

ENGLISH IS CRUCIAL TO NATIONAL UNITY

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I. INTRODUCTION

English, our common language, has been the greatest unifier of the United States for more than 200 years. It is a symbol of being American, ranking equally with the American flag, the Pledge of Allegiance, and the "Star Spangled Banner."

Our nation's motto is *E Pluribus Unum*—out of many, one.¹ Immigrants of many nationalities built our nation, but

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the “melting pot” melded us into one people.² This long tradition of assimilation has always included the adoption of English as the common means of communication, or “the fire under the melting pot.”³ When discussing the issues of language, culture and what it means to be American in the 21st Century, it is easy to be distracted by the vocal minorities that have polarized the issues.

At one extreme, cultural nationalists argue for “overnight assimilation,” don’t seek to empower immigrants, and insist we speak “English only.”⁴ At the other extreme, left-wing multiculturalists argue that today’s immigrants should not be expected to assimilate into the culture, suggesting that newcomers would be better off retaining the identity of the country from which they came.⁵ U.S. English believes in the existence of a sensible middle ground.⁶ Like generations of immigrants before them, immigrants should be expected to learn English, which in no way should suggest a “giving up” of the native tongue.

Immigrants will be empowered by an increase in opportunities to learn English. Current government policy sends a mixed message by making it possible to file tax returns, vote, become a U.S. citizen, and receive a host of other services in a variety of languages.⁷ Instead of this “linguistic welfare,” government should encourage English

1. See *About, E Pluribus Unum*, U.S. DEPT OF THE TREASURY, <http://www.treasury.gov/about/budget-performance/strategic-plan/Pages/dlinks.aspx> (last updated Nov. 13, 2010).

2. See Philip Gleason, *The Melting Pot: Symbol of Fusion or Confusion?*, 16 AMERICAN QUARTERLY 20, 22 (1964).

3. See Ed Lyons, *Someone Has Turned Off the Fire Under the Melting Pot*, SIERRA STAR, Nov. 6, 2008, at A2.

4. See Juan F. Perea, *Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English*, 77 MINN. L. REV. 269, 278, 329 (1992).

5. See *Recent Legislation*, 116 HARV. L. REV. 2709, 2714 (2003).

6. *What is Official English?*, U.S. ENGLISH, <http://www.usenglish.org/view/9> (last visited Nov. 5, 2013).

7. *Fact Sheets: Cost of Multilingualism*, U.S. ENGLISH, <http://www.usenglish.org/view/301> (last visited Nov. 5, 2013). See, e.g., *El IRS en Español*, IRS, <http://www.irs.gov/Spanish> (last updated Sept. 4, 2013); Hope Yen, *Bilingual Voting Ballots Ordered in 25 States*, CNS NEWS, Oct. 12, 2011, available at <http://cnsnews.com/news/article/federal-govt-orders-25-states-provide-bilingual-voting-ballots>.

language learning, which will give immigrants the key to economic opportunity. Life without English proficiency in the United States is a life of low-skilled, low-paying jobs.⁸ Studies of Census data show that an immigrant's income can rise more than thirty percent as a result of learning English.⁹ Knowledge of English leads to the realization of the American dream of increased economic opportunity and the ability to become a more productive member of society—which benefits everyone.

Unfortunately, in recent years, a growing vocal minority asserts that English in government is somehow un-American.¹⁰ Self-appointed leaders of immigrant groups wrongly say that having a government run in English is “divisive,” “racist,” and “unwelcoming.”¹¹ These same people use scare tactics and claim that immigrants will lose their heritage and culture if federal and state governments officially operate in English.¹²

These opponents also make shrill accusations saying “Official English” would deter immigrants from migrating to the U.S. or to a particular state.¹³ In reality, immigration to the U.S. is at an all-time high.¹⁴ There are currently 31

8. *Why Is Official English Necessary?*, U.S. ENGLISH, <http://www.usenglish.org/view/10> (last visited Nov. 5, 2013); see also Jeremy Sanford, *English Language Proficiency and the Earnings of Mexican Immigrants*, ILLINOIS WESLEYAN UNIVERSITY HONORS PROJECTS 1-3 (2002).

9. ANDREW SUM ET. AL., A HUMAN CAPITAL CONCERN: THE LITERACY PROFICIENCY OF U.S. IMMIGRANTS 32 (2004).

10. See, e.g., *Latino, Asian Units Call English-Only Movement 'Un-American'*, UNITED PRESS INTERNATIONAL, Aug. 21, 1986, at http://articles.latimes.com/1986-08-21/news/mn-17608_1_english_language; see also *Why 'Official English' is Officially Un-American*, BEINGLATINO.US, <http://www.beinglatino.us/politics-2/why-official-english-is-officially-un-american/> (July 26, 2012).

11. See, e.g., Amy Smith, *The Racism of "English Only"*, SOCIALISTWORKER.ORG (May 19, 2011), <http://socialistworker.org/2011/08/19/racism-of-english-only-policies>.

12. See Lily Wong Fillmore, *Loss of Family Languages: Should Educators Be Concerned?*, 39 THEORY INTO PRACTICE 203, 207 (2000).

13. “Official English,” or having English as an official language, means that all official government business is to be conducted solely in English.

14. See Table 4. Region and Country or Area of Birth of the Foreign-Born Population, With Geographic Detail Shown in Decennial Census Publications of 1930 or Earlier: 1850 to 1930 and 1960 to 1990, U.S. CENSUS BUREAU, <http://www.census.gov/population/www/documentation/twps0029/tab04.html> (last visited Sept. 23, 2013).

states with Official English laws on the books,¹⁵ and the rates of immigration to them have not slowed. South Carolina, for example, enacted its Official English law in 1987,¹⁶ and has experienced a 337 percent growth of its immigrant population since 1990.¹⁷ Similarly, California,¹⁸ Florida,¹⁹ Illinois,²⁰ Massachusetts,²¹ Georgia,²² Virginia,²³ and Arizona²⁴ all have Official English laws and are all states that, according to the 2010 Census, house some of the largest immigrant populations nationwide.²⁵

Making English our official language is a win-win situation for everyone. It will encourage immigrants to learn our common language and put them on equal footing with native-born citizens. It will allow everyone—no matter their native tongue—to communicate with each other. It will also save the country millions of dollars that would otherwise be spent on unnecessary translation services. Official English is not about English-only, as some would claim. Rather, it is about English for everyone and policies that would encourage the learning of our common language, while simultaneously providing common sense exceptions in areas of public safety, health care, foreign language instruction, trade, tourism, and more.

Opponents of Official English do not paint the full picture regarding the ramifications of not knowing English. While these critics are quick to make false accusations, they fail to

15. See *U.S. States with Official English Laws*, U.S.ENGLISH.ORG, <http://www.usenglish.org/view/13> (last visited Sept. 23, 2013).

16. S.C. CODE ANN. § 1-1-696 (1987).

17. See ELIZABETH M. GRIECO ET AL., U.S. CENSUS BUREAU, POPULATION DIVISION WORKING PAPER NO. 96, THE SIZE, PLACE OF BIRTH, AND GEOGRAPHIC DISTRIBUTION OF THE FOREIGN-BORN POPULATION IN THE UNITED STATES: 1960 TO 2010, 38 (2012), available at <http://www.census.gov/population/foreign/files/WorkingPaper96.pdf>.

18. CAL. CONST. art. III, § 6, cl. b.

19. FLA. CONST. art. II, § 9, cl. a.

20. 5 ILL. COMP. STAT. ANN. 460/20 (LexisNexis 2013).

21. See *Massachusetts v. Olivo*, 337 N.E.2d 904, 911 (Mass. 1975).

22. GA. CODE ANN. § 50-3-100 (2013).

23. VA. CODE ANN. § 1-511 (2013).

24. ARIZ. CONST. art. XXVIII, § 2.

25. GRIECO ET AL., *supra* note 17, at 35, 38.

point out that millions of new immigrants who have come to the United States for a new and better life are becoming the unwitting victims of a rapidly growing preventable tragedy: a linguistic welfare system.²⁶ In a country where more than ninety-three percent of the people speak English,²⁷ many immigrants are stranded in an endless string of menial jobs due to their lack of English language proficiency.²⁸ Their employment prospects remain limited in a flush economy, and they are the hardest hit in times of economic downturn.²⁹

While the process of educating our vast and diverse population and bestowing upon it a sense of equal footing for success is not easy, it is essential. In this age of diversity, we need a cultural glue to cement our unity as citizens and residents of the same land. We otherwise risk becoming many nations within a nation. U.S. English believes that governmental multilingualism is a “wolf in sheep’s clothing”—erecting walls between “those who speak English and those who do not.”³⁰ It does immigrants no favors. Our

26. *Gather Talking Points on Official English*, U.S. ENGLISH, <http://www.usenglish.org/view/40> (last visited Nov. 5, 2013). See generally GRIECO ET AL., U.S. CENSUS BUREAU, AMERICAN COMMUNITY SURVEY REPORTS ACS-19, THE FOREIGN-BORN POPULATION IN THE UNITED STATES: 2010, 19–21 (2012) (explaining census data that shows foreign-born households have a lesser income than native-born households, that foreign-born individuals were less likely than native-born persons to have health insurance, and that the poverty rate is higher for the foreign-born than the native-born); STEVEN A. CAMAROTA, CENTER FOR IMMIGRATION STUDIES, IMMIGRANTS IN THE UNITED STATES: A PROFILE OF AMERICA’S FOREIGN-BORN POPULATION, 21, 22, 25, 26, 29–31, 34 (2012) (explaining data that compares the income, place of work, poverty rates, welfare use, and health insurance trends native-born persons to immigrants in the United States).

27. CAMILLE RYAN, U.S. CENSUS BUREAU, AMERICAN COMMUNITY SERVICE REPORTS ACS-22, LANGUAGE USE IN THE UNITED STATES: 2011, 3 (2013).

28. *Obama Tells Audience*, U.S. ENGLISH (July 9, 2008), <http://www.usenglish.org/view/479>. See generally GRIECO ET AL., *supra* note 26, at 18 (explaining census data that shows the foreign born were more likely than the native-born to work in service, construction, and production jobs).

29. See CAMAROTA, *supra* note 26, at 25. See generally PIA M. ORRENIUS & MADELINE ZAVODNY, TIED TO THE BUSINESS CYCLE: HOW IMMIGRANTS FARE IN GOOD AND BAD ECONOMIC TIMES, 6–9, 11 (2009).

30. Mauro E. Mujica, *The Iowa English Language Reaffirmation Act is a Victory for All Hawkeyes*, U.S. ENGLISH (Mar. 2, 2002), <http://www.usenglish.org/view/57>.

language has the power to divide or unite us. The road to success in the United States begins by learning English.

This briefing will examine, in detail, the various language issues facing the United States. From the history of U.S. English to a detailed analysis of legislation to make English the official language of the United States; from the Supreme Court rulings on English to claims that German was nearly the official language of the United States; from the detrimental effects of multilingual ballots to the consideration of adding a Spanish-speaking 51st state, this briefing will give a clear picture of why it is crucial that the United States government recognize English as the common, unifying language of the nation.

II. ABOUT U.S. ENGLISH

The mission of U.S. English, Inc. is to preserve a common language among the diverse people of the United States, to ensure effective communication, equality of opportunity, national stability and unity.³¹ We work to promote a comprehensive national language policy with the English language at its core as our common, shared language.³² We also advocate for opportunities for all people of the United States to learn English.³³

Now known as “the nation’s oldest and largest nonpartisan citizens’ action group dedicated to preserving the unifying role of the English language in the United States,”³⁴ U.S. English got its start from the forward thinking vision of one man. Samuel Ichiye Hayakawa was born in Vancouver, Canada on July 18, 1906 to Japanese

31. Mauro E. Mujica, *In Case You Missed It: Official English Movement is Not Racist*, U.S. ENGLISH (Mar. 16, 2012), <http://www.usenglish.org/view/892>.

32. *Id.*

33. Mauro E. Mujica, *Government Should Encourage English Learning, Not Limit It*, THE HILL’S CONGRESS BLOG (June 6, 2013, 9:00 AM), <http://thehill.com/blogs/congress-blog/economy-a-budget/302839-government-should-encourage-english-learning-not-limit-it>.

34. *U.S. English History*, U.S. ENGLISH, <http://www.usenglish.org/view/3> (last visited Nov. 5, 2013).

immigrant parents, Ichiro and Toro Hayakawa.³⁵ After completing high school in Winnipeg, he received his B.A. in English from the University of Manitoba in 1927³⁶ and his M.A. in English from McGill University in Montreal in 1928.³⁷ In 1930, he became a graduate assistant at the University of Wisconsin, where he received his Ph.D. in English and American Literature in 1935.³⁸ The mid-point of the 1950s was a watershed year for Dr. Hayakawa, as he was naturalized as a citizen of the United States.³⁹ It was also in 1955 that he became a professor of English at San Francisco State College⁴⁰, where he would rise to the rank of president of the college in 1968.⁴¹ During his tenure, he was revered for his dedication to academics and maintaining business as usual during tumultuous times.⁴² In 1973, Hayakawa was given the title President Emeritus of the then renamed San Francisco State University.⁴³

In 1976, Dr. Hayakawa was elected to the U.S. Senate, representing the State of California.⁴⁴ He was the first to introduce an English language amendment, starting what is today known as the Official English movement.⁴⁵ Concerned about the growing problems caused by the language barrier, Hayakawa founded U.S. English upon leaving the Senate in 1983.⁴⁶ In support of a unifying official language, Hayakawa said, "Bilingualism for the individual is fine, but not for a

35. GERALD W. HASLAM WITH JANICE E. HASLAM, IN THOUGHT AND ACTION: THE ENIGMATIC LIFE OF S.I. HAYAKAWA 5 (2011).

36. *Id.* at 18, 22, 30.

37. *Id.* at 31, 35.

38. *Id.* at 38, 66.

39. *Id.* at 235.

40. *Id.* at 240.

41. *See id.* at 277, 282.

42. *See id.* at 289, 292.

43. *Biography of Senator S.I. Hayakawa*, U.S. ENGLISH, <http://www.usenglish.org/view/6> (last visited Nov. 5, 2013).

44. HASLAM, *supra* note 35, at 322.

45. *Id.* at 348.

46. *See id.* at 350, 359.

country.”⁴⁷ Dr. Hayakawa went on to serve as the Chairman of U.S. English until his death in 1992.⁴⁸

Through the years, U.S. English has continued to expand its reach, now representing more than 1.8 million members.⁴⁹ I have personally served as Chairman of the Board and CEO of U.S. English since January of 1993.⁵⁰ I immigrated to the United States from my native Chile, and I have a firsthand understanding of the obstacles facing non-English speakers upon their arrival in this country. Since my election as Chairman of U.S. English, I have overseen a renewed drive to pass Official English legislation at the local, state, and federal levels.

I have also enforced an important truth about the mission of U.S. English: the language policies of the organization are not meant to infringe upon private businesses, which continue to be free to use any language they choose. It is also important to understand that none of the policies of U.S. English run counter to the Constitutional right to speak any language desired or to learn additional languages. As a matter of fact, we recognize the benefit of learning additional languages—doing so allows our nation of immigrants to continue to share ideas, inventions and cultural traditions.

Declaring English the official language of the United States government means that official government business at all levels will be conducted in English. This includes all public documents, records, legislation, and regulations, as well as official ceremonies and public hearings. Common sense exceptions are included in areas of international trade, tourism, cultural celebrations, and emergency situations.

More than one study demonstrates that people who learn English as their second language are motivated by an

47. *Biography of Senator S.I. Hayakawa*, *supra* note 43.

48. *Id.*

49. *U.S. English History*, *supra* note 34.

50. *Biography of Chairman of the Board/CEO Mauro E. Mujica*, U.S. ENGLISH, <http://www.usenglish.org/view/4> (last visited Nov. 5, 2013).

environment that encourages them to assimilate.⁵¹ For example, the United States Department of Labor found that immigrants learn English more quickly when they have less native language support.⁵² A 2013 Purdue University study similarly found that when immigrants are surrounded by English speakers, they are more likely to become proficient; while those who are surrounded by speakers of their native language are less likely to learn English.⁵³ Passage of English as the official language of the United States will help expand opportunities for immigrants to learn and speak English, the single greatest empowering tool that immigrants must have to succeed.

III. LEGISLATIVE HISTORY

In April of 1981, U.S. English Founder Senator S.I. Hayakawa introduced an Official English Constitutional Amendment.⁵⁴ This amendment aimed to establish English as the official language of local, state, and federal government business and would abolish requirements for bilingual election materials.⁵⁵ In August of 1982, Senator Hayakawa yet again tried for passage of Official English, introducing an amendment to immigration legislation (S. 2222) in support of English as the official language of the United States.⁵⁶

Since then, there have been more than 50 bills introduced which have supported English as the official language of the United States.⁵⁷ These bills boast more than 2,000

51. See, e.g., Joseph R. Meisenheimer II, *How Do Immigrants Fare in the U.S. Labor Market?*, U.S. BUREAU OF LABOR STATISTICS, MONTHLY LAB. REV., Dec. 1992, at 3, 8–11; see Steve Leer, *Study: Immigrants Who Live, Work Together Less Apt to Learn English*, PURDUE UNIVERSITY AGRICULTURAL NEWS, <http://www.purdue.edu/newsroom/releases/2013/Q2/study-immigrants-who-live,-work-together-less-apt-to-learn-english.html> (last visited Sept. 17, 2013).

52. Meisenheimer, *supra* note 51.

53. Leer, *supra* note 51.

54. 127 CONG. REC. 7444 (1981).

55. *Id.*

56. 128 CONG. REC. 21070–71 (1982).

57. *Legislative History*, U.S. ENGLISH, <http://www.usenglish.org/view/27> (last visited Nov. 5, 2013).

cosponsors in total—16 bills gathered more than 50 cosponsors, and nine have exceeded 100 cosponsors, including H.R. 997 in the 112th Congress.⁵⁸ Five of the measures have passed one chamber of the U.S. Congress, by margins of 78 – 21 (as an amendment in S. 2222, an immigration bill in the 97th Congress);⁵⁹ 76 – 18 (as an amendment in S. 529 in the 98th Congress);⁶⁰ 259 – 169 (H.R. 123 in the 104th Congress)⁶¹, by unanimous voice vote (as an amendment to S. 1200 in the 99th Congress);⁶² and most recently, 63 – 34 (as an amendment in S. 2611 in the 109th Congress).⁶³ In the 113th Congress, the English Language Unity Act has once again been introduced in the House of Representatives as well as the Senate.⁶⁴

In addition to this federal legislation, thirty-one states have some form of Official English law.⁶⁵ In 1811, Louisiana became the first to recognize the unifying role of English, with the passage of the Louisiana Enabling Act.⁶⁶ It reads,

And be it further enacted . . . that after the admission of the said territory of Orleans as a state into the Union, the laws which such state may pass shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and the judicial and legislative written proceedings of the United States are now published and conducted⁶⁷

Since then, other states have followed by amending state constitutions, enacting statutes and passing ballot

58. See H.R. 997 - *English Language Unity Act of 2011: Cosponsors*, CONGRESS.GOV, <http://beta.congress.gov/bill/112th-congress/house-bill/997/cosponsors> (last visited Sept. 22, 2013); *Legislative History*, *supra* note 57.

59. 128 CONG. REC. 21661–62 (1982).

60. See 129 CONG. REC. 12875 (1983).

61. See 142 CONG. REC. 21158, 21206–07 (1996).

62. See 131 CONG. REC. 23614 (1985).

63. 152 CONG. REC. 8553, 8597 (2006).

64. See 159 CONG. REC. H985, H1317–18 (daily ed. Mar. 6, 2013); 159 CONG. REC. S1095, S1126–27 (daily ed. Mar. 5, 2013).

65. *What is Official English?*, *supra* note 6.

66. *Research and Statistics*, U.S. ENGLISH, <http://www.usenglish.org/view/24> (last visited Nov. 5, 2013).

67. Louisiana Enabling Act, ch. 21, §3, 2 Stat. 641, 642 (1811).

initiatives recognizing English as the official language.⁶⁸ Most recently, Oklahoma passed Official English legislation in 2010.⁶⁹ U.S. English is currently working in several states to pass measures that will enact new Official English bills or strengthen existing legislation.⁷⁰

U.S. English is also working to uphold and enforce Official English laws in Arizona,⁷¹ Idaho,⁷² Kansas,⁷³ New Hampshire,⁷⁴ South Dakota,⁷⁵ and Utah⁷⁶—to ensure state officials are not breaking the law by offering their services in multiple foreign languages.

One common misconception that we hear from state lawmakers is that passage or enactment of Official English legislation will deter new immigrants from residing in the state, therefore negatively impacting a state's economy. In 2002, the academic Journal *Applied Economics* published a study which found that immigrants in Official English states actually make more of an effort to learn English than those without English as the official language.⁷⁷ These laws are effective because making English the official language puts every government agency on notice that their posture toward immigrants is one of promoting assimilation. And it puts immigrants on notice that learning English is a civic obligation to their new country.

68. See *State Official English Language Law Citations*, U.S. ENGLISH, <http://www.usenglish.org/userdata/file/StateOECodes.pdf> (last visited Nov. 5, 2013).

69. *What is Official English?*, *supra* note 6.

70. *Id.*

71. See *State Legislation - Arizona*, U.S. ENGLISH, <http://www.usenglish.org/view/364?state=AZ> (last visited Nov. 5, 2013).

72. See *State Legislation - Idaho*, U.S. ENGLISH, <http://www.usenglish.org/view/364?state=ID> (last visited Nov. 5, 2013).

73. See *State Legislation - Kansas*, U.S. ENGLISH, <http://www.usenglish.org/view/364?state=KS> (last visited Nov. 5, 2013).

74. See *State Legislation - New Hampshire*, U.S. ENGLISH, <http://www.usenglish.org/view/364?state=NH> (last visited Nov. 5, 2013).

75. See *State Legislation - South Dakota*, U.S. ENGLISH, <http://www.usenglish.org/view/364?state=SD> (last visited Nov. 5, 2013).

76. See *State Legislation - Utah*, U.S. ENGLISH, <http://www.usenglish.org/view/364?state=UT> (last visited Nov. 5, 2013).

77. Marie T. Mora & Alberto Davila, *State English-Only Policies & English-Language Investments*, 34 APPLIED ECON. 905, 911 (2002).

IV. THE U.S. SUPREME COURT AND OFFICIAL ENGLISH

As attacks on Official English reach startling levels, U.S. English and the U.S. English Foundation Legal Defense team have steadfastly defended Official English and its critical role in creating a more cohesive society.⁷⁸ Anyone who analyzes Official English legislation from a legal point of view will encounter claims that the laws are “unconstitutional” as a violation of the First Amendment free speech guarantees.⁷⁹ These analysts typically contend that the laws go too far by requiring all official State business to be conducted in English.⁸⁰

This analysis is just plain wrong. For example, this “analysis” almost always takes its constitutional direction from a 1998 Arizona state case which said that a government worker had a First Amendment right to do her job in a language her supervisor could not understand.⁸¹ Yet these analysts typically do not mention the fact that the U.S. Court of Appeals for the Tenth Circuit upheld a city Official English policy in 2006.⁸² Those who claim that Official English laws are unconstitutional do not want you to know that the U.S. Court of Appeals has considered these arguments, taking into account the Supreme Court’s most recent First Amendment jurisprudence, and rejected them totally and completely.⁸³

The Tenth Circuit summed up its finding that the city and its officials were immune from suit over its Official English declaration:

78. See *U.S. English History*, *supra* note 34; *State Court Cases*, U.S. ENGLISH FOUNDATION, INC., <http://usefoundation.org/view/60> (last visited Nov. 5, 2013).

79. Audrey Daly, *How to Speak American: In Search of the Real Meaning of “Meaningful Access” to Government Services for Language Minorities*, 110 PENN. ST. L. REV. 1004, 1015 n.75 (2006).

80. See Aileen M. Ugalde, “No Se Habla Español”: English-Only Rules in the Workplace, 44 U. MIAMI L. REV. 1209, 1239–41 (1990).

81. *Yniguez v. Mofford*, 730 F. Supp. 309, 310 (D. Ariz. 1990); *Ruiz v. Hull*, 957 P.2d 984, 987, 1000 (Ariz. 1998); *English Language Political Action Committee, Court Strikes Down Arizona Official English Law*, 5 SOC. CONT. 147, 147 (1995).

82. *Maldonado v. City of Altus*, 433 F.3d 1294, 1313 (10th Cir. 2006).

83. *Id.* at 1309–14.

Plaintiffs have not called to our attention, nor have we found, any cases from either the Supreme Court or this circuit establishing the right to speak a foreign language in the workplace. Further, published authority from other circuit courts suggests that English-only rules as applied to bilingual speakers are generally not discriminatory.⁸⁴

Modern Official English statutes are constitutional, and contain express protections for free speech. These laws are carefully drafted to incorporate all constitutional protections, including rights of those who speak English.⁸⁵ It's a balance of rights against increasing demands for government services in languages other than English. Thirty-one states and numerous local governments have declared English their official languages.⁸⁶ The most recent of these, passed in 2010, have not been legally challenged in state or federal court. To understand why Official English is constitutional, we must look briefly at the history of judicial responses to Official English laws.

Maria-Kelly Yniguez, who brought the original Arizona challenge, was a state employee.⁸⁷ She sued to claim a constitutional right to do her work in Spanish, even though her supervisors couldn't understand Spanish.⁸⁸ The U.S. Supreme Court threw out her case.⁸⁹ After the lawsuit was re-filed in Arizona state court, the Arizona Supreme Court later ruled against the state's Official English law, saying that the Amendment unconstitutionally inhibits "the free discussion of governmental affairs."⁹⁰

To understand why this early setback for Official English is not legally worrisome, it is important to distinguish modern laws from the old Arizona law which was struck down by state and federal courts. More recent laws, of the

84. *Id.* at 1316.

85. *E.g.*, ARIZ. CONST. art. XXVIII, § 1(3)(b).

86. *U.S. English Applauds Passage of Carroll County English Language Bill*, U.S. ENGLISH (JAN. 24, 2013), <http://www.usenglish.org/view/929>.

87. *Yniguez v. Mofford*, 730 F. Supp. 309, 310 (D. Ariz. 1990).

88. English Language Political Action Committee, *supra* note 81.

89. *Arizonians for Official English v. Arizona*, 520 U.S. 43, 80 (1997).

90. *Ruiz v. Hull*, 957 P.2d 984, 997 (Ariz. 1998).

type passed in Arizona in 2006,⁹¹ contain an express protection for the rights of individuals, including government officials and employees, to use any language they wish in private conversations. They can even provide unofficial translations or explanations in languages other than English (at no cost to the taxpayers).⁹² It is only when they are speaking on behalf of the government that employs them that they must use English.⁹³

Even then, these statutes contain numerous exceptions when the State chooses to use languages other than English, including to protect the public health and safety,⁹⁴ to teach languages other than English,⁹⁵ to comply with federal law⁹⁶ (which includes all constitutional guarantees), to respect and encourage the use of Native American languages,⁹⁷ and so on. The Arizona law did not have those protections for private speech, and that is the principal reason the Arizona Supreme Court rejected it. Modern laws contain those protections and do not violate free speech guarantees, even of government workers.

The constitutional principle behind Official English laws is simple: "When the government disburses public funds to private entities to convey a governmental message, it may take legitimate and appropriate steps to ensure that its message is neither garbled nor distorted."⁹⁸ A government may take a position, for example, against drug use or discrimination, or in favor of family-friendly policies. A government may require its employees to explain the government's position. "When the government appropriates public funds to promote a particular policy of its own, it is entitled to say what it wishes."⁹⁹ What they say on their own time as private citizens is different, but when they speak for

91. ARIZ. CONST. art. XXVIII, § 1(2)(i).

92. *Id.*

93. ARIZ. CONST. art. XXVIII, § 1(2).

94. ARIZ. CONST. art. XXVIII, § 1(2)(d).

95. ARIZ. CONST. art. XXVIII, § 1(2)(a).

96. ARIZ. CONST. art. XXVIII, § 1(2)(b).

97. ARIZ. CONST. art. XXVIII, § 1(2)(g).

98. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 833 (1995).

99. *Id.*

the government, the State can tell them what to say. Otherwise people would be confused and policy would be undercut. What if a prosecutor, for example, announced during a drug dealer's trial that he personally was for legalizing heroin use?

The most glaring error in anti-Official English legal analysis is that it confuses individuals' speech with official speech by the government. That is why Official English is constitutional: it is carefully written to deal only with "government speech," not private speech. These measures balance rights in a variety of situations, but say that most of the time, official actions must be taken in English. That is a choice, and it is constitutional.

Anti-Official English legal "analysis" nearly always contends that no similar laws have been found to be constitutional. This statement is technically true, in that all Official English statutes have slight differences. But as a legal matter, this claim is dead wrong. The Tenth Circuit Court of Appeals found the exact opposite in 2006.¹⁰⁰ That is the leading persuasive legal authority on the issue.

In *Maldonado v. City of Altus*, the U.S. Court of Appeals for the Tenth Circuit considered the very same arguments made by Official English legal opponents.¹⁰¹ "Plaintiffs devote the final four pages of their opening brief to a claim that the City's English-only policy violates their First Amendment rights."¹⁰² The Tenth Circuit rejected the claim, in a long and specific discussion of each of the typical objections to Official English provisions.¹⁰³

It wasn't a close call. The Tenth Circuit noted, for example, that

[t]he First Amendment is not violated when a public employer disciplines an employee for speaking Spanish at work if the employer had no motive to quash expression on a matter of public concern Indeed, given that Plaintiffs' most vigorous argument is that speaking

100. 433 F.3d 1294, 1313 (10th Cir. 2006).

101. *Id.* at 1309–14.

102. *Id.* at 1309.

103. *Id.* at 1309–14.

Spanish is the equivalent of wearing a 'Proud to Be Hispanic' tee shirt, it is ironic that the challenged work rule would not prohibit wearing such a shirt.¹⁰⁴

As a further example: Oklahoma's recent constitutional amendment, passed in 2010,¹⁰⁵ was drawn from the most modern Official English statutes, including those which have already been upheld by the courts. The language in that amendment was drawn from one recently challenged in Hazleton, Pennsylvania (although that court challenge was widely publicized for striking down provisions dealing with employing illegal immigrant workers, most stories did not reveal that an Official English law was originally challenged at the same time).¹⁰⁶ Once the plaintiffs in *Lozano* saw the arguments in favor of the Official English law, they withdrew their challenge.

Finally, it is worth noting the more than thirty years of unbroken federal cases upholding government limitations of its operations to English.¹⁰⁷ And there are a lot more cases

104. *Id.* at 1313.

105. OK. CONST. art. XXX, § 1.

106. *Lozano v. City of Hazleton*, 496 F. Supp. 2d 477, 484 (M.D. Pa. 2007).

107. *See, e.g.*, *U.S. v. Ortiz*, 422 U.S. 891, 897 (1975) (law enforcement officials may use occupants' inability to speak English as indicator of illegal status sufficient to authorize search of vehicle); *Nazarova v. INS*, 171 F.3d 478 (7th Cir. 1999) (rejecting request for multilingual deportation notices); *Toure v. United States*, 24 F.3d 444, 446 (2nd Cir. 1994) (rejecting request for multilingual forfeiture notices); *Garcia v. Spun-Steak*, 998 F.2d 1480, 1489-90 (9th Cir. 1993), *cert. denied*, 512 U.S. 1228 (1994) (EEOC Guidelines equating language and national origin were ultra vires); *Jurado v. Eleven-Fifty Corp.*, 813 F.2d 1406 (9th Cir. 1987) (permitting radio station to choose language an announcer would use); *Vasquez v. McAllen Bag & Supply Co.*, 660 F.2d 686 (5th Cir. 1981) (upholding English-on-the-job rule for non-English-speaking truck drivers); *Garcia v. Rush-Presbyterian St. Luke's Medical Center*, 660 F.2d 1217, 1222 (7th Cir. 1981) (upholding hiring practices requiring English proficiency); *Rubio ex rel. Z.R. v. Turner Unified School District No. 202*, 453 F.Supp.2d 1295, 1305 (D. Kan., 2006) (holding no case establishes the right to speak foreign language at a public school and many cases hold that "English-only" rules in the workplace are non-discriminatory); *Tran v. Standard Motor Products, Inc.*, 10 F.Supp.2d 1199, 1210 (D. Kansas, 1998) ("the purported English-only policy does not constitute a hostile work environment"); *Kania v. Archdiocese of Philadelphia*, 14 F.Supp. 2d 730, 733 (E.D. Penn. 1998) ("All of these courts have agreed that—particularly as applied to multi-lingual employees—an English-only rule does not have a disparate impact on the basis of national origin, and does not violate Title VII."); *Zappa v. Cruz*, 30 F.Supp.2d 123, 127 (D.P.R., 1998) (rejecting a claim that Equal Protection forbade the declaration of English as one of Puerto Rico's official languages); *Magana v. Tarrant/Dallas Printing, Inc.*, 1998 WL 548686, *5 (N.D. Texas, 1998) ("English-

as well, all upholding Official English rules. Almost no federal cases strike down Official English rules.

In a perfect world, there would be no need for legal protection for English. People would respect each other and try to get along. Unfortunately, over the last few decades a new kind of “right” has been declared: the right to force the government to communicate in many languages.

The federal government, for example, now requires all state and local governments who receive federal funds to provide interpreters in many languages on demand.¹⁰⁸ Executive Order 13166 (2000) declared that, “It is important to ensure that written materials routinely provided in English also are provided in regularly encountered languages other than English.”¹⁰⁹ This federal Executive Order has never been upheld in court. It is based on an interpretation of federal anti-discrimination law that has been repeatedly and uniformly rejected by federal courts for over thirty years. Nevertheless, this Executive Order remains in effect today, and state and local governments have to deal with it.

This “language rights” mentality has led to all sorts of federal requirements, pages on pages of densely-packed

only policies are not of themselves indicative of national origin discrimination in violation of Title VII.”); *Prado v. L. Luria & Son, Inc.*, 975 F.Supp. 1349 (S.D. Fla. 1997) (rejecting challenge to English workplace policy); *Long v. First Union Corp.*, 894 F.Supp. 933, 941 (E.D. Virginia, 1995) (“There is nothing in Title VII which protects or provides that an employee has a right to speak his or her native tongue while on the job.”), *aff’d*, 86 F.3d 1151 (4th Cir. 1996); *Smothers v. Benitez*, 806 F.Supp. 299, 304–09 (D.P.R. 1992) (analyzing the issue and surveying cases involving official English laws); *Vialez v. New York City Housing Authority*, 783 F.Supp. 109, 119–25 (S.D.N.Y. 1991) (sending housing termination notices only in English doesn’t violate Due Process, Fair Housing Act or Equal Protection); *Pabon v. McIntosh*, 546 F.Supp. 1328, 1340–41 (E.D.Pa. 1982) (giving prisoners educational classes only in English did not violate Equal Protection, where officials showed that cost precluded classes in multiple languages); *Mejia v. New York Sheraton Hotel*, 459 F.Supp. 375, 377 (S.D.N.Y. 1978) (holding chambermaid properly denied a promotion because of her “inability to articulate clearly or coherently and to make herself adequately understood in . . . English.”).

