

August 6, 1985

Mr. Eldon G. Moody
Chairperson, Dawson County
Democratic Party
P. O. Box 56
Lamesa, Texas 79331

Dear Mr. Moody:

This refers to the bilingual election procedures used by the Democratic Party of Dawson County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on June 7, 1985.

We have given careful consideration to the materials you have submitted, as well as to information and comments from other sources. Members of the local Hispanic community have advised us, and 1980 Census data have confirmed, that a significant proportion of the population of Dawson County communicate effectively only in the Spanish language and, thus, must rely on that language for information respecting elections. In addition, for a large number of those voters it is necessary that such information be given orally.

Our review of the materials you have provided, however, discloses that the Dawson County Democratic Party has made no provision for bilingual election materials or announcements beyond the ballot itself, and that the party failed to make bilingual assistance available at the polls at such times and sites as that assistance was necessary. Furthermore, it appears that the party has placed restrictions upon the voters' choice of persons who may assist them at the polls. For example, we have been advised that at recent elections only poll officials were allowed to enter the polling booth with voters requiring assistance, and you have advised that you personally acted to discourage a private citizen from assisting voters prior to the 1984 election.

In this connection, we call your attention to Section 208 of the Voting Rights Act which expressly provides that a voter who requires assistance in casting a ballot is entitled

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to receive such assistance from any person of the voter's choice, except for the voter's employer, union official or an agent of either. The right to assistance pertains to all phases of the election process, including the actual casting of the ballot. Absent significant evidence to the contrary, it would appear that limitations on this right to assistance may have had the effect in Dawson County of further restricting the already limited opportunities for Spanish-language voters to cast a free and effective ballot.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the bilingual election procedures of the Dawson County Democratic Party.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the bilingual election procedures of the Dawson County Democratic Party legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Dawson County Democratic Party plans to take with respect to this matter. If you have any questions, feel free to call Mr. John K. Tanner, Attorney/Reviewer (202-724-6718) in the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division