

October 4, 2017

VIA ELECTRONIC MAIL

Attn: Van Stephens, Esq., Acting Gwinnett County Attorney, Jeffrey Cicora, Esq. Legal Associate II, Brooke Savage, Esq. Legal Associate II, Gwinnett County Department of Law  
Lynn Ledford, Division Director, Gwinnett County Board of Elections and Voter Registration  
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RE: Recommendations for Compliance with Section 203 of the VRA

Dear Mr. Stevens, Mr. Cicora, Ms. Savage and Ms. Ledford:

LatinoJustice PRLDEF is a national nonprofit, nonpartisan civil legal defense and education fund established in 1972, advancing Latinx<sup>1</sup> civil and constitutional rights through litigation, legal advocacy and education. The Georgia Association of Latino Elected Officials (GALEO) is a nonprofit, nonpartisan organization established in 2003 to increase civic engagement and leadership development for Latinos across Georgia. This Letter should serve as a follow up to our Letters dated October 27, 2015 and July 18, 2017, directed to the Gwinnett County Board of Elections and Voter Registration (BOE), the City Clerks and Chief Elections Officers at all Gwinnett County Municipalities, regarding Gwinnett County's designation as a covered jurisdiction under Section 203 of the Voting Rights Act (VRA) on December 5, 2016, and the obligations of both Gwinnett County and all municipalities to comply with the Act.<sup>2</sup>

In addition to our Letters, on December 15, 2016, a full seven months before LatinoJustice PRLDEF and GALEO sent our Letter of Concern regarding your jurisdiction's Compliance with Section 203, the U.S. Department of Justice also reiterated to Gwinnett County and its municipalities that "Under Section 203, all information that is provided by your jurisdiction in

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<sup>1</sup> The gender-neutral term "Latinx", along with the terms "Latina", "Latino" and "Hispanic" are used interchangeably throughout this Letter to refer to the group designated by the Census as "Hispanic." Specifically, a report on the 2010 Census states that "'Hispanic or Latino' refers to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race." Karen R. Humes, Nicholas A. Jones, & Roberto R. Ramirez, *Overview of Race and Hispanic Origin: 2010, 2010 Census Briefs*, 1, 2 (March, 2011) <http://www.census.gov/prod/cen2010/briefs/c2010br 02.pdf> (last visited May 10, 2017). See also generally, Sarah Hayley Barrett & Oscar Nñ, *Latinx: The Ungendering of the Spanish Language*, NPR, (Jan. 29, 2016) <http://www.npr.org/2016/01/29/464886588/latinx-the-ungendering-of-the-spanish-language>.

<sup>2</sup> Letter Regarding Ensuring Availability of Bilingual Voting Materials for Gwinnett County's Spanish Speaking Voters and Open Records Request, and Georgia Open Records Act Request Letter, from Joanna E. Cuevas Ingram, Kira Romero, Associate Counsel, LatinoJustice PRLDEF and Jerry Gonzalez, Executive Director, GALEO, to Lynn Ledford, Division Director, Gwinnett County Board of Elections and Voter Registration (July 18, 2017); Letter from Juan Cartagena, LatinoJustice PRLDEF, to Lynn Ledford, Division Director, Gwinnett County Board of Elections and Voter Registration (October 27, 2015) (on file with LatinoJustice PRLDEF).

English about the electoral process, including registration or voting notices, forms, instructions, or assistance, as well as information provided at the polling places and the voting booths, must be provided in the language of members of the covered language group to the extent needed to allow them to participate effectively in the electoral process and all voting-connected activities.”<sup>3</sup> Despite this fact, several jurisdictions within Gwinnett County have admitted they were not in compliance with the Act in January and through July, over seven months after this notice was received by Gwinnett County, in part, we believe, due to the refusal of Gwinnett County to take responsibility for compliance among the municipalities within its jurisdiction.<sup>4</sup>

As a matter of federal law under the Act, “It is essential that material that material provided in the language of a language minority group be clear, complete and accurate. In examining whether a jurisdiction has achieved compliance with this requirement, the Attorney General will consider whether the jurisdiction has consulted with members of the applicable language minority group with respect to the translation of materials.” 28 CFR § 55.19(b).

The U.S. Department of Justice also reiterated to Gwinnett County and its municipalities that “A successful minority language election program requires close, ongoing consultation with all segments of the affected minority community. Such consultation assists in ensuring accurate translation of election materials and identifying the best ways to disseminate election-related information to the language minority community. In addition, the involvement of members of the language minority community is essential in meeting your obligation to timely identify, hire, and train prospective bilingual poll officials to be placed at all precincts at which they may be needed during upcoming elections....A successful program will be tailored to local needs and crafted in close consultation with the local language minority community.”<sup>5</sup>

In an email communication sent to elections superintendents for all Gwinnett County municipalities and copied to the Gwinnett County BOE on February 7, 2017, Chris Harvey, Elections Director for the Georgia Secretary of State additionally reiterated, “The Department of Justice (DOJ) has determined that Gwinnett County, *and all political subdivisions in any portion of Gwinnett County* now must provide Spanish language assistance to voters in all elections and election-related activities, such as voter registration... This obligation is on each political subdivision individually and separately (and is binding on the county as a whole too)...” [emphasis in original email].<sup>6</sup> State Elections Director Harvey also included as attached documents: U.S. Attorney General Guidelines under Section 203, copies of letters from the

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<sup>3</sup> December 15, 2016 Letter from U.S. Department of Justice, Civil Rights Division, addressed to Lynn Ledford, Election Division Director, Gwinnett County Voter Registrations and Elections, at 1 (also on file with LatinoJustice PRLDEF).

<sup>4</sup> See, i.e., e-mail received from Pat Chapman, Deputy City Administrator, City of Berkeley Lake, “Open Records Request” (July 24, 2017), See Berkeley Lake GORA Response Letter, Jul. 24, 2017, Response to Items 1 and 2, received on Jul. 24, 2017, Pat Chapman, Deputy City Administrator, City of Berkeley Lake (on file with LatinoJustice PRLDEF); Lilburn GORA Response Letter, Jul. 25, 2017, Response to Items 1 and 2, Richard A. Carothers, City Attorney, City of Lilburn, received Jul. 25, 2017 (on file with LatinoJustice PRLDEF), “With respect to the general election scheduled for November 7, 2017, at the time the required notice of setting qualifying fees was published on 1/26/2017, the city had not received notice of coverage under Section 203 of the VRA. Therefore, this notice was published in English only (attached).” See also *infra* notes 17-22, 25-39.

<sup>5</sup> December 15, 2016 Letter from U.S. Department of Justice, Civil Rights Division, addressed to Lynn Ledford, Election Division Director, Gwinnett County Voter Registrations and Elections, at 2 (also on file with LatinoJustice PRLDEF).

<sup>6</sup> Tuesday, Feb. 7, 2017 Email Communication from Chris Harvey, State Election Director, Georgia Secretary of State, Re: “NEW Requirements for Spanish in Voting,” addressed to Auburn, Berkeley Lake, Buford, Dacula, Grayson, Lawrenceville, Lilburn, Loganville, Norcross, Peachtree Corners, Snellville, Sugar Hill, Suwanee, copied to Lynn Ledford of Gwinnett County, Axiver Harris and Holly Smith of the Georgia Secretary of State’s Office (now on file with LatinoJustice PRLDEF).

Department of Justice to County Election Director Ledford and a letter to Georgia Secretary of State Brian Kemp.<sup>7</sup>

We understand, based on several responses to our July 18, 2017 Georgia Open Records Act (GORA) requests, that an inter-governmental municipal committee has been formed and that the municipalities within Gwinnett County are working together to translate materials in a standardized fashion, which we most certainly welcome.

However, we are concerned that the Gwinnett County BOE and several municipalities have chosen not to heed our concerns regarding inaccurate and incomplete automated machine translations, a problem which we now understand was flagged earlier in July by both the Department of Justice and City Clerk Teresa Lynn of Duluth in a group email sent to appropriate elections officials and representatives from all Gwinnett County municipalities on July 3, 2017:

“Good morning everyone,

I just had a call from Department of Justice inquiring about the process change...I explained that we all had met and a committee was formed to work on translation of forms. Once the translation was completed, a committee member would contact everyone and we would schedule a date and time for distribution. They were very interested in how we were providing translation on our web sites...They suggested that you have someone versed in Spanish to have your election information entered and not depend on the Google translation button....:(

Let me know when the materials are ready and will schedule another meeting for updates.

Teresa Lynn  
City Clerk

City of Duluth”<sup>8</sup>

When we wrote our Notice Letter regarding Compliance with Section 203 on July 18, 2017, we found that the Gwinnett County Board of Elections was still using a “Bing” automated machine translator on its website.<sup>9</sup> We now understand that Gwinnett County Board of Elections (BOE) has had six and a half months since its March 16, 2017 meeting with the DOJ to translate election materials on its website, hire new staff for the job or use existing Spanish speaking staff to translate materials properly on its website; however, as of this week, it still appears to be using electronic widgets and machine translators discouraged by the DOJ.<sup>10</sup> The written materials

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<sup>7</sup> See *id.*, attaching February 6, 2017 Letter from Chris Harvey, State Election Director, Georgia Secretary of State, addressed to Municipal Election Superintendents in Gwinnett County, Re: Spanish Language Requirements for Elections; December 15, 2016 Letter from U.S. Department of Justice, Civil Rights Division, addressed to Lynn Ledford, Election Division Director, Gwinnett County Voter Registrations and Elections and December 22, 2016 Letter from U. S. Department of Justice, Civil Rights Division, addressed to Brian Kemp, Georgia Secretary of State. See also Gwinnett County LJP GORA Production, Binder 1, at 98-115 (now on file with LatinoJustice PRLDEF).

<sup>8</sup> Monday, July 3, 2018 Email Communication from Teresa Lynn, City Clerk, City of Duluth to Gwinnett County Municipalities “RE: elections/clerk contact list” (now on file with LatinoJustice PRLDEF).

<sup>9</sup> Letter Regarding Ensuring Availability of Bilingual Voting Materials for Gwinnett County’s Spanish Speaking Voters and Open Records Request, from Joanna E. Cuevas Ingram, Kira Romero, Associate Counsel, LatinoJustice PRLDEF and Jerry Gonzalez, Executive Director, GALEO, to Lynn Ledford, Division Director, Gwinnett County Board of Elections and Voter Registration (July 18, 2017), at 2.

<sup>10</sup> Gwinnett County Board of Elections GORA Response Letter, Jul. 25, 2017, Response to Item 1, received Jul. 25, 2017 (on file with LatinoJustice PRLDEF). Gwinnett’s response letter indicated that as of July 25, 2017, Gwinnett County’s Office of Voter Registrations and Elections had three bilingual staff members. See “ORR Memo to Ms. Ingram” Gwinnett County Department of Law, 2 (Jul. 25, 2017). The Gwinnett County Board of Elections website is still using a widget machine translator as of Oct. 2, 2017:

provided by Gwinnett County BOE in response to our July 18, 2017 Open Records Act Request are also awkwardly worded. Gwinnett County BOE's materials for voters with challenged ballots translates "local county registrar" with "colegio electoral local" and translates a mailing address so that the title of the office is in Spanish, possibly leading to problems with mailing.<sup>11</sup> Gwinnett County BOE also provided us with illegibly printed Spanish ballot instructions and information regarding voter fraud penalties, without the parallel English language translation, in a font so small it would take a magnifying glass or digital zoom capabilities for the average person to decipher and understand.<sup>12</sup> We cannot determine the quality of the translations or disparities without obtaining higher resolution documents. Cumulatively, these errors place an undue burden on Spanish speaking voters attempting to participate in and understand how to participate effectively in Gwinnett County elections.

