Department of Justice

service, or benefit to members of the other sex.

§ 54.540 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job in question.

§ 54.545 Pre-employment inquiries.

(a) Marital status. A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is “Miss” or “Mrs.”

(b) Sex. A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by these Title IX regulations.

§ 54.550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§54.500 through 54.550 provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee’s sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures

§ 54.600 Notice of covered programs.

Within 60 days of September 29, 2000, each Federal agency that awards Federal financial assistance shall publish in the FEDERAL REGISTER a notice of the programs covered by these Title IX regulations. Each such Federal agency shall periodically republish the notice of covered programs to reflect changes in covered programs. Copies of this notice also shall be made available upon request to the Federal agency’s office that enforces Title IX.

§ 54.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 28 CFR 42.106 through 42.111.

§ 55.21 Record keeping.

Subpart E—Preclearance

§ 55.22 Requirements of section 5 of the Act.

Subpart F—Sanctions

§ 55.23 Enforcement by the Attorney General.

Subpart G—Comment on This Part

§ 55.24 Procedure.

Appendix to Part 55—Jurisdictions Covered Under Sections 4(f)(4) and 203(c) of the Voting Rights Act of 1965, as Amended


Source: Order No. 655–76, 41 FR 29998, July 20, 1976, unless otherwise noted.

Subpart A—General Provisions

§ 55.1 Definitions.

As used in this part—


Attorney General means the Attorney General of the United States.

Language minorities or language minority group is used, as defined in the Act, to refer to persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage. (Sections 14(c)(3) and 203(e)).

Political subdivision is used, as defined in the Act, to refer to “any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.” (Section 14(c)(2)).


§ 55.2 Purpose; standards for measuring compliance.

(a) The purpose of this part is to set forth the Attorney General’s interpretation of the provisions of the Voting Rights Act which require certain States and political subdivisions to conduct elections in the language of certain “language minority groups” in addition to English.

(b) In the Attorney General’s view the objective of the Act’s provisions is to enable members of applicable language minority groups to participate effectively in the electoral process. This part establishes two basic standards by which the Attorney General will measure compliance:

(1) That materials and assistance should be provided in a way designed to allow members of applicable language minority groups to be effectively informed of and participate effectively in voting-connected activities; and

(2) That an affected jurisdiction should take all reasonable steps to achieve that goal.

(c) The determination of what is required for compliance with section 4(f)(4) and section 203(c) is the responsibility of the affected jurisdiction. These guidelines should not be used as a substitute for analysis and decision by the affected jurisdiction.

(d) Jurisdictions covered under section 4(f)(4) of the Act are subject to the preclearance requirements of section 5. See part 51 of this chapter. Such jurisdictions have the burden of establishing to the satisfaction of the Attorney General or to the U.S. District Court for the District of Columbia that changes made in their election laws and procedures in order to comply with the requirements of section 4(f)(4) are not discriminatory under the terms of
section 5. However, section 5 expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of the changes.

(e) Jurisdictions covered solely under section 203(c) of the Act are not subject to the preclearance requirements of section 5, nor is there a Federal apparatus available for preclearance of section 203(c) compliance activities. The Attorney General will not preclear jurisdictions’ proposals for compliance with section 203(c).

(f) Consideration by the Attorney General of a jurisdiction’s compliance with the requirements of section 4(f)(4) occurs in the review pursuant to section 5 of the Act of changes with respect to voting, in the consideration of the need for litigation to enforce the requirements of section 4(f)(4), and in the defense of suits for termination of coverage under section 4(f)(4). Consideration by the Attorney General of a jurisdiction’s compliance with the requirements of section 203(c) occurs in the consideration of the need for litigation to enforce the requirements of section 203(c).

(g) In enforcing the Act—through the section 5 preclearance review process, through litigation, and through defense of suits for termination of coverage under section 4(f)(4)—the Attorney General will follow the general policies set forth in this part.

(h) This part is not intended to preclude affected jurisdictions from taking additional steps to further the policy of the Act. By virtue of the Supremacy Clause of Art. VI of the Constitution, the provisions of the Act override any inconsistent State law.

§ 55.5 Coverage under section 4(f)(4). (a) Coverage formula. Section 4(f)(4) applies to any State or political subdivision in which

(1) Over five percent of the voting-age citizens were, on November 1, 1972, members of a single language minority group with respect to which coverage was determined, in the appendix to this part. Any additional determinations of coverage under either section 4(f)(4) or section 203(c) will be published in the Federal Register.

(2) The requirements of section 203(c) take effect upon publication in the Federal Register of the requisite determinations of the Director of the Census and the Attorney General. Such determinations are not reviewable in any court. See section 203(b)(4).

§ 55.4 Effective date; list of covered jurisdictions.


(1) The requirements of section 4(f)(4) take effect upon publication in the Federal Register of the requisite determinations of the Director of the Census and the Attorney General. Such determinations are not reviewable in any court. See section 4(b).

(2) The requirements of section 203(c) take effect upon publication in the Federal Register of the requisite determinations of the Director of the Census. Such determinations are not reviewable in any court. See section 203(b)(4).

§ 55.3 Statutory requirements. (a) Coverage formula. Section 4(f)(4) applies to any State or political subdivision in which

(1) Over five percent of the voting-age citizens were, on November 1, 1972, members of a single language minority group,

(2) Registration and election materials were provided only in English on November 1, 1972, and

(3) Fewer than 50 percent of the voting-age citizens were registered to vote or voted in the 1972 Presidential election.
§ 55.6 Coverage under section 203(c).

(a) Coverage formula. There are four ways in which a political subdivision can become subject to section 203(c).2

(1) Political subdivision approach. A political subdivision is covered if—
   (i) More than 5 percent of its voting age citizens are members of a single language minority group and are limited-English proficient; and
   (ii) The illiteracy rate of such language minority citizens in the political subdivision is higher than the national illiteracy rate.

(2) State approach. A political subdivision is covered if—
   (i) It is located in a state in which more than 5 percent of the voting age citizens are members of a single language minority group and are limited-English proficient; and
   (ii) The illiteracy rate of such language minority citizens in the state is higher than the national illiteracy rate; and
   (iii) Five percent or more of the voting age citizens of the political subdivision are members of such language minority group and are limited-English proficient.

(3) Numerical approach. A political subdivision is covered if—
   (i) More than 10,000 of its voting age citizens are members of a single language minority group and are limited-English proficient; and
   (ii) The illiteracy rate of such language minority citizens in the political subdivision is higher than the national illiteracy rate.

(b) Definitions. For the purpose of determinations of coverage under section 203(c), limited-English proficient means unable to speak or understand English adequately enough to participate in the electoral process; Indian reservation means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census; and illiteracy means the failure to complete the fifth primary grade.

§ 55.7 Termination of coverage.

(a) Section 4(f)(4). The requirements of section 4(f)(4) apply for a twenty-five-year period following the effective date of the amendments made by the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Vélásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006, which amendments became effective on July 27, 2006. See section 4(a)(8). A covered State, a political subdivision of a covered State, a separately covered political subdivision, or a political subunit of any of the above, may terminate the application of section 4(f)(4) earlier by obtaining the declaratory judgment described in section 4(a) of the Act.

(b) Section 203(c). The requirements of section 203(c) apply until August 6,
2032. See section 203(b). A covered jurisdiction may terminate Section 203 coverage earlier if it can prove in a declaratory judgment action in a United States district court, that the illiteracy rate of the applicable language minority group is equal to or less than the national illiteracy rate, as described in section 203(d) of the Act.

§ 55.8 Relationship between section 4(f)(4) and section 203(c).

(a) The statutory requirements of section 4(f)(4) and section 203(c) regarding minority language material and assistance are essentially identical.

(b) Jurisdictions subject to the requirements of section 4(f)(4)—but not jurisdictions subject only to the requirements of section 203(c)—are also subject to the Act’s special provisions, such as section 5 (regarding preclearance of changes in voting laws) and section 8 (regarding federal observers). See part 51 of this chapter.

(c) Although the coverage formulas applicable to section 4(f)(4) and section 203(c) are different, a political subdivision may be included within both of the coverage formulas. Under these circumstances, a judgment terminating coverage of the jurisdiction under one provision would not have the effect of terminating coverage under the other provision.

§ 55.9 Coverage of political units within a county.

Where a political subdivision (e.g., a county) is determined to be subject to section 4(f)(4) or section 203(c), all political units that hold elections within that political subdivision (e.g., cities, school districts) are subject to the same requirements as the political subdivision.

Subpart C—Determining the Exact Language

§ 55.11 General.

The requirements of section 4(f)(4) or section 203(c) apply with respect to the languages of language minority groups. The applicable groups are indicated in the determinations of the Attorney General or the Director of the Census. This subpart relates to the view of the Attorney General concerning the determination by covered jurisdictions of precisely the language to be employed. In enforcing the Act, the Attorney General will consider whether the languages, forms of languages, or dialects chosen by covered jurisdictions for use in the electoral process enable members of applicable language minority
groups to participate effectively in the electoral process. It is the responsibility of covered jurisdictions to determine what languages, forms of languages, or dialects will be effective. For those jurisdictions covered under section 203(c), the coverage determination (indicated in the appendix) may specify the particular language minority group (in parentheses) for which the jurisdiction is covered, but does not specify the language or dialect to be used for such group.

§ 55.12 Language used for written material.

(a) Language minority groups having more than one language. Some language minority groups, for example, Filipino Americans, have more than one language other than English. A jurisdiction required to provide election materials in the language of such a group need not provide materials in more than one language other than English. The Attorney General will consider whether the language that is used for election materials is the one most widely used by the jurisdiction’s voting-age citizens who are members of the language minority group.

(b) Languages with more than one written form. Some languages, for example, Japanese, have more than one written form. A jurisdiction required to provide election materials in such a language need not provide more than one version. The Attorney General will consider whether the particular version of the language that is used for election materials is the one most widely used by the jurisdiction’s voting-age citizens who are members of the language minority group.

(c) Unwritten languages. Many of the languages used by language minority groups, for example, by some American Indians and Alaskan Natives, are unwritten. With respect to any such language, only oral assistance and publicity are required. Even though a written form for a language may exist, a language may be considered unwritten if it is not commonly used in a written form. It is the responsibility of the covered jurisdiction to determine whether a language should be considered written or unwritten.

§ 55.13 Language used for oral assistance and publicity.

(a) Languages with more than one dialect. Some languages, for example, Chinese, have several dialects. Where a jurisdiction is obligated to provide oral assistance in such a language, the jurisdiction’s obligation is to ascertain the dialects that are commonly used by members of the applicable language minority group in the jurisdiction and to provide oral assistance in such dialects. (See § 55.20.)

(b) Language minority groups having more than one language. In some jurisdictions members of an applicable language minority group speak more than one language other than English. Where a jurisdiction is obligated to provide oral assistance in the language of such a group, the jurisdiction’s obligation is to ascertain the languages that are commonly used by members of that group in the jurisdiction and to provide oral assistance in such languages. (See § 55.20.)

Subpart D—Minority Language Materials and Assistance

§ 55.14 General.

(a) This subpart sets forth the views of the Attorney General with respect to the requirements of section 4(f)(4) and section 203(c) concerning the provision of minority language materials and assistance and some of the factors that the Attorney General will consider in carrying out his responsibilities to enforce section 4(f)(4) and section 203(c). Through the use of his authority under section 5 and his authority to bring suits to enforce section 4(f)(4) and section 203(c), the Attorney General will seek to prevent or remedy discrimination against members of language minority groups based on the failure to use the applicable minority language in the electoral process. The Attorney General also has the responsibility to defend against suits brought
§ 55.18 Provision of minority language materials and assistance.

(a) Materials provided by mail. If materials provided by mail (or by some comparable form of distribution) generally to residents or registered voters are not all provided in the applicable minority language, the Attorney General will consider whether an effective targeting system has been developed.

For example, a separate mailing of materials in the minority language to persons who are likely to need them or to residents of neighborhoods in which such a need is likely to exist, supplemented by a notice of the availability of minority language materials in the general mailing (in English and in the applicable minority language) and by other publicity regarding the availability of such materials may be sufficient.

(b) 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 an effective opportunity to be informed about electoral activities.

(c) Registration. The Attorney General will consider whether the registration system is conducted in such a way that members of the applicable language minority group have an effective opportunity to register. One method of accomplishing this is to provide, in the
§ 55.19 Written materials.

(a) Types of materials. It is the obligation of the jurisdiction to decide what materials must be provided in a minority language. A jurisdiction required to provide minority language materials is only required to publish in the language of the applicable language minority group materials distributed to or provided for the use of the electorate generally. Such materials include, for example, ballots, sample ballots, informational materials, and petitions.

(b) Accuracy, completeness. It is essential that material provided in the language of a language minority group be clear, complete and accurate. In examining whether a jurisdiction has achieved compliance with this requirement, the Attorney General will consider whether the jurisdiction has consulted with members of the applicable language minority group with respect to the translation of materials.

(c) Ballots. The Attorney General will consider whether a jurisdiction provides the English and minority language versions on the same document. Lack of such bilingual preparation of ballots may give rise to the possibility, or to the appearance, that the secrecy of the ballot will be lost if a separate minority language ballot or voting machine is used.

(d) Voting machines. Where voting machines that cannot mechanically accommodate a ballot in English and in the applicable minority language are used, the Attorney General will consider whether the jurisdiction provides sample ballots for use in the polling booths. Where such sample ballots are used the Attorney General will consider whether they contain a complete and accurate translation of the English ballots, and whether they contain or are accompanied by instructions in the minority language explaining the operation of the voting machine. The Attorney General will also consider whether the sample ballots are displayed so that they are clearly visible and at the same level as the machine ballot on the inside of the polling booth, whether the sample ballots are identical in layout to the machine ballots, and whether their size and typeface are the same as that appearing on the machine ballots. Where space limitations preclude affixing the translated sample ballots to the inside of polling booths, the Attorney General will consider whether language minority group voters are allowed to take the sample ballots into the voting booths.
§ 55.20 Oral assistance and publicity.

(a) General. Announcements, publicity, and assistance should be given in oral form to the extent needed to enable members of the applicable language minority group to participate effectively in the electoral process.

(b) Assistance. The Attorney General will consider whether a jurisdiction has given sufficient attention to the needs of language minority group members who cannot effectively read either English or the applicable minority language and to the needs of members of language minority groups whose languages are unwritten.

(c) Helpers. With respect to the conduct of elections, the jurisdiction will need to determine the number of helpers (i.e., persons to provide oral assistance in the minority language) that must be provided. In evaluating the provision of assistance, the Attorney General will consider such facts as the number of a precinct’s registered voters who are members of the applicable language minority group, the number of such persons who are not proficient in English, and the ability of a voter to be assisted by a person of his or her own choice. The basic standard is one of effectiveness.

[Order No. 655–76, 41 FR 29998, July 20, 1976, as amended by Order No. 1752–93, 58 FR 35373, July 1, 1993]

§ 55.21 Record keeping.

The Attorney General’s implementation of the Act’s provisions concerning language minority groups would be facilitated if each covered jurisdiction would maintain such records and data as will document its actions under those provisions, including, for example, records on such matters as alternatives considered prior to taking such actions, and the reasons for choosing the actions finally taken.

[Order No. 655–76, 41 FR 29998, July 20, 1976, as amended by Order No. 1752–93, 58 FR 35373, July 1, 1993]

Subpart F—Sanctions

§ 55.23 Enforcement by the Attorney General.

(a) The Attorney General is authorized to bring civil actions for appropriate relief against violations of the Act’s provisions, including section 4 and section 203. See sections 12(d) and 204.

(b) Also, certain violations may be subject to criminal sanctions. See sections 12(a) and (c) and 205.


Subpart G—Comment on This Part

§ 55.24 Procedure.

These guidelines may be modified from time to time on the basis of experience under the Act and comments received from interested parties. The Attorney General therefore invites public comments and suggestions on these guidelines. Any party who wishes to make such suggestions or comments may do so by sending them to: Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, DC 20530.

APPENDIX TO PART 55—JURISDICTIONS COVERED UNDER SECTIONS 4(f)(4) AND 203(c) OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED [APPLICABLE LANGUAGE MINORITY GROUP(S)]

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Coverage under sec. 4(f)(4)</th>
<th>Coverage under sec. 203(c)</th>
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</table>

Coverage determinations for Section 203 based on 2000 Census data were published at 67 FR 48871 (July 26, 2002).

Subsequent coverage determinations for Section 203 will be based on 2010 American Community Survey census data and subsequent American Community Survey data in 5-year increments, or comparable census data. See section 203(b)(2)(A).

New coverage determinations for Section 203 by the Director of the Census Bureau are forthcoming.

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PART 56—INTERNATIONAL ENERGY PROGRAM

Sec.

56.1 Purpose and scope.

These regulations are promulgated pursuant to section 252(e)(2) of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6272(e)(2). They are being issued by the Assistant Attorney General in charge of the Antitrust Division to whom the Attorney General has delegated his authority under this section of EPCA. The requirements of this part do not apply to activities other than those for which section 252 of EPCA makes available a defense to actions brought under the Federal antitrust laws.

56.2 Maintenance of records with respect to meetings held to develop voluntary agreements or plans of action pursuant to the Agreement on an International Energy Program.

(a) The Administrator of the Department of Energy shall keep a verbatim transcript of any meeting held pursuant to this subpart.

(b)(1) Except as provided in paragraphs (b)(2) through (4) of this section, potential participants shall keep a full and complete record of any communications (other than in a meeting held pursuant to this subpart) between or among themselves for the purpose of developing a voluntary agreement under this part. When two or more potential participants are involved in such a communication, they may agree among themselves who shall keep such record. Such record shall include the names of the parties to the communication and the organizations, if any, which they represent; the date of the communication; the means of communication; and a description of the communication in sufficient detail to convey adequately its substance.

(2) Where any communication is written (including, but not limited to, telex, telegraphic, telecopied, microfilmed and computer printout material), and where such communication demonstrates on its face that the originator or some other source furnished a copy of the communication to the Office of International Affairs, Department of Energy with the notation “Voluntary Agreement” marked on the first page of the document, no participant need record such a communication or send a further copy to the Department of Energy. The Department of Energy may, upon written notice to potential participants, from time to time, or with reference to particular types of documents, require deposit with other offices or officials of the Department of Energy. Where such communication demonstrates that it was sent to the Office of International Affairs, Department of Energy with the notation “Voluntary Agreement” marked on the first page of the document, or such other offices or officials in the Department of Energy has designated pursuant to this section it shall satisfy paragraph (c) of this section, for the purpose of deposit with the Department of Energy.

(3) To the extent that any communication is procedural, administrative or ministerial (for example, if it involves the location of a record, the place of a meeting, travel arrangements, or similar matters,) only a brief notation of the date, time, persons involved and description of the communication need be recorded.