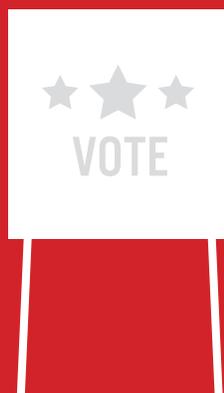
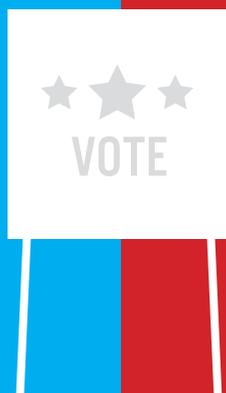


# BARRIERS

TO THE BALLOT  
FOR LATINO VOTERS  
IN 2016



The Presidential Election of 2016 occurred in a policy and political environment that created singular challenges to ensuring the full participation of Latinos and other underrepresented voters in the political system. Since 2004, the NALEO Educational Fund has countered barriers to the ballot by providing assistance to voters struggling to navigate the electoral process through our bilingual hotline – 888-VE-Y-VOTA (“Go and Vote”). Once again in 2016, we received tens of thousands of calls to this hotline. The present report describes the most prominent problems reported by Latino voters who sought our help, and presents policy recommendations to address them.

## The NALEO Educational Fund's Voter Assistance Program

In 2004, the NALEO Educational Fund began operating its year-round, bilingual hotline – 888-VE-Y-VOTA (888-839-8682) – to answer questions and provide information about naturalization, voting, and participation in the Census. During each election season since, we have increased the capacity of the hotline and undertaken additional efforts to inform potential voters and eliminate barriers that threaten to disenfranchise them.

The Latino electorate has grown significantly since 2004, increasing from 7.6 million voters in 2004 to an estimated minimum of 13.1 million in the 2016 General Election. As the electorate has grown, the need for NALEO Educational Fund's hotline has expanded in lockstep, and the size and scope of the hotline operation has increased with it.

For the 2016 General Election, 888-VE-Y-VOTA took calls at an unprecedented number of temporary remote calls centers across the country. With 19 locations in 12 states on Election Day, the hotline had more than 170 phone lines open simultaneously. There were 2,380 calls made to 888-VE-Y-VOTA on Monday, November 7, and tens of thousands of voters sought assistance throughout the preceding year. In total, the hotline received 8,285 calls on November 8, 2016.

In the months before Election Day 2016, the NALEO Educational Fund educated voters by disseminating information about voting rights and procedures through multimedia platforms. We distributed graphic materials online and in print through partnerships with national and local non-profit organizations. In addition, we created content for targeted advertising through social media, and for a texting campaign in conjunction with television and radio broadcasting companies. We shared information and materials as one component of a nonpartisan Get-Out-The-Vote campaign that targeted 602,028 households by phone and 23,242 households in person.

## Unique Challenges Set the Tone for Election 2016

**Growth of the Latino Electorate:** The 2016 Presidential Election was unprecedented in many ways, with the number of eligible Latino voters reaching an all-time high of 27.3 million, or 12% of the American electorate. The Latino electorate's growth is due in significant part to the coming of age of young Latinos born in the United States. Between 2012 and 2016, 3.2 million U.S.-born Latinos turned 18.

In addition, the number of naturalization applications submitted annually has increased in the years preceding the 2016 Election. For example, during a nine-month period preceding the 2012 General Election, from October 2011 to June 2012, 669,856 legal permanent residents applied for U.S. citizenship; during the most recent comparable period, from October 2015 to June 2016, 725,925 individuals submitted naturalization applications. Of the approximately 8.6 million legal permanent residents currently eligible to naturalize, an estimated 4.4 million are Latino. Finally, financial crisis in Puerto Rico accelerated migration from the island to the mainland United States. According to the Pew Hispanic Center, between 2008 and 2016, a net increase of about 227,000 Puerto Rican adults moved to the U.S. mainland and gained eligibility to vote in general elections for President.

Some of these new voting populations – young people, and new U.S. citizens – lack familiarity and experience with the complex American voting process. Residents newly-arrived from Puerto Rico may be knowledgeable about voting on island issues and candidates, but voting in mainland states is a materially different process. Unlike on the mainland, Election Day is a legal holiday in Puerto Rico, and awareness that an election is happening is nearly universal. Moreover, many workers have the day off, and it is much easier for many people to get to the polls than it is when, as in the 50 states, Election Day is a regular work day. Finally, many Americans of Puerto Rican origin encounter linguistic barriers in the states that never impede their ability to vote on the island.

