



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 25, 1978

ATTORNEY GENERAL OPINION NO. 78- 153

Mr. Don Vsetecka
Finney County Attorney
118 West Pine Street
Garden City, Kansas 67846

Re: Elections--Minority Language Assistance--Ballots

Synopsis: Under the Voting Rights Act of 1965 and Voting Rights Act Amendments of 1975, 42 U.S.C. § 1973 *et seq.*, minority language ballots are required to be furnished to persons in need thereof. The Act does not impose an inflexible requirement that bilingual ballots be prepared for each and every precinct in the political subdivision, but requires only that such materials be available where minority language voters reside and cast their ballots. It is permissible to furnish bilingual ballots in those precincts where minority language voters are known to reside, based on recent past elections, and in those precincts in which persons with Mexican-American surnames reside, if doing so will provide bilingual ballots to all who need them, with reasonable certainty.

* * *

Dear Mr. Vsetecka:

You advise that under the Voting Rights Act of 1975, and the Voting Rights Act Amendments of 1975, 42 U.S.C. § 1973 *et seq.*, Finney County is required to provide minority language voting materials and assistance to Mexican-Americans residing in that county.

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You ask if bilingual ballots are required to be provided in all precincts of the county, or whether ballots prepared only in English alone may be provided in those precincts where there are no registered voters with Mexican-American surnames. You advise that a number of precincts in Finney County have no Mexican-American residents or voters, and the cost of preparing bilingual ballots for those precincts, which remain unused, is substantial.

Coverage under the Act may be based upon either section 4(f)(4) or section 203(c). If coverage is based on the former, preclearance changes in voting laws and procedures is required by the United States Attorney General. I assume that coverage in this instance is based on section 203(c).

At 28 C.F.R. § 55.2, the regulations promulgated under the Act state in part thus:

"The determination of what is required for compliance with Section 203(c) is the responsibility of the affected jurisdiction. These guidelines should not be used as a substitute for analysis and decision by the affected jurisdiction."

At §§ 55.7, the regulations approve so-called "targeting:"

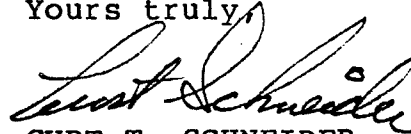
"'Targeting' refers to a system in which the minority language materials or assistance required by the Act are provided to less than all persons or registered voters. It is the view of the Attorney General that a targeting system will normally fulfill the Act's minority language requirements if it is designed and implemented in such a way that language minority group members who need minority language materials and assistance receive them."

The broad objective of the Act is to assure that minority language voting materials and assistance are available to those who need them. Since adoption of the regulations, the Finney County election officer has doubtless become familiar with the needs of the minority language voters in the jurisdiction and, in particular,

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with the areas of the county in which such voters reside. As you indicate, many precincts have no minority language voters whatever. The Act is designed to leave much to the discretion of local officials, in formulating the plan of voting assistance which will most effectively reach those in need of assistance, and to avoid wasteful and unproductive expenditures for materials which go unused. I find no inflexible requirement in the Act that bilingual ballots be prepared for every precinct where it is known, with reasonable certainty, that they will be unused entirely. What is required is that they be furnished in those precincts where they are needed. In my judgment, it is entirely permissible for the Finney County election officer to prepare and furnish minority language ballots in those precincts where, based on recent past elections, minority language voters are known to reside, and where persons with Mexican-American surnames are identified from the registration rolls, if doing so will assure adequate assistance to those in need of minority language ballots. I recommend that some documentation of the plan of ballot preparation adopted in the coming elections be prepared pursuant to 28 C.F.R. § 55.21, identifying those precincts in which such ballots will and will not be furnished, and the reasons therefor, in the event a complaint is lodged alleging denial of the required assistance in an affected precinct.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj