

Ramos, E.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 3/9/2015

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UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 v. :
 :
 ORANGE COUNTY BOARD OF ELECTIONS, :
 SUSAN BAHREN, in her official capacity, and :
 DAVID GREEN, in his official capacity, :
 :
 Defendants. :
 :
----- X

ECF Case
12 Civ. 3071 (ER)
STIPULATION

WHEREAS, the United States of America filed this action pursuant to Sections 4(e) and 12(d) of the Voting Rights Act, 52 U.S.C. §§ 10303(e) and 10308(d), to enforce the voting rights guaranteed by the Fourteenth and Fifteenth Amendments, with respect to the conduct of elections in Orange County, New York;

WHEREAS, the Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 52 U.S.C. § 10308(f);

WHEREAS, this Stipulation is entered into by and between the United States of America (the "United States") and the Orange County Board of Elections (the "BOE"), jointly referred to as the "Parties" hereinafter;

WHEREAS, this Stipulation shall become effective upon approval by this Court (the "Effective Date");

WHEREAS, Orange County is subject to Section 4(e) of the Voting Rights Act, which secures the voting rights of "persons educated in American-flag schools in which the predominant classroom language was other than English" (i.e. Puerto Rico), by prohibiting

jurisdictions from “conditioning the right to vote of such persons on [their] ability to read, write, understand, or interpret any matter in the English language.” 52 U.S.C. § 10303(e).

NOW THEREFORE, upon the stipulation and agreement of the parties, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. The Recitals set forth above are true and correct and are hereby incorporated into this Stipulation as if set forth at length herein.

2. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, the BOE, its agents, employees, contractors, successors, and all other persons acting in concert with or on behalf of the BOE, shall permanently provide Spanish-language election materials, information, and assistance necessary to allow persons educated in Puerto Rico to effectively participate in the electoral process, as required by Section 4(e) of the Voting Rights Act, and as set forth herein.

3. The terms of this Stipulation shall apply to all Federal, State, and local elections that are administered by the BOE and its agents, employees, contractors, successors, and all other persons acting in concert with or on behalf of the BOE.

A. Bilingual Programs Coordinators

4. The BOE shall continue to designate two individuals (one Republican and one Democrat) to coordinate the BOE’s bilingual election program (the “Coordinators”) for all elections run by the County. The Coordinators shall be able to understand, speak, read, and write fluently both English and Spanish.

5. The BOE shall ensure that the Coordinators provide bilingual voter registration materials to voter registration offices in the County required under the National Voter Registration Act, 52 U.S.C. § 20501, *et seq.*, and perform other functions as described in their job descriptions.

6. The Coordinators shall work with a certified translator as needed and shall review all documents prepared by the translator before they are posted on the BOE website or disseminated to the public.

7. The Coordinators' responsibilities shall include, but not be limited to, coordination of the translation of ballots and other election information; development and oversight of Spanish-language media for notices and announcements concerning elections; recruitment, training, and assessment of the Spanish-language proficiency of bilingual election inspectors; and conducting outreach to the Spanish-speaking community and assessing their need for Spanish-language assistance in voting.

8. Spanish-language voter information shall be distributed in newspapers, on the BOE's website, and through all other media as may be reasonably available that publish or broadcast information in Spanish to the Spanish-speaking Puerto Rican community in the County. The BOE shall ensure that English-language election information and services are made known and available on the BOE's website, and shall update the website regularly in equivalent form in Spanish. Such information shall include, but not be limited to, information concerning (1) polling place locations, (2) voter information, (3) absentee voting, and (4) election inspectors. The BOE shall further ensure that Spanish-language information and materials are readily accessible through easily visible and identifiable Spanish-language links on the BOE website.

9. Signs in English and Spanish shall be posted prominently at all polling places stating that Spanish-language assistance is available. At polling places without bilingual election inspectors, signs in both English and Spanish shall be posted that explain how voters can obtain Spanish-language assistance. The BOE will monitor the levels of Spanish language assistance

needed within the polling places on Election Day and will, if necessary, provide additional bilingual personnel to assist Spanish-speaking voters.

10. The BOE, in consultation with the Coordinators, shall evaluate the bilingual election program after each election to determine which aspects of the program are functioning well; whether any aspects of the program need improvement; and how to implement any needed improvements.

B. Bilingual Election Inspectors

11. The BOE shall recruit, hire, train, and assign bilingual election inspectors who are able to understand, speak, read, and write English and Spanish fluently and can provide effective translation and assistance to Spanish-speaking voters at the polls on election days. The Coordinators shall make every effort to determine the fluency level of each bilingual inspector prior to training sessions but in any event no later than five days before the election.

12. In the event that the BOE is unable to recruit, secure, and assign the requisite number of bilingual inspectors, the BOE shall document the polling location(s) at which it was unable to provide the required number of bilingual election inspectors as described in paragraph 17, as well as all efforts undertaken by the BOE to provide the required number of bilingual election inspectors at each polling place identified.

