Informes del Observatorio / Observatorio's Reports

Language Legislation in the U.S. A Nationwide Analysis

Rosana Hernández

OBSERVATORIO de la lengua española y las culturas hispánicas en los Estados Unidos

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports.* 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Language Legislation in the U.S.
A Nationwide Analysis

Rosana Hernández

Index

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Presentation

This work presents an analysis of language legislation in the 50 states of the U.S. and Washington D.C. through the study of their constitutions and statutes, with special attention to the laws affecting Spanish language. Thus, the study "Language Legislation in the U.S.,"[1] in which the 19 states with the highest percentage of Hispanic residents were considered, is now completed with the remaining 31 states, showing a complete picture that enriches the analysis and the conclusions presented at that time. Since covering all sources of legislation would be an unmanageable task in a legislative system such as the U.S. one, this work focuses on legislation produced by the legislative branch: constitutions and statutory codes of each state.[2] In order to identify legislation about languages, the terms "language," "English," and "Spanish" were searched for in the legal texts through the websites of the states' legislative branches and the LexisNexis legislative database. After observing in an initial approach that there is not an abundance of laws on linguistic topics, the decision was to use sections as the unit of analysis, since they are numerous.

[1] Hernández-Nieto, Rosana (2017). "Language Legislation in the U.S." Informes del Observatorio/Observatorio Reports. 033-09/2017EN. Legislation from the 19 states with the highest percentage of Hispanic population (vid. Figure 1) and Washington D.C. was collected before January 2017; legislation collection from the 31 states remaining ended in January 2018. Subsequent amendments are not included.

[2] Those laws are subsequently developed by government agencies through regulations with the force of law. Furthermore, the executive power (State Governors and the President of the U.S.) can sign executive orders; finally, on matters of common law, judicial decisions set precedents, though in the late 20th century legislation has carried greater weight than judicial decisions (Britannica Academic s.f.).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Sections collected can be divided into two areas. The first includes all those regulating how a given language can or must be used; in this case, English. This is the gender-neutral language legislation, disability-friendly language and, above all, "plain language" legislation, the result of the claims by a movement that advocates for presenting information to citizens in an intelligible way, so they can use official documents as effortlessly as possible (Adler 2012: 68). This legislation is particularly abundant in insurance law. The second category comprises sections regulating the languages of communication between the administration, citizens, and businesses. This work focuses on this second area, with around 4,500 sections compiled. If the first category were added to this figure, it would double it.

Sections are organized in six thematic parts (Government Communication; Political Participation; Commerce and Consumption; Labor; The Justice System; and Healthcare and Social Services) each of which is divided into subsections to facilitate analysis. This division is inspired by that used by Kibbee (2016) in his study of the U.S. language legislation,[3] his work being much more focused on judicial rulings. Here, his section "Education" is excluded, given that this work

[3] These chapters are: "Language and Democracy," about electoral participation; "Linguistic Inequality in the Legal System," about the judicial system; "Language and Education," on education; "Government, Public Services, and the English-Only Movement," about institutional communication with citizens; "Language in the Workplace," about language policies in the workplace.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

does not include legislation on education systems due to its volume and complexity, and because it could fall within a separate field of study (bilingual education). On the other hand, a section on language legislation in healthcare and social services has been added. In order to classify the sections, their original classification within the legal texts was followed, although a revision and reassignment task was carried out later since, in some cases, legislation on the same subject is classified in different chapters depending on the state.

Introduction

The U.S. is a country marked by a strong racial and ethnic diversity, the result of the particulars and conditions of its formation as a nation and, later on, of immigration. Nowadays the white population represents 76.9% of the total (61.3% subtracting those self-identified also as "Hispanic"), followed by Hispanic population (17.8%), black population (13.3%), and Asian population (5.7%) (U.S. Census Bureau s.f.). Although the white population has always been dominant, its percentage in the total has decreased over the last decades (from 84% in 1965 to 61.3% in 2017); according to demographic projections, whites will cease to hold a majority sometime between 2045 and 2055 (Stepler and Brown 2016).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

