

September 23, 2021

By email: [mboyd@co.lawrence.pa.us](mailto:mboyd@co.lawrence.pa.us)

Hon. Morgan Boyd, Chair  
Lawrence County Commission  
430 Court Street  
New Castle, PA 16101

RE: Language Assistance at polling sites for U.S. Citizens from  
Puerto Rico

Dear Commissioner Boyd:

Last October, the American Civil Liberties Union of Pennsylvania sent a letter to the Lawrence County Commissioners and the county Elections Department notifying the County that it was violating federal election law by failing to provide language assistance to Spanish-speaking voters. Since sending that letter, the ACLU has continued receiving complaints from New Castle that Spanish-speaking voters face difficulty in bringing their own interpreters into polling places, and that the County has failed to provide *any* bilingual election materials or language assistance. This is a final effort to encourage the County to comply with the Voting Rights Act and correct its failure to provide language assistance for Spanish-speaking voters before we resort to litigation.

Section 4(e) of the Voting Rights Act (“VRA”) expressly protects Puerto Rican voters. The VRA guarantees voters educated in American schools in which the primary language of instruction was not English the right to vote. *See* 52 U.S.C. § 10303(e). The voters’ right to vote cannot be abridged on the ground that they cannot read or understand a ballot written in English. Specifically, Section 4(e)(1) prohibits jurisdictions from “conditioning the right to vote . . . on ability to read, write, understand, or interpret any matter in the English language” by persons educated in American-flag schools, including the Commonwealth of Puerto Rico, where the predominant classroom language is Spanish. *Id.* at § 10303(e)(1). Under Section 4(e)(2), such persons cannot “be denied the right to vote in any Federal, State, or local election because of [their] inability to read, write, understand, or interpret any matter in the English language.” *Id.* at § 10303(e)(2).

As you know, many Puerto Ricans relocated stateside because their homes and livelihoods were destroyed by Hurricane Maria. Many Puerto Rican families relocated to New Castle in Lawrence County. Our partner organizations in Lawrence County have advised us that over 160 displaced Puerto Rican families have relocated to New Castle – including 30 new



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families in the last three months – and that many are registered to vote, and more intend to register in the near future. Community groups working with the Puerto Rican community have requested Spanish language materials for those voters, but various county officials have advised them that such materials are unavailable. We were disturbed to learn that the County apparently has taken no steps to comply with Section 4(e) given our express request in last year’s October 26 letter. We recognized then that the short time frame between our demand and Election Day made development of required materials and engagement of bilingual interpreters difficult, but now the County has no such excuse.

In light of the relatively large and growing Puerto Rican population in New Castle, the VRA requires Lawrence County to provide Spanish language or bilingual materials, instructions and ballots, and interpreters at polling places. Federal courts have consistently interpreted Section 4(e) to require Spanish-language election materials, information, ballots and assistance necessary to effectively participate in the electoral process to persons educated in Puerto Rico.<sup>1</sup> Similarly, the Department of Justice has filed lawsuits that resulted in settlement agreements and consent decrees in counties that also have significant populations of Puerto Rican voters.<sup>2</sup> Section 4(e) does not require a minimum population of limited-English proficiency voters to trigger protections,<sup>3</sup> and the Department of Justice has sought and obtained language assistance in precincts that included as few as 50 registered voters with Hispanic surnames.<sup>4</sup> In these cases, counties have either signed consent orders or courts have ruled against them. The remedies in these cases include the following:

- Develop a bilingual Spanish-English ballot, and post the ballot online and on the wall at polling locations;

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<sup>1</sup> See e.g., *United States v. Berks County, Pa.*, 250 F. Supp. 2d 525 (E.D. Pa. 2003) (enjoining defendants from holding any further elections that fail to comply with the Voting Rights Act and requiring all written election-related materials, including among other items, the official ballot, sample ballots, absentee ballots, notification of elections, polling place changes, polling place signage, voter information guides and pamphlets voting instructions and procedures at the polls and other election materials used at the polls in every precinct in which the registered constitute more than 5% of the registered voters).

<sup>2</sup> *United States v. Cuyahoga County, Ohio* (N.D. Ohio 2010) (settlement agreement judgment and order available at [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/cuyahoga\\_agreement.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/cuyahoga_agreement.pdf); *United States v. Lorain County, Ohio* (N.D. Ohio 2011)(consent decree available at [https://www.justice.gov/sites/default/files/crt/legacy/2011/10/13/lorain\\_moa.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2011/10/13/lorain_moa.pdf)).

<sup>3</sup> See *Madera v. Detzner*, 325 F. Supp. 3d 1269, 1279 (N.D. Fla. 2018) (stating that “[n]o court has even hinted that Section 4(e) contains a numerical requirement”).

<sup>4</sup> *United States v. Salem Cty., N.J.*, No. 10:8-CV-03726, 2008 WL 11513214, at \*3 (D.N.J. July 29, 2008).