108. Exec. Order No. 13166, 3 C.F.R. 290 (2001).

109. *Limited English Proficiency*, U.S. CUSTOMS AND BORDER PROTECTION, http://www.cbp.gov/linkhandler/cgov/admin/fl/eec/funded_programs/proficiency.ctt/proficiency.pdf (last visited Oct. 7, 2013).

federal unfunded mandates.¹¹⁰ But the Supreme Court has long held that certain aspects of a state's government are sovereign, and not subject to federal whim. Throughout American history, the Supreme Court has permitted States to use English.¹¹¹

Like the choice of location of its own State Capitol, a State's choice to use English in conducting its affairs is a "function essential to [the State's] separate and independent existence."¹¹² Choice of the English language for internal State operations is thus an "original power," making it a core State function over which federal abrogation power is limited. Any federal abrogation, therefore, must be explicit and remedial.¹¹³

That is what Official English statutes are all about: protecting state sovereignty against increasing demands. These laws must yield to explicit federal legal demands, but not general demands from individuals for language rights.

Dealing with demands for multi-lingual government services is part of governing. Providing services in languages other than English is not necessarily a bad thing. Sometimes it is a very good thing. But those decisions are choices, which should be made by reasoned debate, not forced by unending demands by those who do not have to balance public needs and priorities.

Official English is a reasonable choice. It says that English will be used in most circumstances. It says that English need not be used in other circumstances. It clarifies the law and protects government officials against demands and lawsuits. It protects taxpayers against increasing

110. See, e.g., Mike Coffman, *Unfunded Federal Mandate Is Too Costly*, THE NEWS-PRESS, Aug. 20, 2011, http://coffman.house.gov/index.php?option=com_content&task=view&id=497&Itemid=11.

111. See *Meyer v. Nebraska*, 262 U.S. 390, 402 (1923) ("The power of the State to . . . make reasonable regulations for all schools, including a requirement that they shall give instructions in English, is not questioned."); *Patterson v. De La Ronde*, 75 U.S. (7 Wall.) 292, 299-300 (1868) (reconciling French and English versions of Louisiana mortgage law).

112. *Coyle v. Smith*, 221 U.S. 559, 580 (1911) (citing *Lane County v. Oregon*, 74 U.S. (7 Wall.) 71, 76 (1869)).

113. *Fla. Prepaid Postsecondary Educ. Expense Bd. v. Coll. Sav. Bank*, 527 U.S. 627, 638-39 (1999).

demands for services without end. It balances rights with other important rights.

Official English is needed. It is reasonable. It was well-thought-out and carefully crafted. It is constitutional. It brings a state or local government into line with thirty-one other states and dozens of local governments.¹¹⁴ It should be adopted.

V. THE FOUNDING FATHERS AND LANGUAGE

One myth occasionally cited by opponents of Official English is that German missed becoming the official language of the United States by only one vote.¹¹⁵ In 1847, historian Franz Loher alleged:

In the State Assembly, not long after the conclusion of peace, a motion was made to establish the German language as the official and legal language of Pennsylvania When the vote was taken on this question—whether the prevailing language in the Assembly, in the courts, and in the official records of Pennsylvania should be in German—there was a tie. Half voted for the introduction of the German language Thereupon the Speaker of the Assembly, a certain Muhlenberg, cast the deciding vote in favor of the English language.¹¹⁶

On January 9, 1794, a petition from Germans in Virginia requested that Congress provide for the publication of German translations of some of its laws.¹¹⁷ It was reported favorably out of committee on December 23.¹¹⁸ It was

114. *Full Texts of State Official English Laws*, U.S. ENGLISH, <http://www.usenglish.org/userdata/file/TextofStateOELaws.pdf> (last visited Nov. 5, 2013); see, e.g., Christian Alexandersen, *English Designated as Official Language of Carroll County Government*, CARROLL COUNTY TIMES, Jan 25, 2013, http://www.carrollcountytimes.com/news/local/english-designated-as-official-language-of-carroll-county-government/article_eddb6b1f-4ce3-5a33-be71-b2395edc0a05.html.

115. See generally Dennis Baron, *The Legendary English-Only Vote of 1795*, <http://www.english.illinois.edu/-people/-faculty/debaron/essays/legend.htm> (last visited Oct. 7, 2013).

116. H. L. MENCKEN, *THE AMERICAN LANGUAGE: SUPPLEMENT ONE* 138–39 (12th prtg. 1977).

117. *Id.* at 139.

118. *Id.*

rejected by the House committee of the whole on January 13, 1795, by a vote of 42 to 41 (no roll-call was taken).¹¹⁹ Frederick Muhlenberg was the Speaker of the House at the time (1789-91 and 1793-95); his brother John was on the committee that had reported out the petition.¹²⁰ Frederick had previously been Speaker of the Pennsylvania House twice, which may explain the transference of the rumor to Pennsylvania.¹²¹

In reality, there was no vote on German becoming the official language of the United States. The Library of Congress has investigated and dismissed this story, as has Professor Henry A. Pochmann in *German Culture in America, 1600-1900* (Madison, University of Wisconsin Press, 1957). Furthermore, even in Pennsylvania (where Germans made up 33.3 percent of the population in 1790), no such similar vote occurred, despite persistent rumors otherwise.¹²²

In fact, it seems that the Founding Fathers took for granted that English was the language of this country. John Jay, in *The Federalist* No. 2, wrote, "With equal pleasure I have as often taken notice, that Providence has been pleased to give this one connected country, to one united people; a people descended from the same ancestors, speaking the same language"¹²³

VI. TREATY OF GUADALUPE HIDALGO

The Treaty of Guadalupe Hidalgo ended the Mexican-American War of 1846–1848.¹²⁴ It was signed by the United States and Mexico and took effect on May 30, 1848.¹²⁵ The

119. *Id.*

120. *Id.*

121. *Id.*

122. 2 ALBERT BERNHARDT FAUST, *THE GERMAN ELEMENT IN THE UNITED STATES* 14 (1909).

123. *THE FEDERALIST* NO. 2, at 6 (John Jay) (George W. Carey & James McClellan eds., 2001).