Finally, nearly three months have passed since we sent our formal Letter seeking compliance on July 18, 2017, without any formal invitation to schedule an immediate joint in-person meeting, from the municipalities, or from the County itself. We have made clear both directly, and in public fora, our intention to meet directly and share recommended best practices jointly together with the Gwinnett County BOE and all Gwinnett County municipalities, in order to avoid litigation.<sup>13</sup>

LatinoJustice PRLDEF and GALEO are unfortunately still awaiting reply and formal invitation from Gwinnett County and all municipalities within Gwinnett County regarding our request to meet in person, submitted by electronic mail and formal Letter on July 18, 2017.<sup>14</sup>

In this current Letter, we once again reiterate and underscore our request for an in-person consultation meeting with the Chief Elections Officials for all municipalities within Gwinnett County, and officials representing the Gwinnett County BOE itself, and ask that you schedule a joint meeting with us immediately to ensure that all municipalities and the counties have a clear and uniform understanding of the recommendations we make on behalf of the LEP Spanish Speaking community and voters throughout the County. Doing so would demonstrate that you are in fact interested in meeting with us in good faith and willing to comply in good faith with the requirements of the Act. *See* 28 CFR § 55.19(b).

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<https://www.gwinnettcountry.com/portal/gwinnett/Departments/Elections> , and an outdated federal voter registration form in Spanish last updated on Jan. 3, 2006 (last visited on Oct. 2, 2017).

<sup>11</sup> See Gwinnett County Board of Elections GORA Response Letter, Jul. 25, 2017, Response to Item 1, "ORR Part 1 of 2" Gwinnett County BOE, 18-20 (July 27, 2017), received Jul. 25, 2017 (on file with LatinoJustice PRLDEF).

<sup>12</sup> *Id.* at 22-26.

<sup>13</sup> Letter Regarding Ensuring Availability of Bilingual Voting Materials for Gwinnett County's Spanish Speaking Voters and Open Records Request, from Joanna E. Cuevas Ingram, Kira Romero, Associate Counsel, LatinoJustice PRLDEF and Jerry Gonzalez, Executive Director, GALEO, to Lynn Ledford, Division Director, Gwinnett County Board of Elections and Voter Registration (July 18, 2017), at 4 and 5; *see also* Tyler Estep, *In Gwinnett, Latino groups threaten more voting rights litigation*, ATLANTA JOURNAL-CONSTITUTION, Jul. 26, 2017, <http://www.myajc.com/news/local/gwinnett-latino-groups-threaten-more-voting-rights-litigation/w2XjTXPhoVjAdYaxTHMA3K/>; AccessWDUN Staff, *Latino activist groups want cities in Gwinnett County to comply with mandate to provide voter materials in Spanish*, ACCESSWDUN, Jul. 21, 2017, <http://accesswdun.com/article/2017/7/561777/latino-groups>.

<sup>14</sup> Letter Regarding Ensuring Availability of Bilingual Voting Materials for Gwinnett County's Spanish Speaking Voters and Open Records Request, from Joanna E. Cuevas Ingram, Kira Romero, Associate Counsel, LatinoJustice PRLDEF and Jerry Gonzalez, Executive Director, GALEO, to Lynn Ledford, Division Director, Gwinnett County Board of Elections and Voter Registration (July 18, 2017), at 4 and 5.

While we appreciate compliance with state law in responding to our July 18, 2017 Georgia Open Records Act (GORA) Requests, we find many of the responses from a number of Gwinnett County municipalities and Gwinnett County BOE itself to be inadequate, and have yet to see full compliance with federal law under Section 203 of the federal Voting Rights Act, as a result.

Although we genuinely appreciate the progress made to date, and some municipalities are making more progress than others, the County as a whole and a number of municipalities have failed to provide the following to varying degrees: (1) complete, accurate and adequate bilingual voter registration forms and instructions, and information on the website regarding voting and elections; (2) complete, accurate and adequate bilingual voter information on candidates, their background, and/or candidate's statements; (3) complete, accurate and adequate bilingual sample ballots, absentee ballots, provisional ballots, and corresponding instructions; (4) bilingual election board staff and poll workers, and information showing where or how often they are or have been assigned to provide language assistance or translation services; (5) complete, accurate and adequate bilingual materials informing voters on scheduled dates of primary and general elections, changes to voter's election precincts assignments and polling site locations addresses; (6) complete, accurate and adequate bilingual web content, brochures or signage on Gwinnett County's Board of Election's services, contact information; (7) complete accurate and adequate communications, policies, documents and publications showing compliance with Section 203 of the VRA.<sup>15</sup>

In this current Letter, having reviewed your initial production in response to our July 18, 2017 GORA Requests, LatinoJustice PRLDEF and GALEO also make the following formal recommendations, which are neither exclusive nor exhaustive, as we may have further recommendations to make, in order to ensure adequate and effective language assistance in compliance with Section 203 of the VRA, today:

1. We ask that you ensure the following language is present, in English and Spanish, as translated and triple-checked by a second and third live human translator, on your website and in any educational or informational publications, mailings and community outreach materials that you make available bilingually in English and Spanish:

“On Dec. 5, 2016, Gwinnett County and all municipalities within Gwinnett County were designated as a covered jurisdiction under Section 203 of the Federal Voting Rights Act of 1965.

