



November 2, 2018

New York City Board of Elections
42 Broadway, 7 Fl
New York, NY 10004
Attention: Mr. Michael Ryan, Executive Director
Steven H. Richman, Esq, General Counsel.

Anne Montesano
Executive Director of Immigrant Inclusion
Mayor's Office of Immigrant Affairs
(Via email)

Dear Messrs. Ryan and Richman and Ms. Montesano:

Our organizations write to oppose the restrictions which have been placed on limited English proficient (LEP) voters and their access to interpreters within the 100-foot zone outside of polling places. Last November, The New York City Board of Elections (NYC BoE) prohibited Russian and Haitian Creole translators, provided by the City of New York, from assisting voters within the 100-foot zone.

This year, New York City has expanded its program and will provide translators to assist voters with translation services in Arabic, Russian, Haitian Creole, Italian, and Yiddish at selected polling places in Brooklyn, Queens, and Staten Island. It is our understanding that those translators are once again prohibited from offering their assistance to voters within the 100-foot zone meant to prohibit electioneering activities by NY El. L. § 8-104(1).

Not only is this restriction illogical and wasteful of taxpayers' resources, it appears to deny voters the protections of Section 208 of the federal Voting Rights Act of 1965 (VRA). That section provides:

Any voter who requires assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer

or agent of the employer or officer or agent of the voter's union. 52 U.S.C. § 10508 (formerly 42 U.S.C. § 1973aa-6)

The only restriction which New York Law places on access to polling places is to prohibit electioneering within 100 feet of a polling place:

While the polls are open no person shall do any electioneering within the polling place, or in any public street, within a one hundred foot radial measured from the entrances designated by the inspectors of election, to such polling place or within such distance in any place in a public manner; and no political banner, button, poster or placard shall be allowed in or upon the polling place or within such one hundred foot radial. N.Y. Elec. L. § 8-104(1)

By no stretch of interpretation can offering to provide non-partisan, tax-payer funded non-English language assistance to voters be considered electioneering.

We strongly urge the NYC BoE to avoid any restriction that abrogates the rights of LEP voters under Section 208 of the VRA. We also strongly urge the Mayor's Office of Immigrant Affairs to work with the NYC BoE to insure that the rights of NYC LEP voters are protected and that LEP voters receive the full benefits of the language assistance provided by the city. N.Y. Elec. L. § 8-104(1) does not prohibit interpreters from offering assistance within the 100 foot zone. Assisting LEP voters is not electioneering, and no provision of federal, state or municipal law prohibits this activity.

We sincerely hope that enforcement action will be unnecessary. If you would like to discuss this matter further, please contact Susan Lerner, Esq., Executive Director, Common Cause/NY at 212-691-64212 or at slerner@commoncause.org.

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