

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
CUYAHOGA COUNTY BOARD OF ELECTIONS)	
("BOE"), BOE CHAIRMAN JEFFREY P.)	<u>COMPLAINT</u>
HASTINGS, and BOE MEMBERS INAJO DAVIS)	
CHAPPELL, ROBERT S. FROST, EBEN O.)	
MCNAIR IV, and JANE M. PLATTEN,)	
DIRECTOR, in their official capacities,)	
)	
Defendants.)	
_____)	

The United States of America, Plaintiff herein, alleges:

1. The Attorney General of the United States files this action pursuant to Sections 4(e) and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973b(e) ("Section 4(e)") & 1973j(d), and pursuant to 28 U.S.C. § 2201, to enforce rights guaranteed by the Fourteenth and Fifteenth Amendments, with respect to the conduct of elections in Cuyahoga County, Ohio.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 & 1345 and 42 U.S.C. §§ 1973j(d) & (f). The events relevant to this action occurred in Cuyahoga County, which is located within this district and division.

3. Defendant Cuyahoga County Board of Elections ("BOE") has statutory powers, duties, and responsibilities concerning the conduct of voter registration and elections held in Cuyahoga County.

4. Defendants BOE Chairman Jeffrey P. Hastings, and Members Inajo Davis Chappell, Robert S. Frost, Eben O. McNair IV and Director Jane M. Platten, have statutory powers, duties, and responsibilities concerning the conduct of voter registration and elections held in Cuyahoga County. They are sued in their official capacities.

5. Section 4(e)(1) of the Voting Rights Act 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. See 42 U.S.C. § 1973b(e)(1). Under Section 4(e)(2) it is impermissible for such persons to “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.” See 42 U.S.C. § 1973b(e)(2).

6. According to the 2000 Census, Cuyahoga County had 30,147 persons of Puerto Rican descent. The Puerto Rican population in Cuyahoga County has grown substantially over the last two decades. According to the Census, from 1990 to 2000 the number of Puerto Ricans in the County increased from 20,568 to 30,147 (a 46.6% increase). The Census Bureau’s 2006-2008 American Community Survey estimated that the Puerto Rican population of Cuyahoga County had increased to 34,283.

7. According to the 2000 Census, there were 12,235 Puerto Rican residents (41.7% of the County’s Puerto Ricans) who were born in Puerto Rico. See Census 2000, SF4, PCT 43, Sex by Place of Birth by Citizenship Status. The 2000 Census also reported that 6,334 Puerto Ricans of voting age (35.1% of all voting age Puerto Ricans) in Cuyahoga County were limited-

English proficient. See Census 2000, SF4, PCT 38, Age by Language Spoken at Home by Ability to Speak English for the Population 5 years and Over.

8. A significant number of Cuyahoga County's voting age citizens were educated in American-flag schools in Puerto Rico in which the predominant classroom language was Spanish.

9. Defendants did not translate election-related materials into Spanish, including, but not limited to, the voter registration application, official ballot, sample ballot, absentee ballot, vote-by-mail application, election notices, and election-related information on the Cuyahoga County Board of Elections internet site.

10. Defendants did not recruit, appoint, train and maintain an adequate number of bilingual poll workers to provide Spanish-language assistance at the polls, including providing assistance in translating the English-language ballot at the polls.

11. Defendants conditioned the right to vote of Cuyahoga County citizens educated in Puerto Rico on their ability to read, write, understand or interpret the English language by not providing Spanish-language election materials and by not consistently and adequately providing Spanish-language assistance during elections held in Cuyahoga County.

12. By not providing Spanish-language materials and consistent, adequate Spanish-language assistance during elections, Defendants denied Cuyahoga County citizens who were educated in Puerto Rico the right to cast an informed vote and impaired their ability to participate effectively in the electoral process in violation of Section 4(e) of the Voting Rights Act.

WHEREFORE, Plaintiff United States of America prays that this Court enter an order:

1. Declaring that Defendants did not fully comply with Section 4(e) of the Voting Rights Act, 42 U.S.C. § 1973b(e), by not providing Spanish-language election materials, information and assistance necessary to effectively participate in the electoral process to citizens educated in Puerto Rico;
2. Enjoining the Defendants, their agents and successors in office, and all persons acting in concert with them, from not providing Spanish-language election materials, information and assistance to citizens educated in Puerto Rico, in violation of Section 4(e), 42 U.S.C. § 1973b(e);
3. Requiring Defendants to devise and implement a remedial plan to ensure that citizens educated in Puerto Rico are provided Spanish-language election materials, information and assistance consistent with Section 4(e), 42 U.S.C. § 1973b(e); and
4. Authorizing the Director of the Office of Personnel Management to appoint federal observers for elections in Cuyahoga County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a).

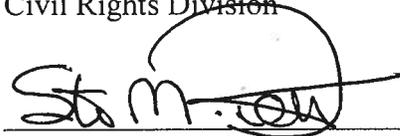
Plaintiff further prays that this Court offer such additional relief as the interests of justice may require.

Date: September 1st, 2010

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