124. Treaty of Peace, Friendship, Limits and Settlement, U.S.-Mex., pmbl., February 2, 1848, 9 Stat. 922.

125. *Id.*

treaty ceded certain territories to the United States and enumerated the following rights for Mexican nationals then living in those territories: within one year of the Treaty, they could elect to remain Mexican citizens or become U.S. citizens, they would retain property rights even if they elected not to become U.S. citizens, those electing to become U.S. citizens would receive all the rights of citizens of the United States, and Catholics would have unrestricted access to their ecclesiastical leaders in Mexico until such time as the Catholic Church changed its district boundaries.¹²⁶

Opponents of Official English often cite the Treaty of Guadalupe Hidalgo, claiming that the Treaty grants special linguistic and cultural rights to Mexican-Americans (and, by extension, all Hispanics). Such claims are false: the Treaty of Guadalupe Hidalgo does not even mention linguistic or cultural rights.¹²⁷ Nowhere does the Treaty create any protection for the language or culture of the Mexican nationals living in the territories or their descendants.

In 1986, the Treaty of Guadalupe Hidalgo was cited by opponents of Proposition 63,¹²⁸ which made English the official language of California. The Attorney General of California examined these claims to special linguistic rights under the Treaty and issued an opinion saying:

The Treaty of Guadalupe Hidalgo contains no mention of either Spanish or English. . . . An examination of the relevant provisions of the Treaty and the case law interpreting them indicates that their purpose was only to ensure that Mexican nationals residing in the ceded territories at the time of the treaty could acquire U.S. citizenship [The provisions] do not purport to give such persons any rights above those of other U.S. citizens.¹²⁹

126. *Id.* at arts. V, VIII–IX.

127. *See generally id.* (lacking a provision for the protection of Mexican nationals' language or culture).

128. *See generally* Gerda Bikales, *The Treaty of Guadalupe-Hidalgo: Truth and Consequences*, 5 SOC. CONT. 19, 19 (1994) (discussing the use of treaty by opponents of Proposition 63).

129. News Advisory, Office of the Attorney General of California, (Oct. 9, 1986) (on file with author); *see also* Bikales, *supra* note 128.

There is no basis for the assertion that Official English laws would violate the Treaty of Guadalupe Hidalgo. Since the Treaty did not address the issues of maintaining linguistic and cultural heritage, it has no relevance in the debate over English as the official language of government.

VII. MULTILINGUAL BALLOTS

According to the Voting Rights Act of 1965, a state or political subdivision must provide language assistance to voters if more than five percent (or 10,000 residents) of voting age citizens are members of a single-language minority group who do not “speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.¹³⁰

In October of 2011, the Census Bureau announced that 248 counties and political jurisdictions nationwide fall under a Voting Rights Act provision requiring them to provide election materials in an array of languages.¹³¹ The Voting Rights Act is a landmark piece of legislation in our nation’s history and has served to guarantee and protect a uniquely American right: the ability of all United States citizens to vote.

Due to an ill-considered amendment that was not part of the original Act, counties and jurisdictions in twenty-five states are now required to use taxpayer money to print election materials in foreign languages.¹³² The purpose of this bilingual ballot provision was to increase the voter turnout of those who speak a minority language. The naturalization process here in the United States, however,

130. 42 U.S.C. § 1973aa-1a (2006).

131. Press Release, United States Bureau of the Census, Census Bureau Releases 2011 Determinations of Political Jurisdictions Subject to Minority Language Assistance Provisions of Section 203 of the Voting Rights Act (Oct. 12, 2011), http://www.census.gov/newsroom/releases/archives/2010_census/cb11-cn189.html.

132. Voting Rights Acts Amendments of 2006, Determinations Under Section 203, 76 Fed. Reg. 198, 63602-07 (Oct. 13, 2011).

already requires an ability to read, write, and speak English.¹³³ Consequently, all legal citizens, including those who wish to vote, should already be able to use a ballot printed in English.

U.S. English urges the repeal of multilingual ballots, because citizens cannot fully partake in the political process without a firm grasp of English. The provision of multilingual ballots is not only costly, but also opens up our voting process to the increased possibility of mistakes that may subvert the sanctity of our elections. Furthermore, existing federal law contains provisions for those who may need assistance because of an inability to read or write the English language.¹³⁴ The Federal Voting Rights Act states “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.”¹³⁵

Bilingual ballots only serve to further divide our society. By providing translations only in selective languages, we are isolating additional foreign-language speakers. By providing ballot translations, we are delaying the progress of immigrants to assimilate to the American culture. Citizens who cannot speak English cannot advance to the same level of success as their English-speaking counterparts.¹³⁶ Instead of catering to foreign-language speakers, the government should instead focus on providing resources to help non-English speakers learn the language of commerce in America.

Since its passage in 1965, Congress has amended and extended coverage of the Voting Rights Act in 1970, 1975,

133. 8 C.F.R. § 312.1(a) (2013).

134. 42 U.S.C. § 1973aa-6 (2006).

135. *Id.*

136. Amber Schwartz & Don Soifer, *The Value of English Proficiency to the United States Economy* (Lexington Institute, Arlington, Va.), Dec. 2012, at 4-5, available at <http://www.lexingtoninstitute.org/library/resources/documents/Education/ValueOfEnglishProficiency.pdf>.

1982, and 1992.¹³⁷ The bilingual election requirement found in Section 203 of the Voting Rights Act was most recently reauthorized in 2006 and will now expire in 2032.¹³⁸ Although there are several bills that aim at eliminating funding of bilingual ballots and amending the Voting Rights Act bilingual voting provisions, none have been signed into law.¹³⁹

VIII. PUERTO RICO STATEHOOD

In signing the Jones Act in March of 1917, President Woodrow Wilson made Puerto a U.S. territory and granted residents statutory citizenship.¹⁴⁰ Several years later, in 1952, Congress passed the Puerto Rican Federal Relations Act which allowed the people of Puerto Rico to hold a Constitutional Assembly and create a document to establish the Commonwealth of Puerto Rico.¹⁴¹ An overwhelming majority of Puerto Rico's residents approved of the measure and, later, so did Congress.¹⁴²

The territory has maintained its Commonwealth status since 1952, and residents have expressed continued support for this arrangement through votes in 1967, 1993, and 1998.¹⁴³ In November of 2012, Puerto Rico's outgoing governor called on Congress and the President to once again

137. Garrine P. Laney, *The Voting Rights Act of 1965, As Amended: Its History and Current Issues*, CONGRESSIONAL RESEARCH SERVICE (June 12, 2008), available at <http://fpc.state.gov/documents/organization/109556.pdf>.

138. *U.S. English Calls Voting Rights Act Bilingual Ballot Provision Burdensome, Unnecessary*, MARKET WIRED (Oct. 14, 2011, 16:33), <http://www.marketwire.com/press-release/usenglish-calls-voting-rights-act-bilingual-ballot-provision-burdensome-unnecessary-1573451.htm>.

139. *Id.*

140. *The Future of America: A Spanish Speaking 51st State?*, U.S. ENGLISH (Mar. 26, 2012), <http://www.usenglish.org/view/895>.

141. *Id.*

142. *Id.*

143. R. Sam Garrett, *Puerto Rico's Political Status and the 2012 Plebiscite: Background and Key Questions*, CONGRESSIONAL RESEARCH SERVICE 9 (June 25, 2013), available at <http://www.fas.org/srgp/crs/row/R42765.pdf>.

consider accepting the island as a 51st state, insisting this was the will of the people.¹⁴⁴

Upon receiving the plebiscite results, however, Puerto Rico's poll numbers showed a different result, with the 809,652 votes for statehood accounting for only 44.9% of the total ballots cast—not even achieving a simple majority of votes in support for statehood.¹⁴⁵ Congress should not even consider admitting a state unless an overwhelming majority of citizens show that they desire to be fully American.