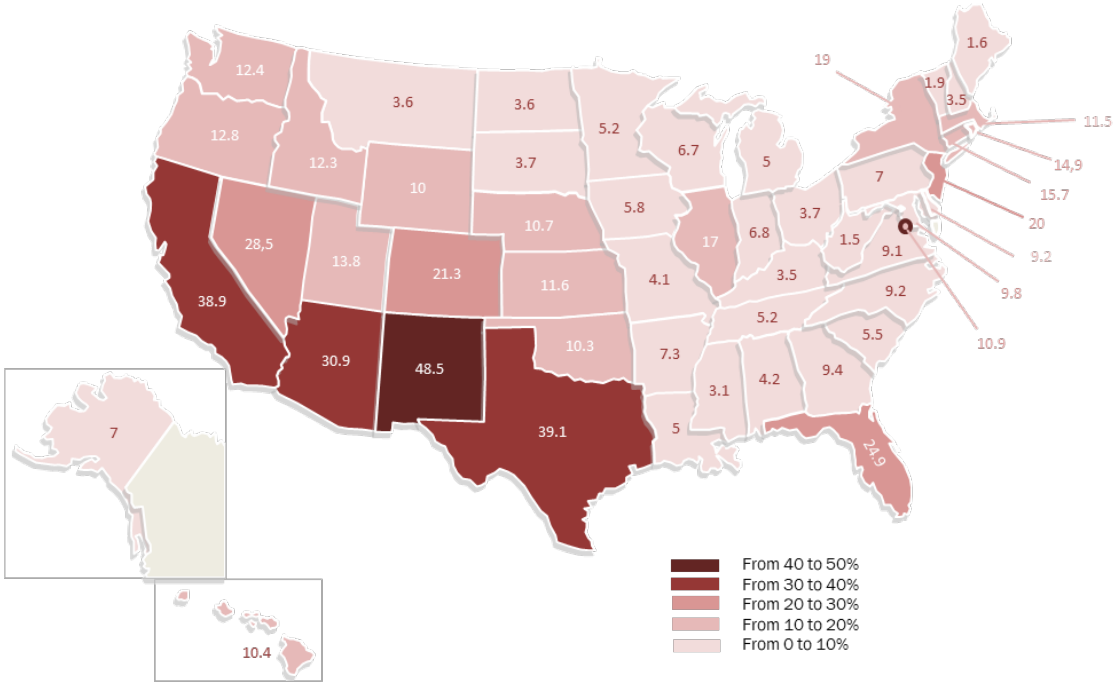
Most of these changes in the U.S. population can be explained by the Latino[4] demography evolution. Coupled with its historic presence in territories of what is now the U.S., mainly in the Southwestern states (Fernández-Armesto 2014), the current magnitude of Hispanic population responds to a large extent to the increase of Latin-American immigration since the adoption of the Immigration and Nationality Act of 1965. Hispanic population is currently the largest racial and ethnic minority in the U.S. with 58.9 million, and it could reach 111 million by 2060, representing 27.5% of the total population (Krogstad 2014), although these projections may be influenced by the behavior of migratory flows,[5] which since the beginning of the 21st century have begun to decline (Camarota and Zeigler 2017; López and Bialik 2017).

[4] "Hispano" and "Latino" are terms used interchangeably in this text.

[5] Ortman and Guarneri (2009) present different demographic scenarios for 2050 depending on migration circumstances: Hispanic population percentage by 2050 can vary up to 3.5% between a "constant net international net migration" scenario (27.8%), and a "high net international migration" scenario (31.3%).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Figure 1. Hispanics as a percentage of the total state population. Source: U.S. Census Bureau/American FactFinder 2016: PEPASR6H.



The United States is a linguistically diverse country as well, in which around 350 different languages can be heard (U.S. Census Bureau 2015). English is the predominant one: 237.8 million have it as their only language and another 39.9 million speaking another language declare to speak English "very well" (U.S. Census Bureau/American FactFinder 2016 C16005). Spanish comes in second place, with approximately 40.5 million speakers in 2016 (ibid.), followed by the Chinese and the Tagalog languages,[6] with 3.1 and 1.68 million speakers respectively (U.S. Census Bureau/American FactFinder 2016 B16001).

[6] Chinese includes Mandarin and Cantonese; Tagalog includes Filipino.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

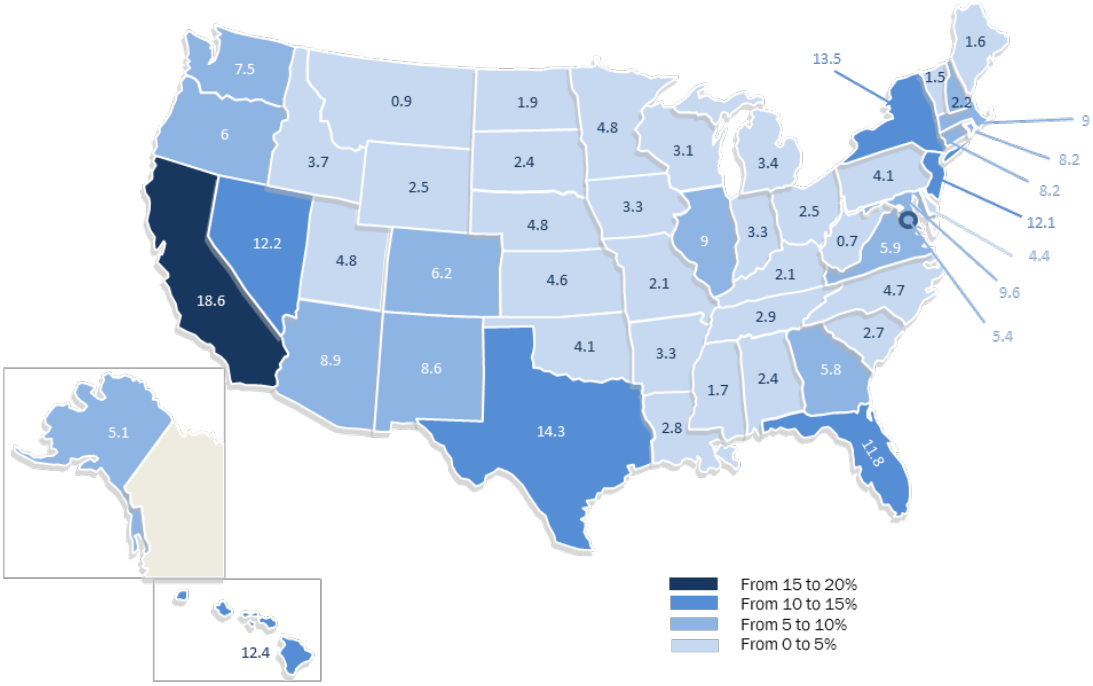
What policies does the U.S. develop to manage this linguistic diversity? Language policy can be defined as "a policy mechanism that impacts the structure, function, use, or acquisition of language," and it includes official regulations; non-official, implicit mechanisms; not only the products of the policies but the processes driven by multiple actors involved in language policy; and political texts and speeches influenced by ideologies and speeches characteristic of this context (Johnson 2013: 9). Although this field of study, initially designated as "language planning," has evolved to include ideologies, linguistic practices, and actions of other actors (García 2015), language legislation continues to be an element present in any definition, understood as the instrument through which "the political authority intervenes openly, for example by modifying the direction of social forces in favor of one language or another," and "state the linguistic rights and obligations regarding the use of languages in diverse areas of social life at the heart of the political unit" (Berthoud and Lüdi 2011: 479).

U.S. language policy faces two key challenges. The first one, the management of tens of mother tongues coexisting in the country and their status: Are languages other than English "U.S. languages"? Should they be preserved and recognized? The second one, the situation of the population that does not understand the majority language properly; not all people with mother tongues other than

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

English experience problems communicating in this language, but in 2015, 25.9 million U.S. residents had limited English proficiency[7] (LEP) (Batalova and Zong 2016), of whom 16.4 million (64%) were Spanish speakers.

Figure 2. LEP population as a percentage of the total state population. Source: Batalova and Zong (2016).



1. Government Communication

The success of the State "as a Project of collective political deliberation and collective pursuit of socioeconomic well-being (...) rests on the possibility of

[7] People with limited English proficiency are those who answer that they speak English "less than very well" when asked by the Census or the American Community Survey.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

communicative exchanges" (Rubio-Martín 2003: 52); for these exchanges to be successful it is necessary to evaluate in which languages they will be performed. In this respect, the literature on public policies points out that, in order for a government authority to act on a reality through public policy, it is necessary first that they perceive that reality as a problem, and as one that is relevant in the government agenda (Subirats, Knoepfel, Larrue, and Varonne 2008: 33). Then, the government may decide to act or not to act; the decision not to act, defined as "anything a government chooses to do or not to do" (Dye, as cited in Meny and Thoening 1992: 92), is also public policy, although that *laissez faire* is more difficult to identify and evaluate. Language policy is a different case, since the state cannot be neutral: in the mere fact of establishing a communication with the citizen, a language is being chosen to do so (Schmidt 2000: 46). These elections "can have dramatic effects on a person's Access to public services and social rights" (Kymlicka and Patten 2003: 18). Citizens proficient in the chosen language will benefit from the decision, while those with limited proficiency or no proficiency at all will face difficulties in understanding, exercising and fulfilling their rights and obligations.

For Crawford (1992: 87), this is one of the perspectives from which one can approach the debate on English as the official language of the U.S.: as a conflict over the right to equal access to the government and to education. The second

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

point of view considers the debate as a discussion on national identity, on the meaning of "being American," and on "how much diversity a nation can tolerate;" therefore, this perspective is linked to the conception of language as an instrument to articulate national unity (Schmidt 2000: 44). Which of these two approaches does legislation about government communication take?

Laws that declare English as the official language and, on the other hand, those organizing language access measures in the public administration are analyzed below. Sections that are limited to specific areas, such as justice or healthcare, will be examined in the corresponding thematic section.

1.1. Official English

In the U.S., both at the federal and the state level, there is a language designated or used as the general communication language in public administration (English), regardless of the existence of a law establishing its officiality. Three exceptions may be considered: New Mexico, Hawaii, and Alaska, although, as will be seen further on, English prevails over Spanish, Hawaiian, and Alaska Native Languages, respectively. A similar situation can be observed in Louisiana with the French language. From this general situation, the administration in some cases considers measures to accommodate individuals with a mother

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

tongue other than English and limited English proficiency (Kymlicka and Patten 2003: 19).

The United States has never declared an official language, though Congress has made several attempts to do so. The first proposal, Proposition 14136, was introduced in 1923, within the framework of the nativist movement that followed World War I, which led to the approval of migratory quotas (Tatalovich 1995). The issue disappeared from the legislative agenda until the 80s, when several propositions were introduced; in order to ease approval, the legislative strategy changed from hopes of constitutional amendment to the simpler strategy of trying to pass a bill (Dale and Gurevitz 1977: 1).

Table 1. Initiatives to Declare English the Official Language of the United States. Source: Aka and Deason (2009).