Section 203 of the VRA mandates that election officials and staff in the covered jurisdiction must provide language assistance including, “any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots”, on an equal basis with all that is provided in English.<sup>16</sup>

Gwinnett County is now working to comply with Section 203 by providing access to all information and resources for local elections in English as well as Spanish, below, and can provide live language assistance if you need assistance in order to ask for any information about elections, how to run as a candidate, how to

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<sup>15</sup> 28 CFR § 55.19(b). Section 203 Requirements for *Written materials; Accuracy, Completeness*: ““It is essential that material that material provided in the language of a language minority group be clear, complete and accurate. In examining whether a jurisdiction has achieved compliance with this requirement, the Attorney General will consider whether the jurisdiction has consulted with members of the applicable language minority group with respect to the translation of materials.” *Id.*

<sup>16</sup> 28 CFR §55.15.

register, and any other information about elections, registration and voting in order to exercise your right to vote. If you should need any election information or assistance in Spanish, please call [insert phone number where language assistance is available] \_\_\_ or email [insert email where language assistance is available].

We are also seeking to hire bilingual poll officials ahead of the next election. If you are interested in applying, please find more bilingual information available in English and Spanish about open positions we are hiring for here and/or below.”

Based on an initial review of responses to our July 18, 2017 Georgia Open Records Act (GORA) Requests, we have noted that although Auburn,<sup>17</sup> Braselton,<sup>18</sup> Duluth,<sup>19</sup> Berkeley Lake<sup>20</sup>,

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<sup>17</sup> Based on the limited documents provided in response to LJP and GALEO’s Jul. 18, 2017 GORA Request, the City of Auburn is not in full compliance with Section 203. *See, e.g.*, City of Auburn Qualifying Fee and Election Notice, received by LJP and GALEO via electronic mail on Aug. 7, 2017, scheduled to run in the local newspaper on August 9, 2017 and on August 16, 2017, available on the City’s website and posted on Facebook in English and in Spanish, produced by Barrow County, Georgia Board of Elections & Registration, incorrectly and confusingly translating the proper noun Midway United Methodist Church to “la iglesia a mitad de camino Metodista”; the fee successor section was completely incorrectly translated and the meanings are indecipherable in Spanish: “Las siguientes son las tasas que califique para las oficinas locales para llenarse en la elección General Municipal del 2017: CUOTA DE OFICINA Costo Miembro del Consejo (para alcanzar el éxito Robert L. Vogel) \$144.00 Miembro del Consejo (tener éxito Bill Ackworth) \$144.00” which actually translates to: “The following are the rates that qualify for local offices to be filled in the 2017 General Municipal election: OFFICE FEE Cost Council Member (to ensure the success of Robert L. Vogel) \$ 144.00 Board Member (to ensure the success of Bill Ackworth) \$ 144.00”. This is not what the English version conveys, the meaning of successor and fees for the office is lost to the Spanish-Speaking reader here; contrast these translations with the City of Auburn Election Cancellation Notice, which was properly translated, and received by LJP via electronic mail on Sept. 5, 2017 (on file with LJP). As of Oct. 2, 2017, Auburn still only provides the following forms in English only: [Absentee Voter Guide](#), [Notice of Candidacy and Affidavits](#), [Financial Disclosure Form](#) and [Campaign Contribution Form](#), at the City of Auburn Elections Website, <http://cityofauburn-ga.org/MunicipalElections.aspx> (last visited Oct. 2, 2017). Auburn is also using a digital machine translator based on a widget installed on its website by its IT consultant, pursuant to information received in an email to LJP and GALEO from Joyce Brown, Auburn City Clerk, on Jul. 7, 2017; this machine translation tool still appears to be in use as of Oct. 2, 2017, at <http://cityofauburn-ga.org/MunicipalElections.aspx>. Again, as noted above, machine translators create further barriers to accurate and complete translation and are generally discouraged. We recommend all election related materials and forms be accurately and completely translated in accordance with 28 CFR §§ 55.15 and 55.19(b), to ensure full compliance with Section 203.

<sup>18</sup> On the Town of Braselton Elections website, the sections labeled “About Our Government”, “Ethics in Government Act”, “Contact Information” and “More Information” are not translated into Spanish at all and appear in English Only as of Oct. 2, 2017, at <http://braselton.net/elections.html>.