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- Translate into Spanish all polling place signage, notices, and instructions for how to vote using the paper ballots and optical scanner, ballot-marking devices, or electronic voting machines;
- Provide Spanish-language election information on the county elections website;
- Hire bilingual poll workers or interpreters to work in precincts with a significant number of registered voters with Latino surnames, including modifying poll worker applications to include a place for applicants to report Spanish language skills;
- Train poll workers on the rights of limited English proficiency U.S. citizens to bilingual assistance and materials in voting;
- Establish a bilingual hotline on Election Day with trained bilingual elections personnel, who can answer questions from Spanish-speaking voters and provide assistance to poll workers who lack Spanish skills; and
- Appoint a member of the elections office to investigate allegations of poll worker hostility towards Spanish-speaking voters.

Even with the implementation of the above changes, including the provision of interpreters at the polls, the law is clear that counties also *must* permit voters who require language assistance to bring a person of their choice to provide such assistance, both in the polling place and in the voting booth:

Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

52 U.S.C. § 10508.<sup>5</sup>

We understand that during the 2018, 2019, and 2020 election cycles, Lawrence County election officials prevented Puerto Rican voters from bringing interpreters of their choice into the polling place for assistance at the voting booth. As explained above, this is plainly illegal and a violation of the

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<sup>5</sup> See also *United States v. Berks Cty., Pa.*, 277 F. Supp. 2d 570, 580 (E.D. Pa. 2003) (finding that denying the right to bring an interpreter into the voting booth is a clear violation of the federal Voting Rights Act).

VRA. This absolutely cannot happen again in future elections. This problem can and needs to be addressed by appropriate poll worker training.

To summarize, in order for Lawrence County to comply with Section 4(e), it must guarantee Spanish-speaking voters' rights to bilingual election resources, including their right to have a bilingual interpreter of their choice accompany them in the polling place and in the voting booth. We respectfully request that you implement the following changes prior to Election Day this November:

1. Develop bilingual Spanish-English ballots, and post the ballot online and on the wall at polling locations.
2. Develop bilingual polling place signage and voting instructions.
3. Provide Spanish-language election information on the county elections website.
4. Implement policies to ensure that Spanish-speaking voters in all Wards and Districts will not be prohibited from receiving assistance from a person of their choice on Election Day.
5. Instruct poll workers, especially judges of election, on the rights of Spanish-speaking voters to bilingual resources and an interpreter of their choice.
6. Establish a bilingual hotline for Election Day, with personnel who can answer questions from Spanish-speaking voters and provide assistance to poll workers who lack Spanish skills.
7. Appoint a member of the elections office to investigate allegations of poll worker hostility towards Spanish-speaking voters.
8. Make good faith efforts to hire bilingual poll workers and/or interpreters, especially for the following four polling places with large numbers of Spanish-speaking voters:
  - First Ward – 1<sup>st</sup> District – Mary Mother of Hope Parish Center, 117 N. Beaver Street
  - Third Ward – 2<sup>nd</sup> District – Croton School, Gym, Croton Avenue and Fern Street
  - Second Ward – 2<sup>nd</sup> District – Highland Presbyterian Church, 708 Highland Avenue
  - Sixth Ward – 1<sup>st</sup> District – Lawrence County C.A.R.E.S, 708 West Washington Street



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If the County experiences difficulty hiring bilingual election workers, the County may contact Maria Delgado, Latino Affairs Commissioner for Lawrence County, for assistance in identifying bilingual individuals to hire as poll workers and interpreters on Election Day.

Please contact us no later than the close of business on Tuesday, October 5, to advise us whether you will comply with the above-referenced list of requirements before Election Day. If you are unable to comply with certain demands, please explain why not, and when you will be able to do so.

We appreciate the challenges that election officials have faced this year in dealing with a global pandemic, grieving the loss of a former elections director, and dealing with new laws and new methods of voting. Nevertheless, we cannot witness the disenfranchisement of our fellow citizens because they lack Spanish-language materials or assistance. If we do not receive the requested assurances, we will be forced to take legal action to ensure that Lawrence County respects our clients' rights. As permitted by law, any litigation will include a request that Lawrence County pay our legal fees. If you have any questions or concerns, or wish to discuss how best to comply with the VRA, please contact me at [vwalczak@aclupa.org](mailto:vwalczak@aclupa.org). We look forward to hearing from you.



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Very truly yours,

A handwritten signature in blue ink, appearing to read "Witold J. Walczak".

Witold J. Walczak  
Legal Director

Connor Hayes  
Legal Fellow

cc: Hon. Dan Vogler, Commissioner (*by email [dvogler@co.lawrence.pa.us](mailto:dvogler@co.lawrence.pa.us)*)  
Hon. Loretta Spielvogel, Commissioner  
(*by email [lspielvogel@co.lawrence.pa.us](mailto:lspielvogel@co.lawrence.pa.us)*)  
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