As the Latino electorate has grown, its presence in new parts of the country has expanded. Although majorities of Latinos still live in California, Texas, Florida, and New York, the states whose Latino populations grew most quickly after 2000 include Alabama and South Carolina. In areas with emerging Latino communities Latinos are also becoming a significant share of the electorate. For example, 16.6% of eligible voters in the sprawling 4th Congressional District in the eastern half of Washington are Latino. Latinos account for 36.5% of the electorate in rural Seward County in southwest Kansas, and 31.7% of eligible voters in nearby Finney County. Between 2006 and 2014, Georgia’s adult population grew by 9.5%, a rate that seems robust. However, during the same period, its Puerto Rican adult population increased by more than 100%.

**Increase in Discriminatory Policies and Practices:** The growing, dispersed Latino electorate was more vulnerable in 2016 than in 2012 to discrimination in voting. The Supreme Court weakened the Voting Rights Act (VRA) in 2013 by invalidating preclearance provisions, which required certain jurisdictions with a long history of adopting discriminatory voting laws to undergo federal review before making any changes to voting procedures. In the ensuing years Congress failed to enact legislation to modernize and restore the VRA. As a result, the 2016 General Election was the first in 50 years to occur without the full suite of protections in effect that were instituted to prevent discriminatory registration and voting practices. More than eight million Latino voters live in jurisdictions that lost oversight because of the Supreme Court’s decision. Between 2013 and 2016, a significant number of these jurisdictions enacted laws or adopted policies with discriminatory effects or intent. As documented in the NALEO Educational Fund’s 2016 report, [\*Latino Voters at Risk\*](#), the Supreme Court’s decision also emboldened jurisdictions that had not been subject to preclearance to adopt restrictive voting laws and policies. The Department of Justice’s and voting rights advocates’ capacity to challenge these laws and policies was severely diminished by the need to devote additional resources to fighting laws in the courts that would previously have been dealt with through the more efficient preclearance process.

**Provocative Rhetoric in the National Dialogue:** The 2016 Presidential campaign provoked the spread of rhetoric that heightened Latino voters’ vulnerability to discrimination in voting. In political discourse and exchanges between voters, many individuals openly expressed mistrust of people perceived to be different from themselves. In particular, individuals raised concerns about immigrants, and other members of racial, ethnic, religious, and linguistic minority groups. Some private citizens and political figures asserted that mistrust justified potentially discriminatory and intimidating behavior. For example, in October 2016 the Boston Globe quoted Steve Webb of Fairfield, Ohio, who told the newspaper that he had heard calls to watch polling places, and that he planned to go out on Election Day and “look for...well, it’s called racial

profiling. Mexicans. Syrians. People who can't speak American. I'm going to go right up behind them...I'm going to make them a little bit nervous."

**NALEO Educational Fund's Tracking Poll:** The NALEO Educational Fund's public opinion research confirms that many Latino voters continue to experience barriers to voting, at least some of which have their origins in discriminatory policymaking and behavior. More than 42% of the Latino voters we surveyed in our NALEO Educational Fund/Noticias Telemundo/Latino Decisions 2016 Tracking Poll reported experiencing problems with voting in the past. Nearly one in five had been told they could not vote, and more than one in four had had to wait in an extremely long line to vote, consistent with academic analysis that has concluded that long lines in the 2012 and 2014 election cycles disproportionately affected Latino and African American voters. Lack of Spanish-language assistance or materials presented challenges for 16% percent of respondents, and 11% reported encountering problems with identification needed to register or vote.

## Barriers to the Ballot Reported by Latino Voters in 2016

The volume of calls to 888-VE-Y-VOTA peaks every four years on Election Day and the day before. Once again in 2016, we received a large number of calls from individuals seeking to vote on Monday, November 7 and Tuesday, November 8: in total, there were 10,665 unique calls made to our hotline on these two days combined. For 4,438 of these calls, our operators recorded data about callers' inquiries and the information we provided in response. The gap between the numbers of incoming calls and database records created represents some callers who hung up, and calls that our operators were unable to answer live, when the number of incoming calls outpaced the number of active operators. In addition, some of the gap is attributable to calls that operators answered but did not contemporaneously document, because of the fast pace of incoming calls and intermittent technical difficulties. When a choice must be made, we focus our time on talking to and assisting more voters rather than spending time off the phones on recording details of our conversations with callers.