<sup>19</sup> Based on the limited documents provided in response to LJP and GALEO’s Jul. 18, 2017 GORA Request, the City of Duluth is not in full compliance with Section 203. Duluth provided LJP and GALEO a copy of its bilingual “Call of Municipal Election” which is awkwardly translated in a way that suggests that it was translated using Google Translate or another machine translator. There are also major translation and spelling errors among the information provided online regarding “Where to Vote” where county of residence is translated as “país de residencia” which means “country of residence”, not “county of residence”; under “Resource Documents & Important Links”: “[Código de Ética de la Ordenanza](#) Todos los funcionarios elegidos deben cumplir con el Código de Ética y Juramentos de signos” is poorly translated where “Juramentos de signos” means “oaths of signs” when it should say “juramentos jurados o firmados” at City of Duluth Elections Website, [http://www.duluthga.net/about\\_duluth/city\\_elections/las\\_notificaciones\\_de\\_las\\_elecciones.php](http://www.duluthga.net/about_duluth/city_elections/las_notificaciones_de_las_elecciones.php) (last visited Oct. 2, 2017). Among the information that still remains English-only on Duluth’s Elections website as of Oct. 2, 2017: [Code of Ordinances](#); City of Duluth, GA ; [Code of Ethics Ordinance](#) City of Duluth, GA ; [The Constitution of the State of Georgia](#) ; [State of Georgia](#): Election Code ; [Rules and Regulations](#) of the State Election Board; or the [Georgia Government Transparency Campaign Finance Commission Reporting requirements](#), [GGTCFC Training Workshops](#) , all of these resources remain in English only, and none of the above election information or resources are actually made available in Spanish by Duluth as of Oct. 2, 2017 on the Duluth Elections Website. *Id.* (last visited Oct. 2, 2017). Duluth’s online “Election Notices” is also of poor quality, translating “qualifying fee” to “casa de habilitacion” (house of habilitation) *Id.* (last visited Oct. 2, 2017). This and other awkward phrasing obfuscate meaning and create additional barriers for voters whose first language is Spanish and who are limited-English proficient. Like the City of Auburn, it appears a machine translator may be what is being used, as there is a mistranslation of the meaning of “succeed” under Duluth’s current Election Notice for Posts 1, 2 and 3 as follows: “Miembro del Consejo Post 1 (para tener éxito Marsha A. Bomar)”; “Miembro del Consejo Post 2 (para tener éxito James T. (Jim) Dugan)”; “Miembro del Consejo Post 3 (para tener éxito Billy Jones)”; this directly confuses potential voters where it reads “so that Marsha A. Bomar will have success” instead of, to follow Marsha A. Bomar, which is translated to the verb, “seguir” when trying to communicate successorship in an elected position. The phrase “Las personas que tengan la intención de calificar deberán remitir la cuota de calificación de \$ 180.00 para los miembros del Consejo.” is an improper translation of the English version. This phrasing translates to “Persons who intend to qualify should remit the qualification quota of \$180.00 for the members of the Council” which may read to an LEP voter, community supporter or candidate as a requirement to pay a fee to each member of the Council, not, “Individuals intending to qualify shall remit the qualification fee of \$180.00 for [the position of] Council member.” For the Sample 2017 City of Duluth Ballot, on the website translates “Click [HERE](#) for sample ballot.” and “Haga clic [AQUI](#) muestra de la bolita.” which is not an accurate translation

## Snellville<sup>21</sup> and Sugar Hill<sup>22</sup> have made initial attempts at translating qualifying information about elections for public office or candidacy in Spanish, these translations are not fully accurate

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at all. This translates back to English as “Click HERE sign of the ball.” *Id.* (last visited Oct. 2, 2017). Further, online information regarding “Voter Registration”, such as “*contribuyents*” (for *contribuyentes*); “Si se rmaricula por primera vez” ( for “si se *matricula* for primera vez”) is clearly poor grammar and spelling in Spanish which does not translate properly; City of Duluth Elections Website, [http://www.duluthga.net/about\\_duluth/city\\_elections/voter\\_registration.php](http://www.duluthga.net/about_duluth/city_elections/voter_registration.php) (last visited Oct. 2, 2017). We want to note here, however that we appreciate that Duluth has taken further steps than other municipalities and the County itself, having translated the information regarding “Running for Office – Candidate Qualification and Information” into Spanish to match the same information provided by the City of Duluth in English.

<sup>20</sup> Based on the documents provided, the City of Berkeley Lake is not in full compliance with Section 203. In an e-mail received from Pat Chapman, Deputy City Administrator, City of Berkeley Lake, “Open Records Request” (July 24, 2017) , *See* Berkeley Lake GORA Response Letter, Jul. 24, 2017, Response to Items 1 and 2, received on Jul. 24, 2017, Pat Chapman, Deputy City Administrator, City of Berkeley Lake (on file with LatinoJustice PRLDEF). Deputy City Administrator Chapman admitted that the municipality had not complied with Section 203 to date despite the fact that notice had been made as of Dec. 5, 2016 and also as December 15, 2016, in the Letter from U.S. Department of Justice, Civil Rights Division, addressed to Lynn Ledford, Election Division Director, Gwinnett County Voter Registrations and Elections, at 1,(*supra* note 3): “With respect to the general election scheduled for November 7, 2017, at the time the required notice of setting qualifying fees was published on 1/26/2017, the city had not received notice of coverage under Section 203 of the VRA. Therefore, this notice was published in English only (attached).” However, Deputy Administrator Chapman also stated that “while limited information is found in Spanish on our current website, the city is in process of developing and is approximately one month away from the launch of a new website that will have in Spanish, all election related text and documents that are also provided in English. Spanish translations are currently in progress”. E-mail from Pat Chapman, “Open Records Request” (July 24, 2017). While the Election information provided on the website appears to be relatively accurately translated as of Oct. 2, 2017, it is not comprehensive nor complete, and unfortunately, the city appears to rely on outdated federal registration forms from more than a decade ago, where the instructions dictate that all responses be written in English. *See* Berkeley Lake GORA Response Letter, Jul. 24, 2017, Response to Item 1, attached PDF form labeled “Federal Voter Registration GA info only,” at pp. 3 and 5. Last updated 01/03/2006 (“**PROPORCIONE SUS RESPUESTAS EN INGLÉS.**” which translates to “**PROVIDE YOUR RESPONSES IN ENGLISH**”), received on Jul. 24, 2017, Pat Chapman, Deputy City Administrator, City of Berkeley Lake (on file with LatinoJustice PRLDEF). Additionally, in an email sent on Jul. 11, 2017 to a Mr. Daniel Rojas, Deputy City Administrator of Berkeley Lake Pat Chapman admitted to using Google Translate to translate the only paragraph then currently available in Spanish on the city’s website. (City of Berkeley Lake GORA Production, Copies of emails and correspondence.pdf, 126, on file with LatinoJustice PRLDEF). Consequently, there is an error in translation on the translated paragraph on the website: “La calificación tendra lugar” or the “Qualification will have a place” was translated with the intent of saying “Qualifying will take place”. The City of Berkeley Lake, *Coming soon- City Election! /Proximamente – Eleccion de la Ciudad!* (Jul. 20, 2017), <http://www.berkeley-lake.com/CivicAlerts.aspx?AID=182> (last accessed Aug. 2, 2017). Berkeley Lake used solely state forms for absentee and provisional ballots. The state of Georgia absentee registration for their ballot also erroneously translates “Mail the ballot to my temporary out-of-county address” to “*Envie por correo la bolete a mi direccion temporal fuera del pais.*”, on Fillable Absentee Ballot Application – By Mail – Bilingual, 1, ” E-mail from Pat Chapman,, “Open Records Request” (July 24, 2017). The state registration for the provisional ballot also had some grammatical errors, such as “Creo que me register por ultima vez para voter en Georgia” to mean “I believe I last registered to vote in Georgia”. Fillable Voter Certificate – Bilingual”, 1.