The reasons for Congress to oppose statehood are clear: the territory has a 13.9% unemployment rate¹⁴⁶ and 45.6% of residents live in poverty.¹⁴⁷ The island's median household income in 2011 was \$18,660,¹⁴⁸ half of the lowest median household income of a state in the U.S., Mississippi, which averaged \$36,919.¹⁴⁹ And should Puerto Rico gain statehood, residents would become eligible for U.S. federal government benefits, receiving an additional \$20 billion per year.¹⁵⁰ Aside from this, and perhaps most importantly, it is crucial that residents of Puerto Rico be aware of what statehood would mean for them.

The territory's most recent plebiscite and Puerto Rico's subsequent call to action asking Congress to take steps toward statehood bring up the important issue of assimilation and the role it plays in the success of an individual in the United States. In this nation, the government operates primarily in English, mainstream media is primarily in English, and the common language

144. Roque Planas, *Puerto Rico Statehood: Luis Fortuno Pushes Bid To Become 51st State After Status Vote*, HUFFINGTON POST (Nov. 16, 2012), http://www.huffingtonpost.com/2012/11/16/Puerto-ric-statehood-luis-fortuno_n_2146880.html (last visited Sept. 20, 2013).

145. *Id.*

146. *Economy at a Glance*, BUREAU OF LABOR STATISTICS, <http://www.bls.gov/eag/eag.pr.htm> (last visited Oct. 29, 2013).

147. Alemayehu Bishaw, *Poverty: 2010 and 2011*, U.S. CENSUS BUREAU (Sept. 2013), <http://www.census.gov/prod/2012pubs/acsbr11-01.pdf>.

148. Amanda Noss, *Household Income for States: 2010 and 2011*, U.S. CENSUS BUREAU (Sept. 2012), <http://www.census.gov/prod/2012pubs/acsbr11-01.pdf>.

149. *Id.*

150. *Puerto Rico Statehood*, U.S. ENGLISH, <http://www.usenglish.org/899> (last visited Nov. 5, 2013).

used among residents is English. There is no question that in the United States, the key to opportunity lies in being able to communicate.

According to the Census Bureau, in Puerto Rico, more than 80% of the population, or 2.7 million residents, are only able to speak English less than "very well,"¹⁵¹ meaning they would likely struggle to carry on more than a basic conversation in English (compared to 8.7 percent of residents in the United States).¹⁵² Just over 70 percent of households are considered linguistically isolated, meaning no one aged fourteen and older speaks English very well.¹⁵³ As an island somewhat buffered from the English-speaking mainland of the United States, Puerto Ricans currently have no urgent need to learn English. Without constant interaction with fellow English-speaking citizens, Puerto Rican citizens face no real disadvantage in not speaking English.

But should statehood occur, the government of Puerto Rico must function primarily in English, as the current fifty state governments do. Schooling must be conducted primarily in English, as schooling in the current fifty states is, so federal testing standards could be met. Not to mention, judicial proceedings would need to be conducted in English as well. In short, residents of Puerto Rico would start to see a transition to a primarily English-speaking government. In this instance, not speaking English would prevent residents from fully participating in society, leaving them unable to be involved in and stay informed about government functions.

If English is not made the official language of Puerto Rico, should the territory become a state, English will end up being the second language. No other state in the Union

151. *Place of Birth By Language Spoken at Home and Ability to Speak English in Puerto Rico*, AM. FACTFINDER, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_B06007PR&prodType=table (last visited Sept. 21, 2013).

152. RYAN, *supra* note 27.

153. *No One Age 14 And Over Speaks English Only Or Speaks English "Very Well"*, AM. FACTFINDER, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_S1602&prodType=table (last visited Sept. 22, 2013).

treats English as a second language. In fact, before Louisiana became a state, the Louisiana Enabling Act of 1811 was signed, requiring the new state to guarantee that judicial and legislative proceedings would be conducted in English.¹⁵⁴ Oklahoma and New Mexico were both required to have guarantees in their state constitutions that schooling would be conducted in English,¹⁵⁵ and Arizona guaranteed that public officials would be able to read, write, and speak English as a condition to hold an elected office.¹⁵⁶

As with the rest of our country, should Puerto Rico become a state, residents will have the freedom to speak whatever language they choose in their daily lives. But English is the language of success in this country, and in order to integrate with the rest of the nation, English must be the primary language of Puerto Rico. As residents of a territory under United States jurisdiction, Puerto Rican residents have the right to decide what political status they feel best represents their interests. This decision, however, should be presented to them in a straightforward manner, the process should be fair and the consequences of a status change should be transparent. Residents should be aware that Congress has the power to add conditional restrictions, including language, to the possibility of Puerto Rico statehood. The decision to become a state should not be taken lightly. Puerto Ricans deserve the time and knowledge needed to ensure they make the right choice for their future.

IX. CONCLUSION

The unifying role of the English language is needed now more than ever in the United States. According to the Census Bureau, in 2000, 21.3 million Americans could only speak English less than “very well,” accounting for 8.1% of residents.¹⁵⁷ By 2010, this number had jumped to more than

154. *Puerto Rico Statehood*, *supra* note 150.

155. *Id.*

156. *Id.*

157. *Ability to Speak English: 2000*, AM. FACTFINDER, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_00_SF4_QTP17&prodType=table (last visited Sept. 21, 2013).

25.2 million, accounting for 8.7% of residents of the United States.¹⁵⁸

Making English the official language of government empowers immigrants by putting them in the driver's seat to their own destiny. Rather than relying on the government to translate important documents so an immigrant can receive government services, the immigrant is encouraged to learn English and, as a result, make a better life for herself. America is a land of immigrants, and the Official English movement will do nothing to change that. Instead, it serves as an attempt to help immigrants realize their full potential in their new home. When immigrants are more successful, America is more successful. When immigrants maintain their native language and heritage—but also learn English and assimilate to American society—everyone benefits.

Without advancing Official English policy, the funding for programs that teach immigrants English will remain the same. The current method of only allowing translation services for people who speak a language represented by an artificially determined percentage of citizens will continue to foster institutional language discrimination and leave some at a disadvantage. Attempting to access health care while facing language barriers will continue to be a challenge. Disproportionate numbers of immigrants who do not speak English will remain in lower paying jobs and living below the poverty line.

Official English will improve the status of immigrants across the country, and neglecting such legislation will only hinder their ability to succeed. Official English will not affect foreign language courses, and still allows all Americans to be fluent in more than one language. But the basis of Official English should be stated loud and clear: its fundamental purpose is to allow immigrants to fully become American citizens, to fully participate in everything the American society has to offer, and to honor their heritage by

158. *Selected Social Characteristics in the United States: 2010*, AM. FACTFINDER, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_1YR_DP02&prodType=table (last visited Sept. 22, 2013).

gaining the ability to freely communicate and live the American dream.