



## Minority Language Requirements in Florida

*DE Reference Guide 0004 (Updated 12/2019—supersedes all prior versions)*

*These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.*

All Florida counties should adhere as applicable to the following provisions of the Voting Rights Act relating to Minority Language Requirements<sup>1</sup> that may apply now or may be triggered in the future for bilingual or limited English proficiency issue within their county. See table on next page for counties:

- **Section 203, Voting Rights Act ([52 USCA 10503](#)):** Under this section, the U.S. Census Bureau (see [www.census.gov](http://www.census.gov)). designates covered jurisdictions for language based on decennial census data and subsequent survey data in 5-year periods, or comparable census data based on any 1 of 4 formulas (voting age population, racial/ethnic composition and illiteracy rate) A jurisdiction is covered under Section 203 where the number of United States citizens of voting age is a single language group within the jurisdiction:
  - Is more than 10,000, or
  - Is more than five percent of all voting age citizens, or
  - On an Indian reservation, exceeds five percent of all reservation residents; and
  - The illiteracy rate of the group is higher than the national illiteracy rate

Covered language minorities are limited to American Indians, Asian Americans, Alaskan Natives, and Spanish-heritage citizens – i.e., the groups that Congress found to have faced barriers in the political process. If a county is subject to a minority language requirement under section 203, the Supervisor must make voting materials and information relating to the electoral process (including registration or voting notices, forms, ballot, instructions, etc.) in the designated language and provide minority language assistance in all elections.<sup>2</sup> Pursuant to state law, in counties subject to multi-language ballot requirements, the supervisor may petition the United States Department of Justice for authorization for the supervisor to print and deliver single-language ballots for each minority language required. See section [101.151\(8\)](#), Fla. Stat.

- **Section 208, Voting Rights Act ([52 USCA 10508](#)):** This section provides that "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." This section could apply to a voter who is illiterate or has limited English proficiency in a vote-by-mail or polling place scenario. This section is codified in sections [101.051](#), [101.655](#), and [101.661](#), Fla. Stat.)

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<sup>1</sup>**Historical Background:** From 1975-76 until 2013, Collier, Hardee, Hendry, Hillsborough and Monroe counties were designated covered jurisdictions for language minority (in this instance, Spanish) pursuant to Section 5/ 'preclearance' provisions of the Voting Rights Act. Section 4(f)(4), Voting Rights Act required "covered" jurisdictions for alleged language discrimination to get "preclearance" from the U.S. Department of Justice or a 3-judge panel in DC pursuant to Section 5 before changing their voting laws. In 2013, the U.S. Supreme Court struck down the covered jurisdiction formula. See [Shelby County v. Holder, 570 U.S. 2 \(2013\)](#)..

<sup>2</sup> After the 2010 census, covered jurisdictions under Section 203 changed for Florida changed as follow: Broward, Collier and Glades counties were no longer covered jurisdictions for American Indian language but Broward remained covered for Spanish. Lee, Osceola, Palm Beach and Polk counties became newly covered jurisdictions for Spanish as did the State of Florida. Florida must now make statewide issued/produced voter registration-voting materials in Spanish. In 2016, the U.S. Census Bureau added Desoto, Pinellas, and Seminole counties as covered jurisdictions for Spanish language. See [Federal Register/Vol. 81, No.233](#)

- **Section 2, Voting Rights Act (52 USCA 10301):** This section prohibits voting and election-related practices and procedures that discriminate on the basis of race, color or membership in a language minority group.
- **Section “(e)”\*, Voting Rights Act (52 USCA 10303 (e))** This section entitled “Completion of requisite grade level education in American-flag schools in which predominate classroom language was other than English” pertains to the right to vote of United States citizens educated through at least 6<sup>th</sup> grade in American-flag schools in any state, territory, the District of Columbia, and Puerto Rico, in a language other than English because of such citizens' inability to read, write, understand, or interpret English. (\*Commonly referred to as 4(e)).

See Tables 1 and 2 below for covered jurisdictions and required and/or recommended best practices.

Table 1		
Covered Jurisdiction	Minority Language	Voting Rights Act Language Provisions
State of Florida	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Broward	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
DeSoto	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Hardee	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Hendry	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Hillsborough	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Lee	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Miami-Dade	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> ) - County voluntarily offers materials in Creole
Orange	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Osceola	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> ); County previously offered Spanish based on 2002 consent order based on alleged violations of <b>Section 208, Voting Rights Act (52 USCA 10508)</b> and <b>Section 2, Voting Rights Act (52 USCA 10301)</b> which was released in 2005 but federal monitoring still occurs in county resulting from subsequent cases
Palm Beach	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Pinellas	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Polk	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
Seminole	Spanish	<b>Section 203</b> , Voting Rights Act ( <a href="#">52 USCA 10503</a> )
See notes	Spanish	<p><b>Section “(e)”</b>, Voting Rights Act (<a href="#">52 USCA 10303 (e)</a>);</p> <ul style="list-style-type: none"> <li>• <b>Volusia County</b> is a formally designated section (e) county by virtue of 2009 stipulation to provide expanded assistance and bilingual materials including ballots based on Section (e) allegations by Puerto-Rican born residents U.S. citizens in American-flag schools where Spanish was the dominant language.</li> <li>• <b>Alachua, Bay, Brevard, Charlotte, Citrus, Clay, Columbia, Duval, Escambia, Flagler, Hernando, Highlands, Indian River, Jackson, Lake, Leon, Levy, Manatee, Marion, Martin, Monroe, Okaloosa, Okeechobee, Pasco, Putnam, St. Johns, St. Lucie, Santa Rosa, Sarasota, Sumter, Taylor, and Wakulla (32 Counties) are subject to section 4(e) pursuant to federal preliminary injunction requiring Spanish Sample Ballots/Assistance at the polls for 2018 General Election.</b> See Madera v. Detzner. No. 1:18-cv-152-MW/GRJ (N.D. Fla., Sep. 7, 2018)</li> <li>• See <a href="http://www.flrules.org">www.flrules.org</a> for <a href="#">Rule 1S-2.032</a>, eff. 2020 regarding uniform ballots and language, and <a href="#">Rule 1S-2.034</a>, eff. 2020 regarding polling place procedures for language assistance for statewide application.</li> </ul>

**Table 2: Required or Recommended Best Practices**

To ensure compliance if required or anticipated, consider the following, including but not limited to:

- Review of the U.S. Department of Justice’s online guidance on practical steps to achieving compliance at: <https://www.justice.gov/crt/about-language-minority-voting-rights> and published guidelines <https://www.justice.gov/crt/about-language-minority-voting-rights#langguide> - [28 C.F.R. Part 55](#)
- Conducting outreach to minority groups regarding appropriate timing, adequacy of materials/assistance and targeting to needs of communities.
- Budgeting for existing requirements or building in contingency for annual expenses associated with minority language materials and assistance.
- Recruiting/hiring/training bilingual election personnel and/or professional interpreter services (e.g., poll workers who can read, write or speak the minority language, and/or designate a language coordinator).
- Providing for professional translational services and effective availability/distribution of translated materials.
- Coordinating/partnering with other government agencies for translation phone services.
- Implementing early voting and Election Day practices (e.g., make translated materials –visible, accessible and available)
- Allowing limited-English proficient voter to bring someone to polls to assist with language translation
- Publicizing minority language assistance at, have poll workers wear bilingual identity badges, etc.
- Incorporating clauses in agreements/contracts/purchase orders for bilingual requirements for election services or products, if applicable.
- Making website materials/information available in the designated minority language.
- Preparing for future section 203 designation, i.e., monitoring county specific demographics shifts which may trigger future designation or other limited-English proficiency requirements for population- see e.g., <https://www.justice.gov/civil/language-access-plan>; <https://www.lep.gov/> (Limited English Proficiency); and <https://www.census.gov/programs-surveys/decennial-census/decade.2010.html> (Decennial Census of Population and Housing)
- Adjusting and improving minority language programs as county demographics change.
- Consulting with other election officials for guidance in other long-time designated counties (e.g., BRO, DAD, HIL, ORA counties) which have historically had to comply and plan for resources, staff & budget.
- Petitioning and obtaining the requisite authorization from the United States Department of Justice to print and deliver single-language ballots for each minority language required if a section 203 designated county.” See subsection (8) of section 101.151, Fla. Stat. Note that under state law, “[i]n counties subject to multi-language ballot requirements, the supervisor may petition the United States Department of Justice for authorization for the supervisor