Year	Initiative	Sponsor	Party
1981	*English Language Amendment (ELA)*	Senator Samuel I. Hayakawa (California)	Republican
1995	*Language of Government Act*	Senator Richard C. Shelby (Alabama)	Republican
1997	*Bill Emerson English Language Empowerment Act*	Representative Randall Cunningham (California)	Republican
2007	*S. I. Hayakaya Official English Language Act*	Senator James Inhofe (Oklahoma)	Republican
2007	*English Unity Act*	Representative Steve King (Iowa)[8]	Republican
2007	*National Language Act*	Representative Peter King (New York)	Republican

[8] Steven King has reintroduced the English Unity Act into every session of the House of Representatives since 2007, most recently on February 9, 2017. It has never become law. 2017 Proposition has not yet been voted on.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

This renewed interest in making English the U.S. official language coincided with the emergence of several lobby groups, the most important of which is U.S. English, which advocates that all government activities be conducted in English under the argument that this measure will unite Americans and push immigrants to learn English faster (Daigon 2000); this claim is usually labeled as "English-Only," even though U.S. English rejects this appellation and argues that they do not support the prohibition of any language in the U.S.[9] ProEnglish, founded in 1994 as English Language Advocates,[10] has similar objectives, as well as the organizations that emerged on the local level (Tatalovich 1995).

These groups' claims have not yielded results on the federal level, though they have had success on the state level. Since the early eighties, 27 states have declared English their official language, joining Nebraska and Illinois (1923), and Hawaii (1978). There is no general agreement on the number of states with English-Official legislation. U.S. English and ProEnglish count 32, including Massachusetts (Constitution, Art. XX, 1975), and Louisiana (Louisiana Enabling Act, 2 U.S. Statutes 641 §3, 1981). Kibbee (2016: 149) refers to 33 states that "confer some type of official status to English through statutory or constitutional

[9] See https://bit.ly/2Mk1ZfX. In this paper "English-Only" will be used to refer to policies supporting that government or businesses use only English as their language of communication. The term "English Official" will be used to refer to laws declaring English as the official language, since, as it will become clear, it cannot be stated in all cases that they entail exclusive use of English in public administration.
[10] More information at: https://proenglish.org/our-mission

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

means." On the contrary, neither Crawford (1992, and www.languagepolicy.net) nor Tatatalovich (1995) include Massachusetts and Louisiana in their analysis. This work does not include them either, since in Massachusetts what we find is a judicial interpretation of a law,[11] and in Louisiana, the law that enabled the state to join the Union,[12] but which is not included either in the state constitution or the statutes.

Table 2 presents the states with Official English declarations, when[13] and through what mechanism they were approved, the percentage of Hispanic population, and the percentage of LEP population in each state. U.S. English "has supported Official English campaigns in more than forty states," and has founded the initiatives in Arizona, Colorado, and Florida (Crawford 1992: 171).

[11] https://proenglish.org/massachusetts/
[12] https://proenglish.org/louisiana/
[13] Even though the Illinois declaration is often dated in 1969, the original declaration was passed in 1923; in 1969 the term "American" was replaced by "English." In the case of Arizona, the state is located in the table with the year of its first declaration, 1988, although the courts repealed it and the law in force was passed in 2006. In this way, it is possible to better visualize the impact of the English-Only claims in the 1980s.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Table 2. States with declarations of English as their official language.

State	Year	Percentage of Hispanic population (2016)	Percentage of LEP population (2015)	Adoption mechanism
Nebraska	1920	10.1%	4.8%	Constitutional convention.
Illinois	1923	16.7%	9.0%	Legislative branch: Statutes (1923, amended in 1969).
Hawaii	1978	10.0%	12.4%	Referendum: Constitutional amendment (1978). Legislative branch: Statutes.
Virginia	1981	8.8%	5.9%	Legislative branch: Statutes (1981, revised in 1996).
Indiana	1984	6.5%	3.3%	Legislative branch: Statutes.
Tennessee	1984	4.9%	2.9%	Legislative branch: Statutes.
Kentucky	1984	3.3%	2.1%	Legislative branch: Statutes.
California	1986	38.6%	18.6%	Referendum: Constitutional amendment.
North Carolina	1987	9.0%	4.7%	Legislative branch: Statutes.
Arkansas	1987	6.9%	3.3%	Legislative branch: Statutes.
South Carolina	1987	5.3%	2.7%	Legislative branch: Statutes.
North Dakota	1987	2.8%	1.9%	Legislative branch: Statutes.
Mississippi	1987	2.7%	1.7%	Legislative branch: Statutes.
Arizona	1988	30.5%	8.9%	Referendum: Constitutional amendment.
Florida	1988	24.1%	11.8%	Referendum: Constitutional amendment.
Colorado	1988	21.2%	6.3%	Referendum: Constitutional amendment.
Alabama	1990	3.9%	2.2%	Referendum: Constitutional amendment.
Montana	1995	3.4%	0.9%	Legislative branch: Statutes.
South Dakota	1995	3.4%	2.4%	Legislative branch: Statutes.
New Hampshire	1995	3.2%	2.2%	Legislative branch: Statutes.
Wyoming	1996	9.8%	2.5%	Legislative branch: Statutes.
Georgia	1996	9.1%	5.8%	Legislative branch: Statutes.
Alaska	1998	6.7%	5.1%	Legislative branch: Statutes.
Missouri	1998	3.8%	2.1%	Legislative branch: Statutes (1998). Referendum: Constitutional amendment (2008).
Utah	2000	13.5%	4.8%	Referendum: Statutes.
Iowa	2002	5.5%	3.3%	Legislative branch: Statutes.
Idaho	2007	12.1%	3.7%	Legislative branch: Statutes.
Kansas	2007	11.3%	4.6%	Legislative branch: Statutes.
Oklahoma	2010	9.8%	4.1%	Referendum: Constitutional amendment.
West Virginia	2016	1.5%	0.7%	Legislative branch: Statutes.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

As Table 2 shows, two moments can be clearly distinguished. The first one is the 1920s, with the declarations of Nebraska and Illinois, framed in the aforementioned nativist movement. The second moment began in the 1980s, parallel to the introduction of the English-Only policies in the legislative agenda with U.S. English and, although this moment loses intensity gradually, it continues until today. With the exception of Virginia, which approved its law before the foundation of U.S. English (Tatalovich 1995: 1995), 12 states passed the declaration in the 1980s, eight in the 1990s, and five in the first decade of the 21st century. West Virginia approved it in 2016 and in Michigan the proposition passed the House of Representatives in 2018, pending Senate approval and Governor ratification (Ikonomova 2018). Nine out of the 30 states with English-Official declarations voted the proposition on a referendum with the outcomes shown in Table 3.

Table 3. Results of referenda to declare English the official language. Source: ballotpedia.org.

State	Year	% Yes	% No
Arizona	1988	50.50%	49.50%
	2006	74%	26%
California	1986	73.2%	26.8%
Colorado	1988	61.15%	38.85%
Florida	1988	83.87%	16.13%
Utah	2000	67.18%	32.82%
Alabama[14]	1990	89%	11%
Hawaii	1978	69.72%	30.28%
Missouri	2008	86.31%	13.69%
Oklahoma	2010	75.54%	24.46%

[14] Tatanovich (1995: 247).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Votes in favor exceeded 60% in all cases, with the exception of the first referendum in Arizona,[15] where support for the proposition accused the effect of the leaking of the so-called "Tanton memorandum" (Tatalovich 1995), in which the U.S. English co-founder John Tanton referred to the cultural threats that the "Latin onslaught" would pose both to California and to the U.S. (Crawford 1992); this text confirmed the fears of those who associated the English-Official proposition and U.S. English with xenophobic positions. Linda Chávez, the organization's president, resigned after calling Tanton's comments "repugnant and anti-Hispanic" (Crawford 1992: 172). Another U.S. English founder, Republican Senator for California S.I. Hayakawa, asserted that "the only people who have any quarrel with the English language are the Hispanics—at least the Hispanic politicians and 'bilingual' teachers and lobbying organizations" (in Crawford 1992: 96-99). For Leibowicz (in Crawford 1992: 109) there is no doubt about the anti-Hispanic component of the lobby: "Where the Americanizers were afraid of Slavic or Mediterranean hordes, supporters of the E.L.A. [English Language Amendment] are afraid of Spanish and the people who speak it." While the majority of the English-Official declarations correspond to states with low percentage of Hispanic population (only nine out of the 30 declarations correspond to the 20 states with the highest percentage of Hispanic residents),

[15] As stated above, the first law was repealed by the courts; a second referendum was held to decide about a different text.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

the "anecdotal information" gathered in Tatalovich´s (1995) case studies of the 18 English-Official laws approved before 1990 allows this author to assert the existence of a clear "anti-Hispanic reaction."

Significantly enough, one of the sponsors of the proposition in Arkansas recognized that bilingualism was "not a current problem but a potential problem" (Tatalovich 1995: 207); in Virginia, the rationale for the proposal was "a desire to defend the common English language as an essential element of social cohesion and harmony" (ibid.: 223); finally in North Carolina, Democrat Representative Richard Wright asserted during the debates that "We certainly have (an) obligation… not to become the melting pot to the extent that we all lose our identity (ibid.: 214). These examples serve to illustrate that, rather than responding to a real problem of communication between the government and the citizens, these declarations are often inclined to reaffirm English as an element of U.S. identity and as a social harmonization tool. Alabama, Alaska, California, Iowa, Missouri, North Carolina, and Oklahoma declarations refer to English as the common or even unifying language of the state and the country;[16]

[16] Iowa's declaration is the most extensive in this respect: "a) The state of Iowa is comprised of individuals from different backgrounds. The state of Iowa encourages the assimilation of Iowans into Iowa's rich culture. b) Throughout the history of Iowa and of the United States, the common thread biding individuals of differing backgrounds together has been the English language¨ (Iowa Code, Title 1, Subtitle 1, Chapter 1, §1-18).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

on the contrary, only three laws (Idaho, Kansas, and Utah) mention the need to start, continue and expand English as a second language program.

Faced with the fears that other languages may threaten English and U.S. identity, especially Spanish, the so called "iron law" of English language learning indicates that ethnic minorities lose their mother tongue in the second or third generation, with a slightly higher maintenance among Hispanics because of the continuous arrival of Spanish-speakers into urban barrios (Fishman, in Crawford 1992: 168). On the other hand, Kymlicka and Patten (2003: 8) point out that migrants' ongoing connections with their countries of origin allowed by transportation and new technologies (transnationalism) and multiculturalism mean that loss of the native language is not as inevitable as in the past, a fact that fuels English-Only propositions.

While all these laws have a negative connotation toward the use of languages other than English and thus can be harmful in their different degrees of restriction (Aka and Deason 2009: 68), the analysis of the texts reveals notable content differences.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Table 4. Characteristics of Official English declarations by state (in approval order).

State	Documents and registrations	Language used by civil servants	Return of funds	Possibility of filing complaint against state for noncompliance	Regulation of exceptions
Nebraska	√	-	-	-	-
Illinois	-	-	-	-	-
Hawaii	-	-	-	-	-
Virginia	-	-	-	-	-
Indiana	-	-	-	-	-
Kentucky	-	-	-	-	-
Tennessee	√	-	-	-	-
California	-	-	-	√	-
Arkansas	-	-	-	-	-
Mississippi	-	-	-	-	-
North Carolina	-	-	-	-	-
North Dakota	-	-	-	-	-
South Carolina	-	-	-	-	√
Arizona	√	√	-	√	√
Florida	-	-	-	-	-
Colorado	-	-	-	-	-
Alabama	-	-	-	√	-
Montana	√	√	-	-	-
New Hampshire	√	√	-	-	√[17]
South Dakota	√	√	-	-	√
Georgia	√	√	-	-	√
Wyoming	-	-	-	-	√
Alaska	√	√	-	√	√
Missouri	-	√	-	-	-
Utah	√	-	√	-	√
Iowa	√	-	-	-	√
Idaho	√	√	√	-	√
Kansas	√	√	-	-	√
Oklahoma	√	√	-	-	-
West Virginia	√	√	-	-	√

[17] New Hampshire considers the use of French language in the procedures between the state and Quebec.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Table 4 summarizes the main characteristics of the legal texts,[18] showing how some of the English-Official declarations are purely symbolic (Kymlicka and Patten 2003: 25; Schmidt 2000: 29). Illinois, North Dakota, Indiana, Mississippi, and Kentucky merely indicate that English is the official language of the state. Colorado and Florida add that the legislature has the power to further develop the statute. In the latter case, Cuban Republican legislators and Democratic legislative leaders came to an agreement to block any development or enforcement of the law (Tatalovich 1995: 102). The declarations made by Alaska, Arizona, Kansas, Idaho, and Utah are much more restrictive: the first two, along with California and Alabama, allow a citizen to take the state to court for not compliance. Furthermore, Idaho and Utah require state agencies to return funds earmarked for language access services.

In up to 14 cases, some of the most restrictive ones with the use of languages other than English among them, it is indicated that other languages may be used to communicate with citizens when required by the U.S. Constitution, the state constitution, or federal laws and regulations.[19] In this way, the checks and balances mechanism of the U.S. political and legal system—whereby no actor,

[18] This analysis is strictly limited to the text of these laws; some states that have not declared an official language nevertheless have provisions regarding the requirement that all documents submitted to public bodies or registered be in English.

[19] The Supremacy Clause (Article VI of the U.S. Constitution) provides that federal law prevails over state law in the event of conflict. For a detailed description of the U.S. legal and institutional system, see Lowi et al. (2011).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

legislative, executive, or judicial, and no level of government, local, state, or federal, concentrates all power, but establishes a network of connections and mutual influences—slows down the most restrictive English-Official laws. Moreover, in two Official English declarations (Georgia and Kansas) there is an explicit reference to the possibility of providing translated documents and even interpreters in the latter case.

In this regard, the language access laws, which are analyzed in the following section, do not represent the answer to English-Official propositions: this came with the English Plus initiative, whose impact was much more limited. The defense of U.S. diversity and the demand for an increase of education in English and in other languages, as well as of language assistance, crystallize in the approval of four resolutions:[20] New México (1989), Oregon (1989), Washington (Code, 1.20.100, 1989), and Rhode Island (General Law 42-5.1-1, 1992), although only the last two texts were incorporated into the states' legislation and, in the case of Washington, it is made explicit that the resolution neither creates rights nor establishes specific action programs.

In addition to English, only two states recognize other languages as official: Hawaii (1978), Hawaiian, and Alaska (1998), a total of 20 native languages.

[20] See: http://www.languagepolicy.net/archives/langleg.htm

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

However, in Hawaii, the English version of the laws prevails and the use of Hawaiian in public activities is not required (Statutes, Ch. 1. §1-13), while in Alaska recognition of those 20 languages is merely symbolic, since there is no obligation to print documents or to conduct governmental activities in those languages (Statutes 44.12.310). Regarding New Mexico, some authors describe Spanish as a quasi-official language (Romero 2011), but the fact is that laws are published only in English since 1951 (Fedynskyj 1971). On the other hand, Louisiana maintains in its statutes a section that recognizes any contract written in French as legal and binding as any other in English.[21]

1.2. Language Access Laws

The second answer to multilingualism in the U.S. legislation is the language access laws. This approach emerged in the 1970s (Schmidt 2000: 19) and argues that the government, through language assistance services, should facilitate the overcoming of language barriers that minority language speakers face in exercising their civil and political rights. This position does not necessarily conflict with English-Official laws (even though U.S. English opposes language access measures), as observed in the legislation: language access focuses more

[21] "Any act or contract made or executed in the French language is as legal and binding upon the parties as if it had been made or executed in the English language" (Louisiana Revised Statutes, Title 1, 1:51).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

on the provision of assistance in very-well defined cases (and always considering the financial cost of it),[22] than in the recognition of languages other than English in the daily functioning of the administration.

Unlike the legislative situation for English-Official, there is a federal law for language access: Executive Order (EO) No. 13166 of 2000 (Improving Access to Services for Persons with Limited English Proficiency), developed from Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of national origin. This provision and its subsequent development require agencies receiving federal funds (healthcare, social services, justice, or environmental agencies among them) to provide language access services (Cabrera 2017: 47-50). The Federal Government makes these funds contingent upon compliance with established standards,[23] so that even those states with the most restrictive English-Official laws are forced to comply with federal regulations.

Language access legislation is far less present than English-Official legislation at the state level. Only six state passed these laws: California, Washington D.C., Minnesota, Maryland, Hawaii, and Louisiana. Their chronological distribution is

[22] "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." Department of Justice 2002. Federal Register Vol. 67, n.° 117. Tuesday, June 17, 2002.

[23] Friedman and Hayden (2017: 136-137) illustrate how, through this kind of mechanism —used, for instance, in education—, the federal government has gradually taken *de facto* control over domains for which other levels of government are theoretically responsible.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

also different from that observed in English-Official declarations: while the latter are concentrated mostly in two periods, language access laws are scattered over the last five decades, with three texts prior to the EO 13166 (California, Washington D.C., and Minnesota), and three subsequent (Maryland, Hawaii, and Louisiana). Apart from these cases, only Texas's Statutes include a general provision requiring agencies to translate into Spanish the information they provide, although it only applies to online content (Government Code, §2054.116). The rest of the states have sections on very particular aspects (for example, referring to translations of certain notices and signs, but not with general scope), or on specific fields, such as justice or commerce which will be addressed in the corresponding section.

Table 5. Language accessibility laws (in approval order).

State	Year	Law	Language
California	1973 (2012-2015)	Government Code. Title 1. Division 7. Chapter 17.5 (§7920-7299.8). *Dymally-Alatorre Bilingual Services Act*.	Thresholds[24]
D.C.	1977 (2004)	Code. Title 2. Chapter 19. (§2-1931-2-1937) *Bilingual Services Translation Act* (Language Access Act).	Thresholds
Minnesota	1985	Statutes, §15.441	Thresholds
Maryland	2002	Code. Title 10. Subtitle 11. (§10-1101 a 10-1105). *Equal Access to Public Services for Individuals with Limited English Proficiency*.	Thresholds
Hawaii	2006 (2012)	Statutes. Title 19. 321C. *Office of Language Access* (§321C-1-321C-7)	Thresholds
Louisiana	2011	Statutes. Title 25. Chapter 14. (§671-674). *Louisiana French Language Services Program*.	French

[24] Threshold refers to the provision of language assistance when a given percentage or absolute number of non-English speakers with the same mother tongue living in a given place is reached.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

These laws are strongly influenced by the EO of 2000, with the exception of Minnesota, which didn't experience any change since its approval in 1985 and is the most vague of all: it consists of a single section, it "encourages" translating materials, and it does not specify to which agencies it applies, but instead it states that application will be addressed with each of them.

California and Washington D.C. were the pioneer states in passing this type of legislation. As early as the 1970s they reflected the difficulties experienced by non-English speakers when accessing public programs and services and the need for effective communication between government, citizens and residents. Initially, California referred to the provision of language access services only vaguely: when there is "a substantial number of non-English speakers," while the Washington D.C. Bilingual Services Translation Act of 1977 applied only to Spanish. After the approval of the EO 13166, both laws incorporated, with slight nuances, the criteria established by this federal regulation to decide when language assistance is provided to Limited English Proficiency population; these same principles govern the laws passed after the EO (Maryland, and Hawaii).

Regarding oral assistance (interpreters, telephone interpreting services, or bilingual employees) the criteria include: the number or proportion of LEP people served or encountered by the agency; the frequency of contacts with

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

those people; the nature and the importance of the program, activity, or services provided; and the resources available by the recipient of federal funds (agencies and another institutions), as well as the financial cost.[25] In the case of written services, that is, translations, California and Hawaii apply one of the Department of Justice's standards for determining whether or not an agency meets the EO 13166 requirements: translations of vital documents have to be provided when each LEP group represents 5% or 1.000, the lowest figure, of the eligible or encountered population (ibid.).[26] Washington D.C. lowers that threshold to 3% or 500 people, and Maryland to 3%.