<sup>21</sup> Based on the documents provided, while the City of Snellville has provided accurately translated Bilingual Spanish and English Absentee Ballot Instructions, Fillable Voter Certificate, Fillable Absentee Ballots (In Person and By Mail), the City of Snellville is not in full compliance with Section 203. The City of Snellville’s website does not provide voting materials such as absentee ballots, sample ballots, or instructions in English or Spanish. The webpage contains the following information in English and Spanish: “Public Notice Qualifying Period for Municipal Election of Snellville, Georgia”, “Public Notice of Change of Polling Place of Snellville, Georgia”, and “Public Notice of Qualifying Fees for City of Snellville, GA General Election.” As of Oct. 2, 2017, there are three links at the bottom of the pages directing individuals to polling places, Gwinnett county board of elections, Georgia Secretary of State elections, and voter identification requirements, at the City of Snellville Elections Website, <http://www.snellville.org/electionselecciones> (last visited Oct. 2, 2017). The polling place locator, voter identification, and Secretary of State elections links direct the viewer to the Secretary of State’s website where the materials are not available in Spanish. The Gwinnett County Board of Elections directs the viewer to the Gwinnett County Board of Elections website where they continue to use a machine translate option. On Snellville’s website, the “Notification of Cancellation of Election” language provided in Spanish as “Los candidatos sin oposición por encima serán considerados que han votado por él/ella mismo” translates back to English as “Uncontested candidates above will be considered to have voted for him / herself.”, and under “PUBLIC NOTICE QUALIFYING PERIOD FOR MUNICIPAL ELECTION CITY OF SNELLVILLE, GEORGIA” the sentence “Esta eleccion se celebrara en el Centro de Ancianos de Snellville,” is not a proper translation of “This election will be held in the Snellville Senior Center, located at 2350 Oak Road, Snellville, Georgia.” “Anciano” is not a term used colloquially to refer to elders or seniors; “personas mayores” as listed under PUBLIC NOTICE NOTICE OF CHANGE OF POLLING PLACE CITY OF SNELLVILLE, GEORGIA, is not much better. “Centro para Personas de Edad Avanzada” is a more accurate translation of “Senior Center”. City of Snellville Elections Website, <http://www.snellville.org/electionselecciones> (last visited Oct. 2, 2017).

<sup>22</sup> Based on the documents provided, while the City of Sugar Hill has provided accurately translated Bilingual Spanish and English Absentee Ballot Instructions, Fillable Voter Certificate, Fillable Absentee Ballots (In Person and By Mail), the City of Sugar Hill is not in full compliance with Section 203. *See* City of Sugar Hill Elections Website, <https://cityofsugarhill.com/government/mayor-and-city-council/elections/#spanish> “**Información sobre la votación:** La Ciudad de las elecciones municipales de Sugar Hill se llevan a cabo cada dos años en años impares en el Centro Hill Community azúcar.” which is not a correct translation of a proper noun, in this case,

nor complete as required by the Act, and we are happy to provide further feedback in person there.

What is equally if not more troubling, however, is that the majority of Gwinnett County municipalities and Gwinnett County itself are failing to provide this information in Spanish on an equal basis with all that is provided in English.<sup>23</sup> This failure, by itself, is a violation of Section 203. It cannot be reiterated more clearly that ALL information regarding voting and elections MUST be in bilingual format, and made available on an equal basis with all that is communicated to the electorate and the public in English.<sup>24</sup>

Additionally, we observed that nearly every jurisdiction, including Auburn,<sup>25</sup> Braselton,<sup>26</sup> Buford,<sup>27</sup> Berkeley Lake,<sup>28</sup> Dacula,<sup>29</sup> Grayson,<sup>30</sup> Lawrenceville,<sup>31</sup> Lilburn,<sup>32</sup> Loganville,<sup>33</sup> Norcross,<sup>34</sup> Peachtree Corners,<sup>35</sup> Snellville,<sup>36</sup> Sugar Hill,<sup>37</sup> and Suwanee,<sup>38</sup> including the Gwinnett County BOE itself,<sup>39</sup> appear to be using outdated Federal Spanish language voter registration forms and assistance guides from over a decade ago. This is problematic for several reasons, including those discussed below; we understand Gwinnett County is in the process of developing a bilingual registration form. This form is preferred over the federal form, due to the fact that the

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“Sugar Hill”, which should remain “ Sugar Hill Community Center” to share the same meaning in the Spanish language translation as it does in English.

<sup>23</sup> See *supra*, i.e., notes 17-22.