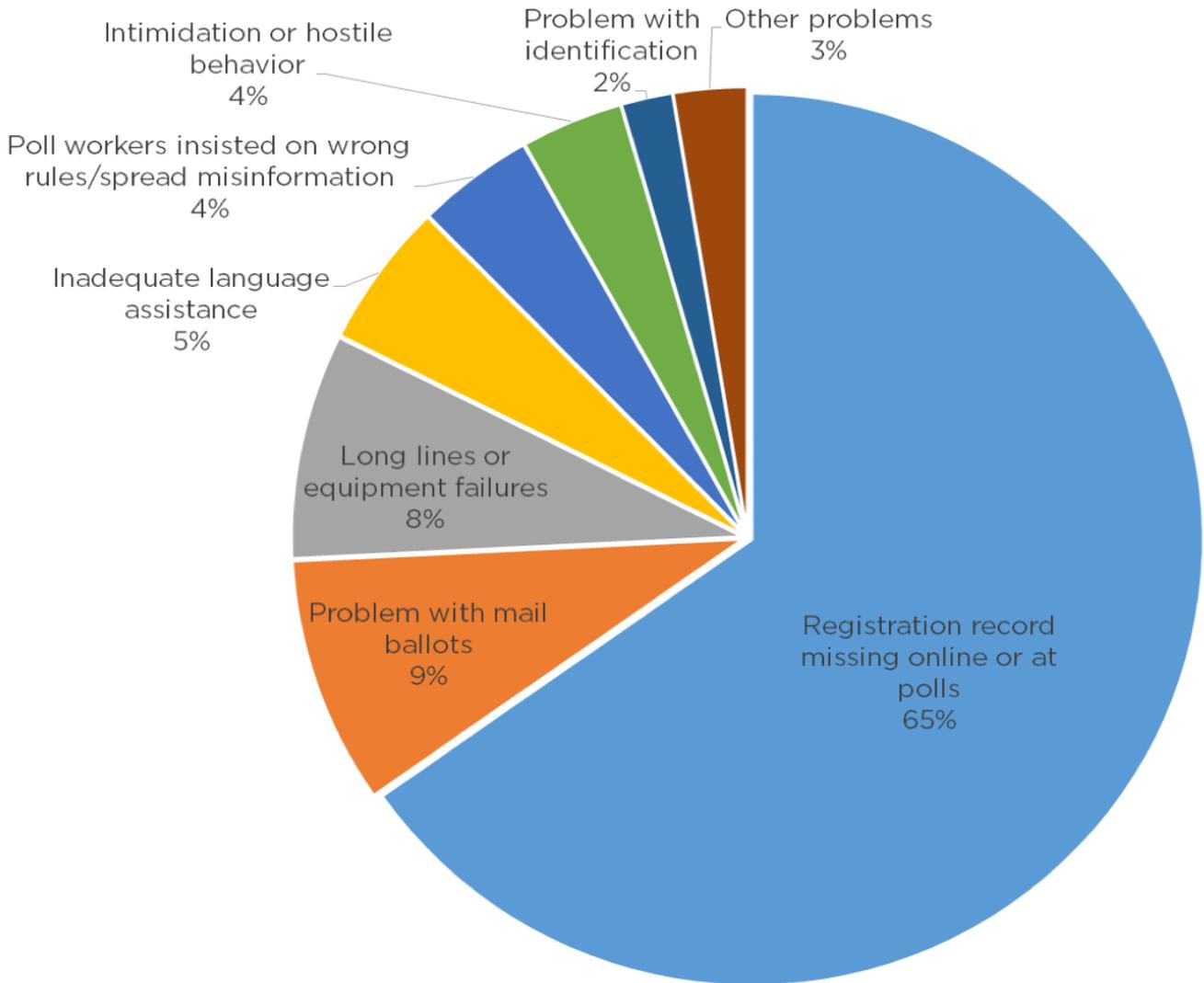
Out of the 4,438 entries in our database of calls from November 7 and November 8, 2016, we identified 368, or 8.3%, as concerning a potential violation of law, or a breach of sound and fair administration of elections. A majority of problem calls came from voters who had tried to register or whose registration we confirmed, but who were not found on voter registration rolls (as described in more detail below, we considered an individual's registration confirmed when we found an apparently valid and sufficient attempt to register, but could not locate the registration). In addition, significant numbers of Latino voters reported not receiving mail ballots, or being sent mail ballots unsolicited. There were many reports of inadequate language assistance, long lines, equipment failures, and misinformation conveyed by poll workers. Several voters reported problems with identification requirements and hostile or intimidating behavior, often committed by election officials.

