



Georgia

P.O. Box 77208, Atlanta, GA 30357
770.303.8111 | syoung@acluga.org

January 10, 2018

Hall County Board of Elections & Voter Registration
P.O. Drawer 1435
Gainesville, GA 30503

Via Fed-Ex Overnight

Re: Your proposal to eliminate bilingual English and Spanish materials for elections

Dear Hall County Board of Elections & Voter Registration,

Democracy belongs to all, regardless of race or background. The ACLU of Georgia urges you to make that vision a reality by ensuring that eligible voters in Hall County have access to bilingual English and Spanish materials and information for Hall County elections. Doing so will also likely save precious taxpayer dollars from being wasted on costly and protracted litigation.

Last April, the Hall County Board of Elections made the commendable decision to provide bilingual English and Spanish materials and information for Hall County elections in light of the increasing diversity of the county, where 27.5% is Hispanic.¹ However, it is our understanding that during your next meeting on January 16, 2018, you are considering a proposal to eliminate the provision of bilingual materials, making Hall County an English-only election jurisdiction.

Excluding eligible United States citizens from participating in our democracy based on their ability to speak a particular language is un-American, and will move Hall County backwards, not forwards. It is also likely illegal under federal law.

Section 4(e) of the Voting Rights Act of 1965 protects the right to vote of United States citizens “educated in American-flag schools” in “any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.” 52 U.S.C. § 10303(e). It provides that such voters cannot “be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English Language.” *Id.* at § 10303(e)(2). Persons born in Puerto Rico are United States citizens. 8 U.S.C. § 1402. Unlike naturalized citizens, the law does not require Puerto Ricans to speak or read English to exercise the full benefits of citizenship.

There are at least 1,141 U.S. citizens from Puerto Rico living in Hall County.² This number may well have increased due to migration patterns and the recent and ongoing ravages of

¹ U.S. Census Bureau: State and County QuickFacts. (2014 estimates)

² U.S. Census Bureau, 2009-2013 5-year American Community Survey.

Hurricane Maria. Hall County schools with dual language programs (e.g., World Language Academy, McEver Elementary School) may also qualify as American-flag schools whose students will eventually qualify for Spanish-access election materials under Section 4(e).

Thus, failing to provide bilingual English and Spanish information and materials for Hall County elections violates Section 4(e) of the Voting Rights Act with respect to a substantial number of U.S. citizens living in Hall County. *See, e.g., United States v. Berks Cnty.*, 277 F. Supp. 2d 570, 579 (E.D. Pa. 2003) (“If voters cannot understand English-only ballot language . . . , as well as printed advertisements of polling place locations and sample ballots, their right to vote effectively is diminished.”). Other jurisdictions like yours have been found to be in potential or actual violation of Section 4(e) when failing to provide bilingual ballots. *See, e.g., id.* at 578-80; *Perez-Santiago v. Volusia Cnty.*, 2010 WL 917872, at *2 (M.D. Fla. Mar. 11, 2010); *Arroyo v. Tucker*, 372 F. Supp. 764, 766 (E.D. Pa. 1974); *Puerto Rican Org. for Political Action v. Kusper*, 350 F. Supp. 606 (N.D. Ill. 1972), *aff’d*, 490 F.2d 575 (7th Cir. 1973); *Torres v. Sachs*, 381 F. Supp. 309, 311 (S.D.N.Y. 1974).

In addition, given that 26.2% of Hall County’s population speaks a language other than English at home³ and that 45% of the Spanish speaking population indicate that they speak English less than “very well,”⁴ failure to provide bilingual English and Spanish ballots may also be a violation of Section 2 of the Voting Rights Act, which requires that language minorities have equal opportunity than English-speaking members of the electorate to participate in the electoral process. *See Berks Cnty.*, 277 F. Supp. 2d at 580-81 (finding that failure to provide bilingual materials also violated Section 2).

We urge you reject any proposal to revert to the outdated and likely illegal English-only balloting system. Our democracy is healthier when more voters participate, not fewer. We are happy to discuss this matter further and may be reached at the above number at any time.

Sincerely,



Sean J. Young
Legal Director
ACLU of Georgia

³ U.S. Census Bureau; State and County QuickFacts. (2014 estimates)

⁴ U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates.