

March 12, 2008

**VIA FACSIMILE AND CERTIFIED MAIL**

Beaufort County Board of Commissioners  
121 W 3rd St.  
Washington, NC 27889

Re: Beaufort County English-Only Policies

Dear Board of Commissioners,

We write to you today representing a wide array of social justice and advocacy organizations in North Carolina and around the country that have come together to address concerns that we have regarding various resolutions recently passed by the Beaufort County Board of Commissioners. In particular, we have concerns about the following: (1) a resolution passed on February 4, 2008, to remove pre-recorded Spanish from phones at the Beaufort County Department of Health and other county phone lines; (2) a resolution passed on February 8, 2007, to remove all non-English signs from county property; and (3) another resolution passed on February 4, 2008, calling for the State to “refrain from printing any future voter registration forms in Spanish to avoid any appearance of impropriety; especially since English is the official language of our land, and that Spanish is just one of many languages of people who visit our nation, and most especially since there is no legal requirement that the North Carolina Board of Elections print any voter registration forms in any language other than English.”

We believe that these new measures may abridge the rights of individuals who are not proficient in English, including American citizens, and perpetuate false stereotypes of immigrants and non-English speakers. Not only are they ineffective in terms of public policy, these resolutions are contrary to the spirit of tolerance and diversity embodied in our Constitution. In addition, certain of the measures appear to be unconstitutional. Others may violate federal and state statutes. Accordingly, we respectfully request that you reconsider these measures.

**English-Only Resolutions Make for Bad Public Policy**

We have strong policy concerns about the effects of all three resolutions. First, research and experience show that such English-only proposals are unnecessary. The English language is not under attack in the United States; to the contrary, research shows that Hispanics are learning English at the same rate as immigrants in the past,<sup>1</sup> and most immigrants recognize that they need to learn English to thrive in this country. Second, resolutions such as these are ineffective at encouraging immigrants to learn English and fail to address the real problem: the lack of sufficient educational resources available for new residents to learn English quickly. Eliminating

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<sup>1</sup> Pew Hispanic Research Center, “English Usage Among Hispanics in the United States,” Nov 29, 2007 <http://pewhispanic.org/reports/report.php?ReportID=82>

foreign language telephone recordings, signs, and voter registration materials do nothing to promote English learning. In fact, such measures only serve to prevent non-English speakers from obtaining important information, and raise public health and safety concerns. The proposals also prevent many community members from effectively communicating with the government, as well as with businesses and organizations that benefit from consumerism and participation from all members of the communities in Beaufort County. The resolutions also unfairly penalize lawful, documented immigrants, tourists, and visitors who have newly arrived in the United States and have not yet perfected their English skills. Finally, English-only proposals send a discriminatory and exclusionary message that is fundamentally at odds with our Constitution's commitment to equality and tolerance.

#### Removal of Pre-Recorded Spanish on Health Department Phone Lines

Aside from the legal problems with this resolution under Title VI of the Civil Rights Act of 1964, of which the Board is already quite aware, it simply does not make sense from a policy perspective to remove Spanish from health department phone lines.<sup>2</sup> The Beaufort County Health Department should be commended for providing a Spanish-language option for its phone lines, because every Beaufort County community member should have access to health information when they need it. The mission of the Beaufort County Health Department is "to protect public health and enhance the quality of life by striving to improve the health and wellness of the community." Non-English speakers are a part of the Beaufort County community, and as a matter of public health policy, they should have access to the information that they need. Because the Beaufort County Health Department has an obligation not only to the sick, but also to the greater community to address public health issues and risks, it should not be forced to bear the brunt of local anti-immigrant sentiment.

#### No Non-English Signs on County Property

On February 8, 2007, the Board of Commissioners voted 6 to 1 to "remove all signs that are written in foreign language posted on Beaufort County property unless the signs are posted as part of a state or federal mandate." In the resolution, it is noted that Commissioner Richardson emphasized the "need to reverse the process of posting bi-lingual signs." Further, the resolution explains that Commissioner Richardson "noted that the North Carolina Sheriffs Association had passed a very strong resolution that we need to do something about illegal aliens in North Carolina." In an article about the passage of the resolution, Commissioner Richardson is quoted as stating, "I'm concerned about the drift toward the nation becoming bilingual . . . . We need to stop that." See "N. Carolina County Votes for English-Only Signs," *Deseret News*, Feb 17, 2007 (see attached newspaper article). According to the article, "Richardson said the policy prohibits signs or posters in any foreign language, but acknowledged that Spanish was a particular target."

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<sup>2</sup> We have recently learned of an attempt to evade the requirements of Title VI of the Civil Rights Act of 1964 by removing all pre-recorded messages from county departments, except for an after-hours English-only message. In addition to the fact that this new tactic may still violate Title VI, the clear intended effect of this new tactic is to deny both English and non-English speaking community members access to vital health information. This is bad public policy.

We have communicated with various Beaufort County citizens and community leaders who either (1) have posted signs on public bulletin boards in languages other than English, and then subsequently had those signs removed by the County; (2) desire to post non-English signs on public bulletin boards on County property; (3) desire to receive information contained in non-English signs on public bulletin boards on County property; and/or (4) have strong concerns that certain County signs warning children and other citizens of danger have been taken down in order to comply with the Policy.

In addition to the policy concerns we identified at the outset, we believe that the resolution is unconstitutional under the First Amendment to the United States Constitution, as the Policy constitutes an impermissible content-based regulation of speech in a designated public forum. *See e.g., Asian Am Bus Group v. City of Pomona*, 716 F. Supp. 1328, 1330 (C.D. Cal 1989). Further, the Policy interferes with non-English speaking individuals' right to receive vital information. *Yñiguez v. Arizonans for Official English*, 69 F.3d 920, 941 (9th Cir. 1995), *vacated as moot sub nom, Arizonans for Official English v. Arizona*, 520 U.S. 43 (1997); *Ruiz v. Hall*, 957 P.2d 984, 997 (Ariz 1998); *Va. State Bd of Pharmacy v. Va. Citizens Consumer Council*, 425 U.S. 748, 756 (1976). Additionally, the Policy also unconstitutionally regulates the speech of County employees or elected public officials who wish to post signs in languages other than English to communicate with constituents. *Yñiguez*, 69 F.3d at 941; *Ruiz*, 957 P.2d at 997. Finally, the Policy also violates the Fourteenth Amendment's Equal Protection guarantees, as it (1) facially discriminates against non-English speakers; (2) has a discriminatory impact on non-English speakers; and (3) has a discriminatory purpose. *City of Pomona* 716 F. Supp. at 1332.

#### Beaufort County to State: "No More Voter Registration Forms in Spanish!"

Finally, with regard to the Board's resolution, passed on February 4, 2008, in which it asked the State to stop printing voter registration forms in Spanish, this request is as ineffective as it is mean-spirited. Additionally, Beaufort County needs to ensure that it does not itself violate Section 2 of the Voting Rights Act, which prohibits any practices or procedures that result in unequal opportunity to participate in elections on the basis of race or membership in a language minority. Beaufort County runs the risk of violating Section 2 if it is engaging in a pattern of harassment, intimidation, and other practices that effectively give Spanish-speaking voters less opportunity to participate in the democratic process than non-Spanish-speaking voters.

Banning a bilingual voter registration form has extreme repercussions for eligible voters. There are many reasons why a U.S. citizen who is eligible to vote might not be familiar enough with English to complete a voter registration form. For example, the United States does not require English literacy as a condition for naturalization for people over 50 or for those who have been in the U.S. for more than 20 years. Therefore, there are many elderly immigrant citizens whose ability to read English is limited, and who could not exercise their right to vote without bilingual voter materials. Moreover, bilingual voter materials foster a better informed electorate by increasing the information available to people who lack English proficiency.

Indeed, voter protection for citizens who are also language minorities has been the law in this land for over forty years. *See Katzenbach v. Morgan*, 384 U.S. 641, 86 S.Ct. 1717, 16

L.Ed 2d 828 (1966) (recognizing the importance of non-discrimination against Puerto Rican speakers of Spanish, the U.S. Supreme Court rules that Section 4(e) of the Voting Rights Act “may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government – both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement”); *see also* 42 U.S.C. § 1973aa-1a (provision of Voting Rights Act providing bilingual election requirements).

### Conclusion

The United States government does not require English proficiency in order for persons to immigrate to or reside in the United States, and those who are still learning English should not be unfairly penalized through an effective denial of access to crucial information from government offices as well as private businesses. Measures like this are in no one’s best interests.

Respectfully,

American Civil Liberties Union Voting Rights Project  
American Civil Liberties Union of North Carolina Legal Foundation (ACLU-NCLF)  
Ar-Razzaq Islamic Center (Durham, NC)  
Association of Mexicans in North Carolina (AMEXCAN)  
El Pueblo, Inc.  
Latin American Coalition  
Muslim American Society  
North Carolina Campaign Against Racial Profiling (NC-CARP)  
North Carolina Coalition for Verified Voting  
North Carolina Council of Churches  
North Carolina Justice Center  
North Carolina Latino Coalition  
North Carolina Muslim Women for Humanitarian Rights  
Options to Domestic Violence & Sexual Assault, Inc.  
Pitt County Coalition Against Racism

cc: William P Mayo, Beaufort County Attorney (via Facsimile and Certified Mail)  
M. Terry Hodges, Compliance Attorney, NCDHHS Office of General Counsel  
Carlotta Dixon, MHS, Title VI-Civil Rights Coordinator, NC Division of Social Services