## Number of Problems Reported by Callers to VE-Y-VOTA Hotline, November 7 and 8

Problem	Number Reported
Registration record missing online or at polls	248
Problem with mail ballots	34
Long lines or equipment failures	31
Inadequate language assistance	20
Poll workers insisted on wrong rules/spread misinformation	16
Intimidation or hostile behavior	14
Problem with identification	7
Other problems	10
<b>Total</b>	<b>380*</b>

*\*While the number of problems reported is based on 368 calls, some callers reported multiple problems, and this total reflects the number of problems rather than the number of calls.*

## Share of Problems Reported, by Type of Problem



### MISSING REGISTRATIONS

Problems with the registration process have accounted for a significant share of calls and problem reports to 888-VE-Y-VOTA for some time, and once again in 2016, they were the most commonly-reported barrier to voting. While many callers to our hotline are unable to vote because they are not registered, we count here only those callers who described to us an apparently valid and sufficient attempt to register and whose registration nonetheless could not be found. At least 13% of callers with registration problems reported attempting to register at a location required to provide voter registration services to customers under the National Voter Registration Act (NVRA). Poll workers failed to offer, and in some cases refused to issue, provisional ballots to a number voters who had registered but were not located in pollbooks.

While poor administration or technical malfunctions may be to blame for some missing registrations, advocates have also begun to challenge the disparate impact of registration processing policies on

historically underrepresented voters. For example, a VRA lawsuit filed in 2016 argues that Georgia's policy of requiring a perfect match between voter registration applications and state Department of Driver Services or federal Social Security Administration records disproportionately results in rejection of African Americans' and Latinos' registration applications. Some registration record maintenance policies that result in registration denial or cancellation may also violate laws like the NVRA and the Help America Vote Act (HAVA) by adopting unduly aggressive and restrictive rules to determine who appears on lists of eligible voters at election time.

## **MISSING AND UNSOLICITED MAIL BALLOTS**

Nine percent of the problems reported to our hotline involved issues with mail ballots. There are several factors that contribute to the prevalence of these problems. First, many members of the Latino electorate are relatively inexperienced with the voting process. Navigating the process is a challenge to begin with, and becomes more complicated when the voting plans voters have made are upset, and it becomes necessary to find an alternative means of casting a ballot by locating one's assigned voting site, determining hours of operation, and finding a means of transportation. These challenges may be particularly acute for the one-fifth of the electorate who say they are not fully fluent in English (American Community Survey, 2015 1-year estimates).

The relative prevalence of Latino voters reporting that they did not receive requested mail ballots, or that they received unsolicited mail ballots, indicates that Latino voters may be experiencing particular difficulties with understanding and completing administrative prerequisites to flexible voting. In addition, Latinos' relative mobility may leave them vulnerable to disfranchisement as growing numbers of jurisdictions move toward conducting elections entirely by mail. A larger share of Latino voters than of voters of other races and ethnicities are likely to move after they register but before they vote. Many of these voters forget, or are not aware of the obligation, to update their address for voting purposes, and are particularly likely not to receive mailed ballots and other voting materials sent by mail. When Latino voters encounter the unexpected in the form of missing or unsolicited ballots, many are likely to struggle to find advice and instruction because of linguistic barriers standing between themselves and local officials.

## **BROKEN EQUIPMENT, LONG LINES, AND WEBSITE CRASHES**

It is troubling, but not surprising, that a larger share of callers to 888-VE-Y-VOTA in 2016 reported problems with election equipment and long lines to vote than have cited these issues in past election cycles. There is a consensus among many policymakers, election officials, and other experts that too many of the specialized machines essential for conducting elections are outdated and falling into disrepair. Moreover, local and state governments are struggling to find funding to replace and repair election equipment. Therefore, it was perhaps predictable that many voters found voting and ballot counting machines not functioning on Election Day. Unfortunately, the infrastructure problems our callers observed extended to state and local government websites that increasingly play a critical role in ensuring that elections run smoothly. Voters and advocates assisting them to confirm their registrations and locate their polling places reported difficulty using websites from states including New York, Virginia, Georgia, Texas, Arizona, and California.

The NALEO Educational Fund is concerned that inattention to infrastructure needs disproportionately prevents Latino voters from casting ballots. Given their relative inexperience with voting and their relatively frequent moves between jurisdictions, Latino voters are particularly dependent upon accessible, clear, bilingual information about what to do and where to go to participate in our democracy. Oversights such as inadequate signage at polling places, failure to confirm successful registration to vote by email or printed mail, and failure to post an easy polling place locator tool online can and do prevent many Latinos from casting ballots. In addition, equipment malfunctions at polling places correlated closely with long lines of waiting voters, according to reports to our hotline. Inadequately resourced polling places and resulting long lines disproportionately impair underrepresented voters, including Latinos, according to analyses by the Brennan Center for Justice and academics such as MIT Professor Charles Stewart III and Harvard Professor Stephen Ansolabehere.

## **INADEQUATE LANGUAGE ASSISTANCE**

Questions and concerns about linguistic accessibility are a consistent issue raised by callers to 888-VE-Y-VOTA, a majority of whom choose to communicate in Spanish with our bilingual operators. In 2016, callers reported that there were no Spanish-speaking poll workers, or an insufficient number to meet demand for their services. Many of these callers were from jurisdictions that have long been subject to federal requirements to provide materials and assistance in Spanish. We received such reports from the Miami area, New York City, and the Houston area, as well as from cities in Pennsylvania, Massachusetts, and New Jersey that are covered by the federal requirements. In addition, voters in Florida and California reported that election officials did not permit them to obtain assistance with voting from the person of their choice. Several callers reporting inadequate language assistance also mentioned that there were long lines at their polling places, and many reported feeling that they had been treated with hostility by poll workers because of their ethnicity and linguistic ability.

## **MISINFORMATION, INTIMIDATION, AND OTHER IMPROPER BEHAVIOR AT THE POLLS**

Latino voters were acutely aware of the context surrounding the 2016 Presidential election, and many likely watched closely in November 2016 for improper and hostile behavior directed at historically underrepresented voters. A notable number of callers to our hotline felt that they and other Latinos had become targets of discriminatory or intimidating behavior perpetrated by officials, including electioneering by poll workers and pointed monitoring by police. Some also reported incidents involving members of the public, such as a group of canvassers who told a voter he would be deported if he did not vote a certain way. Similarly, a number of callers had been prevented from voting because poll workers gave them the wrong information or misapplied rules, including identification requirements. Although we cannot say whether any of the poll workers our callers encountered acted upon prejudice, surveys and experiments have demonstrated that officials tend to apply greater scrutiny to Latinos and other underrepresented voters, and also tend to provide them with less quality customer service. For example, a group of Harvard

Ph.D. candidates found in 2013 that local election officials responded less frequently, and provided less precise and correct information, to inquiries from voters who appeared to be Latino than to voters who appeared to be non-Hispanic whites.

## Lessons and Recommendations

Although we expect that data will show that more Latinos voted in November 2016 than have ever taken part in any other American election, our experience serving voters through our hotline affirms our conviction that we have work yet to do to ensure that every eligible Latino voter can take part in our democracy. On and around Election Day 2016, we spoke with many Latinos who wanted to vote but who were likely, or definitely, prevented from casting valid ballots. To secure the promise and benefits of civic engagement to all Latino voters, we recommend the following:

- **Restore the VRA.** Callers to our hotline testified to the persistence of different treatment of individuals on the basis of race, ethnicity, and linguistic ability. Until discriminatory policies are completely eliminated, our nation and democracy need strong, effective protections that ensure equality and fairness in the electoral process. It would be better for all of the parties involved in rooting out discrimination – local and state governments, aggrieved voters, and the Department of Justice – to resolve potential problems through an efficient administrative process like the VRA’s preclearance procedure that the Supreme Court essentially invalidated in 2013. As long as there is no recourse against discrimination except to costly and lengthy litigation, the VRA will be an inadequate tool for the critical, difficult task of preventing and eradicating discrimination in voting.
- **Closely monitor jurisdictions with a history of discrimination and with rapidly shifting demographics, watching for changes to laws that voters are less likely to notice.** Once again in 2016, callers to our hotline were almost entirely voters who expressed concern about personnel and policies that directly affected their ability to vote. These voters did not tell us that they had noticed or were worried about the effects of structural changes such as shifts in district or municipal boundaries, or alterations to candidate qualifications. However, jurisdictions continue to enact such changes, and their decisions continue to have disproportionate negative impact on some historically underrepresented communities. To supplement our awareness of problems that voters tend to see and report, government agencies, advocates, civic leaders and community groups must proactively monitor state and local policymaking to identify changes that may unfairly diminish Latino access to the electoral process.
- **Challenge administrative failures and restrictions that disproportionately impede Latino voters.** The more that election experts and voter advocates learn about how administrative policies affect voters, the more it becomes apparent that these policies sometimes have a distinct disproportionate impact on underrepresented communities. Researchers and litigators should continue to explore and to contest any discriminatory effects of policies around polling place closures, allocation of machines and poll workers to polling sites, the adequate maintenance of accessible websites and functioning election infrastructure, and other administrative duties.

- **Invest greater resources to enhance local monitoring and advocacy efforts.** As noted above, local policymaking and administrative practices have a significant impact on Latino access to the ballot box. It is crucial that we invest greater resources to enhance the ability of advocates and community groups to monitor these activities. Without the VRA's preclearance protections, in many jurisdictions, local stakeholders received little or no notice about the potential implementation of discriminatory practices. In addition, as the Latino electorate becomes more dispersed, we must establish a more widespread and robust local infrastructure to monitor and combat unfair voting policies and procedures.

- **Make funding for elections a top priority.** Even if the negative effects of decaying election infrastructure are spread evenly across all jurisdictions and polling places, we cannot afford to let critical equipment grow older and more prone to disrepair than it already is. If we expect Americans to have confidence in our elections, we must initiate a major effort in the coming years to replace voting and vote-counting machines with updated and more durable technology. In the interest of sustaining democracy, elected officials must allocate significant funding to the task of modernizing election machinery.

- **Adopt same day voter registration, and use technology to more effectively modernize voter registration.** A majority of the disfranchised, disillusioned voters who called our hotline could not vote because they were not recognized as registered. Outdated systems that rely primarily on the transmission of information from paper voter registration forms contribute to voter registration problems, particularly at agencies required to comply with the NVRA. NALEO Educational Fund documented the benefits of electronic voter registration in our 2015 report, [\*Electronic Voter Registration: Modernizing our Democratic Process\*](#). Technological improvements in the voter registration process can help ameliorate these problems, as long as new systems are accessible for Latinos, other language minorities, and persons with disabilities.

In addition, technological improvements have provided us with the ability to cross-check government records rapidly. Moreover, many eligible voters have government documents that prove their identity and residence. As a result, it is possible for us to quickly and accurately confirm most prospective voters' credentials. Were an on-the-spot registration process universally available on Election Day across the country, many of the frustrated Latino voters with whom we spoke would have been able to vote. It is in the best interest of our democracy that the largest possible share of Americans and Latinos cast ballots, and our experiences serving voters indicate that same day registration would help ensure that many more eligible citizens make their voices heard at the ballot box.

## Conclusion

The NALEO Educational Fund is acutely concerned that in response to the growth and diversification of the American electorate, too many policymakers have erected barriers to voting and disinvested in elections instead of harnessing our financial and technological ability to expand access to the ballot. In 2016, legal barriers such as restrictive voter registration rules and voter ID requirements once again prevented eligible Latinos from casting ballots. Progress demands that discriminatory policies and practices be eliminated, and that we strengthen the laws that provide recourse against discrimination in voting. At the same time, our interactions with Latino voters who called our hotline demonstrate the persistent need for greater investment in equipping the Latino community with the basic information needed to register and vote. More robust voter education will amplify the benefits of dismantling discriminatory barriers to voting by giving Americans confidence in their ability to navigate the logistical aspects of elections. In turn, assurance that the law treats every voter equally regardless of race, ethnicity, national origin or linguistic ability will give the political process a reputation for integrity and trustworthiness that encourages a larger share of a better-informed electorate to be active participants. Neither imperative can be neglected as we work to ensure the full participation of Latinos and other historically underrepresented communities in elections.