<sup>24</sup> 28 CFR §55.15. (emphasis added to underscore plain requirements of the law).

<sup>25</sup> Auburn Municipal Elections website, [http://cityofauburn-ga.org/Assets/Files/Municipal%20Elections/Federal%20Voter%20Registration\\_6-25-14\\_SPA.PDF](http://cityofauburn-ga.org/Assets/Files/Municipal%20Elections/Federal%20Voter%20Registration_6-25-14_SPA.PDF) (last visited Oct. 2, 2017)

<sup>26</sup> Braselton GORA Response Letter, Jul. 19, 2017, reference to Town of Braselton Elections Website, <http://braselton.net/elections.html>, (last visited Oct. 2, 2017) which has provides no immediate links to voter registration information or forms, and only links to an English-Only Georgia Secretary of State Website and provides only the mailing address for the Jackson County Elections Office, received on Jul. 19, 2017, from Jennifer Scott, Braselton Town Manager and Clerk, Town of Braselton (on file with LatinoJustice PRLDEF).

<sup>27</sup> Buford GORA Response Letter, Jul. 25, 2017, Response to Item 1, received on Jul. 25, 2017, Kim Wolfe, City Clerk, Planning Director, City of Buford (on file with LatinoJustice PRLDEF).

<sup>28</sup> Berkeley Lake GORA Response Letter, Jul. 24, 2017, Response to Item 1, received on Jul. 24, 2017, Pat Chapman, Deputy City Administrator, City of Berkeley Lake (on file with LatinoJustice PRLDEF).

<sup>29</sup> Dacula GORA Response Letter, Jul. 24, 2017, Response to Item 1, received on Jul. 24, 2017, Heather B. Coggins, Elections Superintendent (on file with LatinoJustice PRLDEF).

<sup>30</sup> Grayson GORA Response Letter, Jul. 21, 2017, Response to Item 1, received on Jul. 21, 2017, Laura Paul-Cone, Grayson City Administrator (on file with LatinoJustice PRLDEF), referring to <http://www.cityofgrayson.org/Assets/Files/Voter%20Registration%20Application.pdf> (last visited Oct. 2, 2017).

<sup>31</sup> Lawrenceville GORA Response Letter, Jul. 24, 2017, Response to Item 1, Karen Pierce, Municipal Election Superintendent (on file with LatinoJustice PRLDEF).

<sup>32</sup> Lilburn GORA Response Letter, Jul. 25, 2017, Response to Items 1 and 2, Richard A. Carothers, City Attorney, City of Lilburn, received Jul. 25, 2017 (on file with LatinoJustice PRLDEF).

<sup>33</sup> Loganville GORA Response Letter, Jul. 24, 2017, Response to Item 1, received on Jul. 24, 2017, Heather B. Coggins, Elections Superintendent (on file with LatinoJustice PRLDEF).

<sup>34</sup> Norcross GORA Response Letter, Jul. 21, 2017, Response to Item 1, received on Jul. 21, 2017, John E. Underwood, Attorney for the City of Norcross (on file with LatinoJustice PRLDEF).

<sup>35</sup> Peachtree Corners GORA Response Letter, Jul. 26, 2017, Response to Item 1, received on Jul. 26, 2017, Kym Chereck, City Clerk and Elections Superintendent (on file with LatinoJustice PRLDEF).

<sup>36</sup> Snellville GORA/ORR Response Letter, Aug. 7, 2017, Response to Item 1, received on Aug. 8, 2017 from Melisa Arnold, City Clerk/Administrative Manager (on file with LatinoJustice PRLDEF).

<sup>37</sup> Sugar Hill GORA Response Letter, Jul. 31, 2017, Response to Item 1, received on Jul. 31, 2017, from Jane Whittington, City Clerk, City of Sugar Hill, (on file with LatinoJustice PRLDEF).

<sup>38</sup> Suwanee GORA Response Letter, Jul. 24, 2017, Response to Item 1, received on Jul. 24, 2017 from Elvira Rogers, Superintendent of Elections for Suwanee (on file with LatinoJustice PRLDEF).

<sup>39</sup> Gwinnett County Board of Elections GORA Response Letter, Jul. 25, 2017, Response to Item 1, received Jul. 25, 2017 (on file with LatinoJustice PRLDEF); Gwinnett County Board of Elections, Link to 2006 Spanish Federal Registration Form, [https://www.gwinnettcountry.com/static/departments/elections/pdf/VR\\_Application\\_Spanish.pdf](https://www.gwinnettcountry.com/static/departments/elections/pdf/VR_Application_Spanish.pdf) (last visited Oct. 2, 2017).



federal form last updated on January 3, 2006 asks respondents to complete the form in English,<sup>40</sup> and that it is often used against problematic and inaccurate federal databases, as demonstrated by a case LatinoJustice PRLDEF successfully brought with co-counsel against the Florida Secretary of State, *Arcia v. Florida Sec'y of State*, 772 F.3d 1335 (11th Cir. 2014), finding that the Florida Secretary of State's use of the Systematic Alien Verification for Entitlements (SAVE) Database may have *improperly removed U.S. Citizens* from the registration rolls, and that these removals violated the federal National Voter Registration Act of 1993 (NVRA).<sup>41</sup>

On the website in any and all media outlets, we recommend that all Gwinnett County municipalities and the County itself develop standard procedures for the following:

