

Department of Justice

§ 55.6

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.

[Order 655-76, 41 FR 29998, July 20, 1976, as amended by Order 1246-87, 53 FR 736, Jan. 12, 1988]

§ 55.3 Statutory requirements.

The Act's requirements concerning the conduct of elections in languages in addition to English are contained in section 4(f)(4) and section 203(c). These sections state that whenever a jurisdiction subject to their terms "provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in * * * English. * * *"

Subpart B—Nature of Coverage

§ 55.4 Effective date; list of covered jurisdictions.

(a) The minority language provisions of the Voting Rights Act were added by the Voting Rights Act Amendments of 1975.

(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.

(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.

(b) Jurisdictions determined to be covered under section 4(f)(4) or section 203(c) are listed, together with the 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.

[Order 655-76, 41 FR 29998, July 20, 1976, as amended by Order 1246-87, 53 FR 736, Jan. 12, 1988]

§ 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,

(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.

All three conditions must be satisfied before coverage exists under section 4(f)(4).¹

(b) Coverage may be determined with regard to section 4(f)(4) on a statewide or political subdivision basis.

(1) Whenever the determination is made that the bilingual requirements of section 4(f)(4) are applicable to an entire State, these requirements apply to each of the State's political subdivisions as well as to the State. In other words, each political subdivision within a covered State is subject to the same requirements as the State.

(2) Where an entire State is not covered under section 4(f)(4), individual political subdivisions may be covered.

§ 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

¹Coverage is based on sections 4(b) (third sentence), 4(c), and 4(f)(3).

²The criteria for coverage are contained in section 203(b).

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(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 and are limited-English proficient;

(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.

(4) *Indian reservation approach.* A political subdivision is covered if there is located within its borders all or any part of an Indian reservation—

(i) In which more than 5 percent of the voting age American Indian or Alaska Native citizens are members of a single language minority group and are limited-English proficient; and

(ii) The illiteracy rate of such language minority citizens 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.

(c) *Determinations.* Determinations of coverage under section 203(c) are made with regard to specific language groups of the language minorities listed in section 203(e).

[Order No. 1752–93, 58 FR 35372, July 1, 1993]

§ 55.7 Termination of coverage.

(a) *Section 4(f)(4).* A covered State, a political subdivision of a covered State, or a separately covered political subdivision may terminate the application of section 4(f)(4) 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, 2007. A covered jurisdiction may terminate such 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.

[Order 655–76, 41 FR 29998, July 20, 1976, as amended by Order 1246–87, 53 FR 736, Jan. 12, 1988; Order No. 1752–93, 58 FR 35373, July 1, 1993]

§ 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 6 (regarding Federal examiners).³ 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

³In addition, a jurisdiction covered under section 203(c) but not under section 4(f)(4) is subject to the Act’s special provisions if it was covered under section 4(b) prior to the 1975 Amendments to the Act.