

# LANGUAGE ASSISTANCE IN THE CITY OF CHICAGO

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## Early years

Section 203 of the Voting Rights Act was originally enacted in 1975 to provide language assistance for certain language minority populations. The original Section 203 required language assistance when, among other requirements, a single language minority population exceeded 5% of the total population of the political subdivision and the members of that group were “Limited-English Proficient” (“LEP”). This 5% trigger, however, excluded significant jurisdictions with large LEP voting populations, such as Cook County, Illinois (which had a large Hispanic population) that arguably should have received Section 203 coverage, but did not meet the 5% threshold.

But even before Section 203, the Chicago Board of Election Commissioners was under a duty to provide language assistance in Spanish. In 1972, the United States District Court for the Northern District of Illinois entered an injunction requiring the Board to provide voting assistance in Spanish to U.S. citizens born in Puerto Rico who were unable to read and understand English. See, *Puerto Rican Organization for Political Action (“PROPA”) v. Kusper*, 350 F. Supp. 606 (N.D. Ill., 1972), affirmed 490 F.2d 575. The court found that Section 4(e) of the Voting Rights Act of 1965, read with the Voting Rights Amendments of 1970, established and protected the voting rights of persons educated in Puerto Rican schools by prohibiting the states “from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.” 350 F. Supp. at 609. The original injunction order required the Board to prepare and distribute official notices, forms, publications and election materials in both English and Spanish in 38 of the city’s 50 wards. The Board was also required to select and provide bilingual deputy registrars, judges of registration and judges of election in those wards. The order was subsequently amended to extend assistance to only those wards containing an excess of 5% of Hispanic voting age population as determined by either the census or through Hispanic surnames. The Board was under a continuing duty to use data compiled by the U.S. Census Bureau in order to determine no less frequently than once over ten years which wards in the City of Chicago fell within the purview of the order.

Along came the Voting Rights Language Assistance Act of 1992 (P.L. 102–344, H.R. 4312, 42 U.S.C. § 1973 a–1a, effective August 26, 1992), which was enacted for a two-fold purpose. (House Report [Judiciary Committee] No. 102–655, July 8, 1982). First, the Act extended coverage of Section 203 of the Voting Rights Act of 1965 for an additional 15 years, or until the year 2007 (the Act is now extended until 2032). Second, the Act created an additional mechanism to determine which jurisdictions must provide language assistance to certain language minority populations.

The 1992 Act augmented the 5% triggering mechanism in Section 203 of the Voting Rights Act by providing that if a jurisdiction has 10,000 or more Limited-English Proficient<sup>1</sup> voting age citizens of a single language minority, then the jurisdiction was covered by the Act and it must provide language assistance. The 10,000-person benchmark resulted in more jurisdictions having to provide language assistance, including Cook County, Illinois.

### Covered language groups

The Chicago Board of Election Commissioners began providing language assistance in Spanish in 1974 as a result of the injunction in *PROPA*. The Board now has a full-time Spanish language community coordinator, it prints all notices, forms and election materials in Spanish/English and makes all materials used on election day available in Spanish/English in all precincts throughout the city of Chicago.

Following the 2000 decennial census, the Census Bureau determined that Cook County and the City of Chicago were required, because of the new triggering mechanism, to provide language assistance in Chinese. The Chicago Board of Election Commissioners held a series of meetings with representatives of the Chinese community where it was learned that the Chinese community in Chicago spoke predominately in Mandarin and that written materials were best written in Simplified Chinese in lieu of Traditional Chinese. The Board, with assistance and input from the representative from the Chinese community, hired a full-time Chinese community coordinator.

After the most recent 2010 census, the Census Bureau advised the Board that Asian-Indian was to be an additional covered minority language group in Cook County and in the City of Chicago. Shortly before the March 2012 general primary election in Illinois, the Board and Cook County representatives met with representatives of the Asian-Indian community to determine which dialect or dialects are spoken most frequently by Asian-Indian citizens in the Chicago area and which written language would be most effective in assisting would-be voters. The feedback received by the

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<sup>1</sup> Limited English Proficient has been regarded to mean not speaking or understanding English adequately enough to participate in the electoral process and the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.

Board was that most Asian-Indians in Chicago spoke Gujarati or Urdu and that Hindi was the most widely accepted written language.

The Board, working together with the Cook County Clerk's office, quickly had all of the relevant forms, notices, publications and election materials translated in Hindi in time for the March primary election. In addition, the Board, working with the Asian-Indian community, recruited and deployed judges of election bilingual in English, Gujarati and Urdu in certain "targeted" areas.

