



Minority/Bilingual Language Designation in Florida

DE Reference Guide 0004 (Updated 02/2016—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.

As of 2011, the State of Florida became a newly covered jurisdiction for the minority language of Spanish under section 203 of the Voting Rights Act. Some Florida counties bilingual designations also changed.¹ Florida must now make statewide issued/produced election materials available in Spanish. The U.S. Census Bureau designates jurisdictions 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)(see www.census.gov).

Section 203 Jurisdiction	Minority Language	Applicable to Covered County Jurisdictions/Recommended Best Practices for All Counties
State of Florida	Spanish ¹	<p>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.) and provide minority language assistance in all elections. To ensure compliance if required or anticipated, consider the following including but not limited to:</p> <ul style="list-style-type: none"> • Reviewing U.S. Department of Justice’s online guidance at: http://www.justice.gov/crt/minority-language-citizens; http://www.justice.gov/crt/statutes-enforced-voting-section; and http://www.justice.gov/crt/about-language-minority-voting-rights • Conducting outreach to minority groups consider appropriate timing and targeting needs of communities. • 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 and coordinate/partner with other government agencies translation phone services. • Budgeting for existing requirements or building in contingency for annual expenses associated with minority language materials and assistance. • Assessing, analyzing, and improving of minority language program as county demographics change. • Implementing early voting and Election Day practices (e.g., make translated materials –visible, accessible and available; allow limited-English proficient voter to bring someone to polls to assist with language translation, publicize minority language assistance, have poll workers wear bilingual identity badges, etc. • Incorporating clauses for bilingual requirements for election services or products, if applicable. • Making website materials/information available in the designated minority language. • Preparing for future, i.e., monitoring county specific demographics shifts which may trigger future Section 203 designation or other limited-English proficiency requirements for population- see e.g., www.justice.gov/civil/language-access-plan; www.lep.gov; and http://www.census.gov/2010census/. • 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.
Broward (BRO)	Spanish ¹	
Hardee (HAR)	Spanish ¹	
Hendry (HEN)	Spanish ¹	
Hillsborough (HIL)	Spanish ¹	
Lee (LEE)	Spanish ¹	
Miami-Dade (DAD)	Spanish ¹	
Orange (ORA)	Spanish ¹	
Osceola (OSC)	Spanish ^{1,2}	
Palm Beach (PAL)	Spanish ¹	
Polk (POL)	Spanish ¹	

All Counties

All Florida counties should also be familiar with these provisions that may trigger a bilingual or limited English proficiency issue:

- **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 4(e), Voting Rights Act (52 USCA 10303):** This section pertains to the right to vote of United States citizens educated 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. 42 U.S.C. § 1973b(e)(1,2). Therefore materials and assistance should be available upon request.
- **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 provision could apply to a voter who is illiterate or has limited English proficiency and apply in an absentee or polling place/voting booth scenario. This federal law is codified in sections 101.051, 101.655, and 101.661, Fla. Stat.)

¹ **Section 203, Voting Rights Act (52 USCA 10503):** After the 2010, Broward, Collier and Glades counties were no longer covered jurisdictions for American Indian language but Lee, Osceola, Palm Beach and Polk counties became newly covered jurisdictions for Spanish. Historical Background: Florida contained previously 5 counties designated under Section 5 "preclearance. Section 4(f)(4), Voting Rights Act required "covered" jurisdictions 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. A coverage formula determined the designation. From 1975-76 until 2013, (Collier, Hardee, Hendry, Hillsborough and Monroe counties were designated for Spanish language minority). In 2013, the U.S. Supreme Court struck down the formula. See [Shelby County v. Holder, 570 U.S. \(2013\)](http://www.supremecourt.gov/opinions/13/caserecord/12-152/summary20130618.html). These five counties are no longer covered jurisdictions for Section 5.

² **Consent Order/Stipulation:** (1) *Osceola County* had a 2002 consent order based on ss. 2 and 208 VRA allegations relating to Hispanics with limited English proficiency but remains under federal monitoring; and (2) *Volusia County*, 2009 entered into a stipulation to provide expanded assistance and bilingual materials including ballots based on s.4(e) allegations by Puerto-Rican born residents U.S. citizens in American-flag schools where Spanish was the dominant language.