C. Election Official Training

13. The BOE shall train all election inspectors and other election personnel regarding the requirements of Section 4(e) of the Voting Rights Act, including the legal obligation and means to make effective Spanish-language assistance and materials available to voters. The training shall also emphasize that election inspectors must be respectful and courteous to all voters, regardless of race, color, ethnicity, or language ability.

14. The BOE shall include in its training of all bilingual election inspectors the following election-related materials: (1) the official ballot, if available at the time of the training, (2) sample ballots, (3) affidavit ballots and envelopes, (4) absentee voting applications and ballots, (5) voter registration cards and applications, (6) notification of elections and polling place changes, (7) polling place signage, and (8) any voter information guides or pamphlets provided by the BOE. The BOE shall also provide bilingual election inspectors with a copy of the United States Election Assistance Commission Spanish Language Glossary.

15. The BOE shall maintain a record of the time and location of training personnel and the materials involved with such training. The BOE shall also record the names and addresses of all poll officials who attended such training, as well as their assigned polling places.

D. Spanish-Surname Analysis

16. The BOE in conjunction with the United States shall conduct a Spanish-surname analysis of the current County voter registration list fifteen (15) days prior to each election.

17. The BOE shall ensure that:

- a. any polling location in which there are between 100 and 249 registered voters with Spanish surnames on the voter registration list for that election is staffed by at least one bilingual election inspector;
- b. any polling location in which there are between 250 and 500 registered voters with Spanish surnames on the voter registration list for that election is staffed by at least two bilingual election inspectors (if possible, the inspectors should include one Republican and one Democrat);
- c. any polling location in which there are more than 500 registered voters with Spanish surnames on the voter registration list for that election is staffed by at

least three bilingual election inspectors (the inspectors should include at least one Democrat and one Republican); and

- d. an equal number of bilingual election inspectors from each major political party, trained in Spanish-language election terminology, available by telephone to provide assistance to any Spanish-speaking voters.

18. The parties may, by mutual agreement, adjust the requirements set forth above in light of reliable information that the actual need for language assistance in a particular polling place is lesser or greater than these standards.

19. Throughout the duration of this Stipulation, at least twenty (20) days before each election, the BOE shall provide to counsel for the United States:

- a. The name, address, and election districts at each polling place; and
- b. A copy of the most recent voter registration list in a format to be agreed upon by the Parties.

20. The BOE shall send the above information described in paragraph 19 by electronic mail, at addresses to be agreed upon by the Parties, or, if electronic mail is impracticable, by Federal Express to the following address:

Chief, Civil Rights Unit
United States Attorney's Office
Southern District of New York
86 Chambers Street, 3rd Floor
New York, New York 10007

E. Federal Observers

21. To assist in monitoring compliance with the terms and conditions stated herein and ensure the effectiveness of this Stipulation, and to protect the voting guarantees of the Fourteenth and Fifteenth Amendments of the citizens of Orange County, the appointment of

federal observers is authorized for Orange County, New York, pursuant to Section 3(a) of the Voting Rights Act, 52 U.S.C. § 10302(a), for the duration of this Stipulation.

22. The BOE shall recognize the authority of federal observers to observe all aspects of the voting process conducted in all polling places on Election Day, including, but not limited to, the authority to observe BOE personnel providing Spanish-language assistance to voters during voting, except when the voter objects.

23. The BOE may provide a written response to the federal observers' reports, if any, within thirty (30) days after receipt of such reports.

F. Retention of Documents and Reporting Requirements

24. Throughout the duration of this Stipulation, the BOE shall make and maintain written records of all actions taken pursuant to this Stipulation sufficient to document its compliance with all of the requirements set forth herein. Such records shall be made available to the United States upon its written request (including via e-mail) and upon reasonable notice.

25. Following any election in which the United States assigns monitors, the United States shall notify the BOE of any known violation or potential violation of this Stipulation and shall provide the BOE a report detailing the BOE's violation or potential violation of this Stipulation. The Parties shall work together in good faith to remedy as soon as practicable any violation of this Stipulation.

H. Modification and Termination of This Stipulation

26. This Stipulation represents the entire agreement between the parties. Any oral representations or agreements concerning the subject matter of this Stipulation are of no force or effect.

27. The United States District Court for the Southern District of New York shall retain jurisdiction of this case to enter further relief or such other orders as may be necessary to effectuate the terms of this Stipulation.

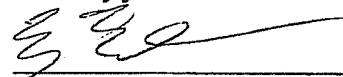
28. This Stipulation shall terminate on January 31, 2017, unless otherwise agreed upon in writing by the Parties.

29. This Stipulation may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

Dated: New York, New York
March 06, 2015

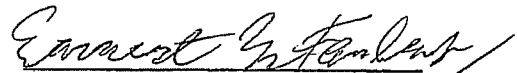
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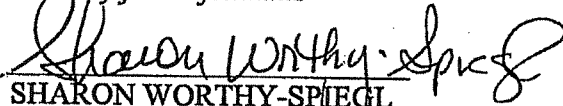
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Dated: Goshen, New York
March 06, 2015

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SO ORDERED:



3/9/2015

EDGARDO RAMOS
United States District Judge

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