### **"Targeting"**

In 1982, there was testimony that the bilingual requirements of Section 203 of the Voting Rights Act were "excessively costly." In response, Congress permitted election jurisdictions to "target" members of the language minority who need assistance in order to reduce costs in printing and in providing other language assistance. The 1992 amendments to the Voting Rights Act continued to allow the Attorney General to authorize "targeting" as a means of effective compliance with Section 203:

"Targeting allows coverage jurisdictions to provide language assistance to less than the number of registered voters. Targeting is acceptable under Section 203 if it is designed and implemented in a manner that insured that all members of language minority who need assistance, received assistance. Similarly, in cases where voting machines cannot accommodate a ballot both in English and the applicable minority language, the Attorney General will continue to allow the use of sample ballots in the polling booths." (Hse. Rep., p. 9)

The U.S. Department of Justice set forth the Attorney General's interpretation of the provisions of the Voting Rights Act with regard to language assistance as well as standards for compliance in rules contained at 28 CFR Part 55 – Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, July 1, 1993 Edition.

The Department of Justice, at 28 CFR § 55.17, discusses "targeting" and how it can be used to comply with the requirements of Section 203(c) of the Act:

" ' Targeting' refers to a system in which a minority language materials or assistance required by the Act are provided to fewer than all persons who are registered voters. It is the view of the Attorney General that a targeting system will normally fulfill the Act's minority language requirements if it is designed and implemented in such a way that language minority group members who need minority language materials and assistance receive them."

Rules contained at 28 CFR § 55.18 further provide for targeting minority language and materials assistance by (a) mail, (b) public notices, (c) use of bilingual voter registration personnel and written materials, (d) polling place activities (oral and written assistance) and (e) publicity.

Generally, these provisions are intended to allow election jurisdictions to provide minority language materials and assistance to fewer than all persons or registered voters by means of an appropriate targeting scheme.

For example, with regard to public notices, the Attorney General “will consider whether public notices and announcements of electoral activities are handled in a manner that provides members of the applicable language minority group and effective opportunity to be informed about electoral activities.” Further, with respect to publicity, the Department of Justice rules provide that:

“The Attorney General will consider whether a covered jurisdiction is taken appropriate steps to publicize the availability of materials and assistance in the minority language. Such steps may include the display of appropriate notices, in the minority language, and voter registration offices, polling places, etc., the making of announcements over minority language radio or television stations, the publication of notices in minority language newspapers, and direct contact with language minority group organizations.”

The requirements of the Voting Rights Assistance Language Act must be construed broadly. For example, the Department of Justice has written that the requirements of Section 4(f)(4) and 203(c) of the Act are to allow members of applicable language minority groups to be “effectively informed of and participate effectively in voting-connected activities.” (28 CFR 55.15) The Attorney General further notes, “accordingly, the quoted language [“any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots,”] should be broadly construed to apply to all stages of the electoral process, from voter registration through activities related to conducting elections, including, for example, the issuance, at any time during the year, of notifications, announcements, or other informational materials concerning the opportunities to register, the deadline for voter registration, the time, places and subject matter of elections, and the absentee voting process.” With the exception of certain forms that are used for internal use only, consideration must be given to printing in the applicable language all forms that are printed for general distribution to voters and to the public.

Indeed, the Chicago Board of Election Commissioners prints all form, notices, and election information materials that are available to voters in all four languages: English, Spanish, Chinese and Hindi. Registration applications, ballot applications and ballots are printed in English-Spanish, English-Chinese and English-Hindi.

All forms and election information appearing on the Board's web site at [www.chicagoelections.com](http://www.chicagoelections.com) are translated and appear in all four languages.

In addition, the Board publishes a booklet, "We Speak Your Language," which includes helpful information on qualifications for voting, voter registration, locating your polling place, early voting, absentee voting, applying for a ballot, voting assistance, how to vote and rights as a voter in fifteen languages other than English.

Ballots in Spanish, Chinese and Hindi are provided on electronic touch screen voting devices in every precinct in Chicago. During the 22-day Early Voting period in Chicago, the Board has fifty-one Early Voting sites throughout the city where voters can go to any location and vote any ballot style. Every touch screen voting device contains all ballot styles in every language – English, Spanish, Chinese and Hindi.

While English-Spanish paper ballots and ballot applications are made available in every precinct in the city of Chicago, paper ballots and ballot applications in Chinese and Hindi are distributed in only "targeted" precincts.

Borrowing from the injunction in *PROPA*, the Board uses a 5% benchmark in identifying precincts to be targeted for assistance – any precinct containing in excess of 5% of voting age population of a covered minority language group, as determined by either the census or through surnames, if possible, receives written and oral assistance.

Early actions by the U.S. Department to enforce the provisions of the Voting Rights Language Assistance Act employed a similar 5% benchmark. More recent enforcement actions appear to target precincts with specific numbers of registered voters, typically starting with a minimum of 100 registered voters of the language group; however, the Board believes the 5% benchmark provides equal or greater coverage for eligible language group members. Using this benchmark, there are currently 96 targeted Chinese precincts and 36 Asian-Indian precincts in Chicago.

The Board endeavors to have at least one bilingual judge of election in every targeted precinct.

In addition, the Board has at least one person bilingual in Spanish, Chinese and Asian-Indian (Gujerati, Urdu or both) in the Board's central office on election day to answer calls and questions. In addition to these languages, the Board also has persons bilingual in Korean, Polish and Russian for election day duty.

The Board has a long and proud tradition of providing help to voters who need language assistance.