2. **Standard Procedures for Accurate and Complete Translations of Written Materials:** Bilingual standard procedures for accurate translation of ALL election and election-related materials, including publicity, into Spanish (as translated and triple-checked by three live translators, on your website and in any educational or informational publications, mailings and community outreach materials that you make available bilingually in English and Spanish);
3. **Standard Procedures for Publicity:** *See supra*, including procedures for the use of Spanish language media, selection of sites for posting and distributing materials, and the posting of all complete and accurate Bilingual/Spanish language election-related information, forms and documents online on the municipal or county election website, including links to PDFs in Spanish and English for all publicly available voter registration, education or information, ballots, etc., including, but not limited to, information about elections and Bilingual (English and Spanish) registration forms, sample ballots, certification forms, sample ballots, absentee ballots, provisional ballots, and corresponding instructions, including the Absentee Voter Guide; contact information for Bilingual (English and Spanish) election board staff and poll-workers, and information about where or how often they are or have been assigned to provide language assistance or translation services; Bilingual (English and Spanish) materials informing voters on scheduled dates of primary and general elections, changes to voters' election precinct assignments and polling site location addresses; Bilingual (English and Spanish) web content, brochures or signage on Gwinnett County's Board of Election's services, and any contact information; etc.);

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<sup>40</sup> Gwinnett County Board of Elections GORA Response Letter, Jul. 25, 2017, Response to Item 1, received Jul. 25, 2017 (on file with LatinoJustice PRLDEF); Gwinnett County Board of Elections, Link to 2006 Spanish Federal Registration Form, [https://www.gwinnettcountry.com/static/departments/elections/pdf/VR\\_Application\\_Spanish.pdf](https://www.gwinnettcountry.com/static/departments/elections/pdf/VR_Application_Spanish.pdf), (last visited Oct. 2, 2017); Gwinnett County and all municipalities appear to rely on outdated federal registration forms, where the instructions dictate that all responses be written in English. *See, i.e., supra* notes 25-39, 2006 Spanish Federal Registration form, at pp. 3 and 5. Last updated 01/03/2006 (“PROPORCIONE SUS RESPUESTAS EN INGLÉS.” (“PROVIDE YOUR RESPONSES IN ENGLISH”)) (on file with LatinoJustice PRLDEF).

<sup>41</sup> Voting rights organizations had standing to challenge Florida program aimed at identifying non-citizens and removing them from voting rolls during last 90 days before election, under NVRA, where process of matching voters across various databases created foreseeable risk of false positives and mismatches based on user errors, problems with data-matching process, flaws in underlying databases, and similarities in names and birthdates. 28 U.S.C.A. § 2201; National Voter Registration Act of 1993, § 8(c)(2)(A), 42 U.S.C.A. § 1973gg-6(c)(2)(A) (2013), *Arcia v. Florida Sec'y of State*, 772 F.3d 1335 (11th Cir. 2014).

4. **Standard Procedures for Live Bilingual Assistance for Voter Registration:** standard procedures to ensure opportunities for bilingual assistance in the voter registration process for Spanish-Speaking LEP voters, including the name, contact information, and number of employees available to meet the need;
5. **Standard Procedures For Bilingual Poll Officials:** standard procedures for the hiring and training of bilingual poll officials, including bilingual job/hiring announcements and postings in bilingual and Spanish language media outlets to ensure hiring from predominantly Spanish Speaking communities, selecting polling sites that may need bilingual poll officials in consultation with GALEO and Spanish Speaking community groups, and the identification, recruitment and training of bilingual poll officials in consultation with GALEO and Spanish Speaking community groups;
6. **Standard Procedures For Training:** standard procedures for training and training manuals or materials for all poll workers on the rights of language minority voters, including LEP Spanish Speaking voters under the VRA and other antidiscrimination laws;
7. **Standard Procedures for Updates:** standard procedures for updating the assistance program provided based on population growth throughout the jurisdiction;
8. **Standard Procedures for Oral Translation and Assistance:** standard procedures for oral translation and assistance, and for obtaining answers to questions at the election offices and polling places;
9. **Standard Procedures for Emergency Language Assistance:** standard procedures ensure that the availability of bilingual poll officials and election materials that can be put into place in an emergency/promptly, if necessary;
10. **Standard Procedures For Adequate Record Keeping:** standard procedures to ensure adequate record keeping regarding your jurisdiction's compliance with Section 203, "as will document [your] actions under these provisions, including, for example, records on such matters as alternatives considered prior to taking such actions, and the reasons for choosing the actions finally taken." 28 CFR § 55.21, including any communications, policies, documents and publications regarding compliance with Section 203 of the VRA;
11. **Standard Bilingual Gwinnett County Voter Registration Forms:** Standard Bilingual (English and Spanish) voter registration forms and instructions, Bilingual (English and Spanish) voter information on *qualifying information for elections, candidates and candidacy*, Notice of Candidacy and Affidavits, Financial Disclosure Form and Campaign Contribution Form, candidates, their background, and/or candidate's statements; and a written commitment to avoid use of outdated federal forms or the SAVE database;
12. **Standard Bilingual Gwinnett County Ballots and Instructions:** Bilingual (English and Spanish) sample ballots, absentee ballots, provisional ballots, and corresponding instructions.

We are very concerned that after providing information in response to Georgia Open Records Act (GORA) Requests, several jurisdictions and the Gwinnett County BOE itself, still do not understand all that is required for compliance under Section 203 of the Act, and that we have not received a formal invitation from all the municipalities or the County to meet together and discuss best practices, nearly three months after our initial request was made.

We once again urge you to schedule a joint in-person meeting LatinoJustice PRLDEF, GALEO, together with all 14 municipalities and the County in the next two weeks, in order to address and resolve these community concerns, and to ensure immediate adequate compliance with the Act. We look forward to meeting with you all in person at a joint meeting regarding immediate community recommendations, and at the very least, two weeks before any municipal elections take place on November 7, 2017.

Sincerely,



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