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Executive Director

Mr. Arturo Vargas

January 12, 2005

Mr. Bruce Adelson
U.S. Department of Justice
Civil Rights Division, Voting Section
Room 7254 - NWB
Department of Justice
1800 G St., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act
Proposition 200, Initiative Measure Sections 3, 4 and 5;
Request for Letter of Objection

Dear Mr. Adelson:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, the nation's premier organization dedicated to Latino political empowerment, I strongly urge the Department of Justice to object to Arizona's request for the preclearance of Proposition 200 on the grounds that the voting changes submitted in the request are likely to have a disparate impact on Latinos that will impair their access to the electoral process. In particular, we believe that there is a great risk that the voter registration and polling place identification requirements will be applied in a discriminatory manner against Latino voters. The imposition of these requirements will create another barrier to full participation by Latinos in the electoral process, and will exacerbate the gap that currently exists between Latino and non-Latino voter participation in Arizona.

I. The NALEO Educational Fund's Experience with the Latino Community in Arizona

The NALEO Educational Fund was established in 1981 to promote the participation of Latinos in the American political process, from citizenship to public service. Since the beginning of this decade, the NALEO Educational Fund has conducted *Voces del Pueblo*, a comprehensive non-partisan voter mobilization program which targets Latinos who are not yet fully engaged in the political process. During the 2002 election cycle, our *Voces* efforts included partnerships with Arizona voter engagement organizations to reach Latino voters. In 2004, we conducted a voter forum in Phoenix where we learned about Latino voters' perspectives on the issues facing their communities, and their

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experiences with the electoral process. We also operated a nationwide voter information hotline, *Ve-Y-Vota*, which received 372 calls from Arizona Latinos.

Moreover, we have established strong relationships with many Latino elected officials in Arizona through our constituency services activities, which include our Institutes where we provide technical assistance and governance skills development for Latino leaders. Additionally, Maricopa County Supervisor Mary Rose Wilcox has served as our Chair since 2000, and we have had several Arizona Latino federal, state and local elected officials on our Board of Advisors. Through our *Voces* program and our relationships with Latino elected officials, we have gained extensive knowledge about the barriers Arizona Latinos face in voting and registration.

II. Proposition 200's Voter Identification Requirements Will Have a Disparate Impact on Latino Voters and Will Impair their Access to the Electoral Process

Sections 3, 4, and 5 of Proposition 200 amend Title 16 of the Arizona statutes and impose two types of requirements on Arizona voters. First, Proposition 200 requires applicants registering to vote to provide evidence of United States citizenship with their registration application. Additionally, the proposition requires voters to present certain types of identification at the polling place to obtain a ballot. We are particularly concerned that the requirement that voters furnish identification at the polling place will have a disparate impact on Latino voters. We also believe that there is a great risk that election officials and pollworkers will apply both the registration and voting identification requirements in a discriminatory manner against Latino voters. While we acknowledge that the Help America Vote Act of 2002 (HAVA) imposes an identification requirement for certain first-time voters, HAVA's requirements are very narrowly drawn to apply to a relatively small number of voters. Moreover, once a jurisdiction complies with HAVA's requirements to verify information about voters through the establishment of a statewide voter registration database, the polling place identification requirements no longer apply. In contrast, Proposition 200's requirements apply to all voters, during both the registration and voting process, and the requirements would continue beyond the establishment of a HAVA-compliant statewide database.

The polling place identification provisions of Proposition 200 require voters to provide either 1) one form of identification bearing the name, address and photograph of the elector; or 2) two different forms of identification bearing the name and address of the elector. From our experiences working with Latino voters, we have learned that pollworkers or election officials have arbitrarily used these types of requirements in an attempt to prevent Latino voter participation. Additionally, we have received reports from Latino voters in Arizona and other states of rude or unhelpful treatment by pollworkers, particularly from voters who need language assistance at the polling place.

Polling place identification requirements give election workers enormous discretion in determining whether the identification presented by voters meet the requirements, and these

workers often make these decisions quickly at busy polling places. We believe that there is a great risk that pollworkers will apply Proposition 200's identification requirements in a discriminatory manner against Latino voters, particularly those whom they view as "problem voters" because of their need for language assistance. It is likely that pollworkers will subject Latino voters to more rigorous and unfair scrutiny in determining whether they are qualified to vote.

We also feel that the identification requirements would have a disproportionate impact on Latinos because they are more likely than non-Latinos to face difficulties in obtaining the types of documentation that will be required to register to vote and to cast a ballot. Proposition 200 permits voters without photo identification to present two other forms of identification that contain their name and address. However, allowing alternative documents does not remove the discriminatory impact of the provision; racial and ethnic minorities are less likely than white voters to have the various documents required under such alternatives. For example, HAVA permits voters to satisfy its identification requirements by presenting such documents as current utility bills, bank statements, government checks, or paychecks. However, racial and ethnic minorities are less likely than whites to have these kinds of documents. For example, Latinos are more likely to have several adults living at one address, making it less likely that all of them will have utility bills with all of their names on them. Many Latinos are paid in cash because of their work in the service industry or performing domestic work; therefore they are less likely to have a government check or paycheck than white workers.

Latinos are also more mobile and move more frequently than whites, and they are more likely to experience difficulties in obtaining identification with their current address in time for an election. The polling place identification requirement would place a financial burden on Latinos who would incur the expense of obtaining appropriate documentation to cast their ballots.

III. Proposition 200's Identification Requirements Would Exacerbate the Disparities in Voter Participation between Latinos and Non-Latinos in Arizona

Ultimately, we believe that Proposition 200's voter identification requirements would create another barrier for Latino political participation in Arizona, and would exacerbate the disparity between Latino and non-Latino voter participation in the state. According to U.S. Census data from its Current Population Survey, in the past decade, Latino voter registration rates (the percentage of Latino adult U.S. citizens registered to vote) have clearly lagged behind the rates for non-Latinos (see Table 1).

Table 1

	Latino Registration Rate	Non-Latino Registration Rate
1992	60.4%	77.2%
1996	58.0%	68.8%
2000	49.4%	62.7%

Similarly, during last decade, the percentage of adult U.S. citizen Latinos who actually voted (the “turnout rate”) has been consistently lower than the comparable percentage for non-Latinos (see Table 2).

Table 2

	Latino Turnout Rate	Non-Latino Turnout Rate
1992	47.9%	72.0%
1996	41.2%	56.5%
2000	40.1%	55.6%

IV. Conclusion

Congress enacted Section 5 of the Voting Rights Act of 1965 (VRA) to prevent the covered jurisdictions from imposing any voting changes that would deny or diminish the voting rights of racial and language minorities. By imposing documentation and voting requirements that will almost certainly be applied in a discriminatory manner against Latinos, Proposition 200 will have a serious and detrimental impact on Latino access to the electoral process. Latinos are not yet full participants in Arizona’s democracy, and the provisions of Proposition 200 will just widen the gap between Latino and non-Latino registration and voting in the state. For these reasons, we strongly urge you to apply the protections of VRA by objecting to the changes proposed in Arizona’s preclearance submission for Proposition 200.

Sincerely,



Arturo Vargas
Executive Director