luther King Jr. Memorial Library
			Trinity A.M.E. Zion Church
FL	Miami-Dade	Miami	West Dade Regional Library
GA	DeKalb	Doraville	Oakcliff Elementary School
	Gwinnett	Norcross	Lucky Shoals Community Center
		Duluth	Hull Middle School
		Suwanee	Full Gospel Atlanta Church
IL	Cook	Glenview	Willowbrook School
			Glen Grove School
LA	Orleans	New Orleans	Mary Queen of Vietnam Church
			Engine House #37
			Sarah Reed High School
MA	Suffolk	Boston	Metropolitan Community Room
			Catherine F. Clark Apartments
			Dr. William Henderson Inclusion Elementary School
			Cathedral High School
	Middlesex	Malden	Beebe School
Norfolk	Quincy	North Quincy High School	
MD	Montgomery	Rockville	Richard Montgomery High School
			St. Elizabeth Catholic School
		Silver Spring	Westover Elementary School
			White Oak Middle School
MI	Washtenaw	Ann Arbor	Clague Middle School
	Wayne	Canton	Summit on the Park
		Hamtramck	Hamtramck Community Center
		Dearborn	Salina Elementary School
		Detroit	Transfiguration Church
	Kent	Gaines	Gaines Township Office
	Oakland	Novi	Novi Public Library
Troy		First United Methodist Church	
NJ	Bergen	Fort Lee	Senior Citizens Activities Center
		Palisades Park	Palisades Park Junior and Senior High School
	Hudson	Jersey City	Brunswick Towers
			Fire House

NV	Clark	Las Vegas	Seafood City
			Boulevard Mall
			Chinatown Plaza
NY	Kings	Brooklyn	PS 217
			PS 230
			PS 314
			PS 94
	New York	Manhattan	Confucius Plaza
			PS 131
			PS 126
	Queens	Queens	PS 234
			Newtown High School
			Benjamin N. Cardozo High School
			PS 115
			PS 20 John Bowne
			JHS 189
			Rosenthal Senior Center
			St Andrews School
			PS 69
IS 230			
Thomas A. Edison HS			
PS 62			
PS 150			
PA	Delaware	Upper Darby	69 <sup>th</sup> Street Alliance Church
	Philadelphia	Philadelphia	Thomas Jefferson Alumni Hall
			Chinese Church & Christian Center
			James R. Lowell Elementary School
			South Philadelphia Branch Library
TX	Fort Bend	Sugar Land	Barrington Place Homeowners Association
			Sartartia Middle School
	Harris	Houston	Chambers Elementary School
			Sharpstown Middle School
			Margaret Collins Elementary School
			Chancellor Elementary School
			Alief Middle School
			Houston Community College Alief Center
VA	Arlington	Arlington	Fire Station #10
	Chesterfield	Midlothian	Midlothian High School
	Fairfax	Annandale	Annandale Fire Station Co., #8
		Centreville	Powell Elementary School

		Fairfax	Baileys Elementary School
			Mosby Woods Elementary School
	Henrico	Glen Allen	Deep Run High School
	Princess Anne	Virginia Beach	Kempsville Presbyterian Church
			Salem High School

**Fig. 2 AALDEF's Multilingual Exit Poll, Nov. 2012: Respondents**

ALL	FIRST-TIME VOTER	FOREIGN BORN	NO FORMAL U.S. EDUCATION	ENGLISH AS NATIVE LANGUAGE	LIMITED ENGLISH PROFICIENT	LARGEST ETHNIC GROUPS
TOTAL: 9,096	27%	79%	24%	18%	37%	31% Chinese 30% South Asian 12% Vietnamese 11% Korean 9% Filipino

BY ETHNIC GROUP						
Chinese	23%	75%	26%	16%	55%	N/A
Korean	20%	84%	37%	18%	67%	N/A
Filipino	23%	74%	12%	26%	7%	N/A
South Asian	34%	88%	26%	*	25%	45% Indian 40% Bangladeshi 10% Pakistani
Vietnamese	26%	83%	20%	9%	59%	N/A

**Fig. 3 AALDEF EXIT POLL RESULTS – Nov. 6, 2012**

<b>All Voters Surveyed</b>	<b>First-Time Voter</b>	<b>Foreign Born</b>	<b>No Formal U.S. Education</b>	<b>English as Native Language</b>	<b>Limited English Proficient</b>	<b>Largest Asian Groups Surveyed</b>
<b>TOTAL: 9,096</b>	<b>27%</b>	<b>79%</b>	<b>24%</b>	<b>18%</b>	<b>37%</b>	<b>31% Chinese 30% South Asian 12% Vietnamese 11% Korean 9% Filipino</b>

<b>BY STATE</b>						
<b>New York</b>	29%	82%	32%	17%	45%	Chinese 43% Bangladeshi 20% Korean 12% Asian Indian 11%
<b>New Jersey</b>	23%	87%	51%	11%	49%	Korean 57% Asian Indian 15% Filipino 8%
<b>Massachusetts</b>	25%	74%	23%	21%	47%	Chinese 52% Vietnamese 32%
<b>Pennsylvania</b>	28%	79%	31%	10%	53%	Chinese 35% Vietnamese 24% Cambodian 12% Asian Indian 6%
<b>Michigan</b>	29%	77%	17%	17%	23%	Bangladeshi 34% Asian Indian 20% Arab 15%
<b>California</b>	16%	57%	6%	40%	9%	Filipino 62% Vietnamese 16% Chinese 9%
<b>Illinois</b>	18%	83%	46%	17%	27%	Korean 67% Asian Indian 17%
<b>Virginia</b>	24%	74%	14%	24%	20%	Chinese 21% Asian Indian 20% Korean 20% Vietnamese 10%
<b>Georgia</b>	31%	85%	16%	14%	28%	Asian Indian 33% Korean 24% Chinese 14%
<b>Maryland</b>	26%	75%	12%	22%	24%	Chinese 26% Asian Indian 20% Korean 17% Vietnamese 11%
<b>Texas</b>	28%	86%	12%	11%	32%	Vietnamese 31% Asian Indian 25% Chinese 18% Pakistani 11%
<b>Louisiana</b>	29%	84%	21%	8%	67%	Vietnamese 98%
<b>Nevada</b>	26%	71%	7%	35%	5%	Filipino 67% Other 18% Chinese 6%
<b>Florida</b>	0%	100%	27%	27%	55%	Chinese 100%
<b>District of Columbia</b>	18%	47%	14%	40%	22%	Chinese 49% Korean 19% Asian Indian 12%

**Fig. 4 AALDEF Multilingual Exit Poll, Nov. 2012: Language Minority Groups**

<b>STATE - LOCALITY</b>	<b>LANGUAGE MINORITY GROUP</b>	<b>LIMITED ENGLISH PROFICIEN T</b>	<b>PREFERS VOTING WITH ASSISTANCE OF INTERPRETER OR TRANSLATED MATERIALS</b>
<b>CALIFORNIA</b>			
- SAN DIEGO	Vietnamese	28%	17%
<b>DISTRICT OF COLUMBIA</b>			
- DISTRICT OF COLUMBIA	Chinese	36%	27%
<b>GEORGIA</b>			
- DEKALB CO.	Vietnamese	18%	9%
- GWINNETT CO.	Korean	61%	22%
	Vietnamese	48%	12%
	Chinese	21%	3%
<b>LOUISIANA</b>			
- NEW ORLEANS	Vietnamese	67%	41%
<b>MARYLAND</b>			
- MONTGOMERY CO.	Chinese	23%	16%
	Korean	41%	19%
	Vietnamese	42%	17%
<b>MASSACHUSETTS</b>			
- BOSTON	Chinese	53%	44%
	Vietnamese	68%	37%
- MALDEN	Chinese	51%	42%
- QUINCY	Chinese	26%	17%
<b>MICHIGAN</b>			
- WAYNE CO.	Bangladeshi	44%	36%
<b>NEW JERSEY</b>			
- BERGEN CO.	Korean	72%	28%
	Asian		
- HUDSON CO.	Indian	26%	11%
<b>NEW YORK</b>			
- BROOKLYN	Chinese	56%	42%
	Bengali	48%	17%
- MANHATTAN	Chinese	56%	45%
- QUEENS	Chinese	45%	27%
	Korean	71%	38%
	Bengali	48%	28%

<b>PENNSYLVANIA</b>			
- PHILADELPHIA	Chinese	74%	52%
	Vietnamese	68%	33%
<b>TEXAS</b>			
- HOUSTON	Vietnamese	62%	32%
	Chinese	62%	27%
<b>VIRGINIA</b>			
- ARLINGTON CO.	Chinese	35%	22%
- FAIRFAX CO.	Korean	39%	14%
	Vietnamese	49%	14%