Subsequent assessments of some of these laws demonstrate that the results have not always been satisfactory. Both the California State Auditor (California State Auditor 2010), and the Hawaii Office of Language Access (Office of Language Access 2014) note that agencies often do not meet the requirements or implement the recommendations, while Washington D.C. demands improvements in the data collection systems and increased hiring of bilingual staff to complement telephone interpreting services (Berstein, Gelatt, Hanson, and Monson 2014).

[25] See footnote 22.
[26] See footnote 22.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Louisiana's law (*Louisiana French Language Services Program*, 2011, T. 25. Ch. 14 §671-672) merits special analysis. Unlike the aforementioned laws, this one does not operate with thresholds, but only provides services in one language, French. Moreover, the orientation from which it was conceived is remarkably different to that of the EO 13166 and the other five state laws: in this case, the main rationale for providing public services in French is not the need to overcome a language barrier, but the desire to preserve the French cultural heritage of the state, together with an economic aim: to stimulate tourism and investments from francophone countries. This law is not the only claim for the French cultural heritage of Louisiana: the Council for the Development of French in Louisiana (CODOFIL) was established in 1968 "to preserve, promote, and develop Louisiana's French and Creole culture, heritage and language" (Louisiana Statutes. Ch. 13. §651.A.1). Murphy (2008: 369-370) links CODOFIL foundation to the ethnic revivalism movement experienced in the U.S. and in other parts of the world in the 1960s, with a wave of post-colonial literary and historical studies looking to situate the south of Louisiana in a Franco-Atlantic context, and with the support of the state governor and a group of legislators who identified economic possibilities in claiming the French heritage of the state.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

This approach is unique in the legislation reviewed, which generally addresses languages other than English from a language access position; furthermore, the numerous councils of Latino issues in different states are mainly focused on reducing the social, economic, and educational gaps between Hispanics and the rest of the groups, and they do not include among their objectives the preservation, or promotion of the Spanish language or the Hispanic cultures.

2. Political participation

The effective and equal exercise of political participation constitutes another essential element to ensure the success of a state "as a Project of collective political deliberation" (Rubio-Marín 2003: 52). While public participation is not limited to elections, it also includes more deliberative processes in which citizens have the right to participate (Kymlicka and Patten 2003), legal provisions on language access and participation outside elections are anecdotal. For example, in Connecticut, plans for public participation in environmental projects must provide information about their meetings in all languages spoken by at least 20% of the affected population to guarantee their involvement in these regulatory processes (T. 22a. Ch.439, P.II §22a-20a). In California, they seek to ensure the participation of people affected by the slow release of toxic substances (Div. 20, Ch. 6.8, Art. 5, 25358.7), while in Rhode Island interpreters

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

are provided at public hearings for the renewal of water treatment plants (42-17.4-12).

Most legislation on the use of languages other than English in the election process is determined by Section 203 of the Voting Rights Act (VRA) (1965), added in 1975. This federal law, which already prohibited discrimination on the basis of race or color, included the prohibition of establishing requirements that prevent linguistic minorities from voting; it also defined the situations in which jurisdictions must provide written assistance, with translated voting materials (such as registration forms, notices, instructions, ballots…), or oral assistance in the appropriate languages.

The following criteria are used when determining the political subdivision subject section 203: 1) the percentage of a given minority-language speakers in the subdivision; 2) the voting age population of these minorities and, within the subdivision, the LEP population must exceed 10,000 or 5% of the population; and 3) the percent of the population with limited English proficiency and less than a fifth-grade education must be greater than the national average. In areas with Native American or Alaska native population, more than 5% of citizens of legal voting age must belong to the same native group and have limited English proficiency. Table 6 shows the jurisdictions under section 203 as of December of

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

2016.[27] In addition, California, Florida, and Texas are required to provide Spanish translations of all materials issued in the state.

Table 6. Number of jurisdictions under section 203 of the VRA by minority.[28]

State	Hispanic	Asian	AIAN (American Native and Alaska Native)
Alaska	1	2	19
Arizona	4		6
California	26	21	2
Colorado	4		2
Connecticut	9		1
Florida	13		
Georgia	1		
Hawaii		2	
Idaho	1		
Illinois	3	1	
Iowa	1	1	
Kansas	5		
Maryland	1		
Massachusetts	10	3	
Michigan	2		
Mississippi		10	
Nebraska	3		
Nevada	1	1	
New Jersey	8	2	
New Mexico	12		12
New York	7	5	
Oklahoma	1		
Pennsylvania	3		
Rhode Island	3		
Texas	88	3	2
Utah			1
Virginia	1	1	
Washington	3	2	
Wisconsin	3		

[27] See https://www.census.gov/rdo/data/voting_rights_determination_file.html
[28] One and the same jurisdiction can fall under article 203 for different minorities.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

As can be observed, not all individuals have the right to access election materials or oral assistance in their own language; on the contrary, the law works again with the notion of language threshold. Furthermore, section 203 does not protect all non-English speakers; it only applies to Spanish, Asian languages, Native American languages, and Alaska native languages.

Based on this common framework, which is mandatory for the whole country, this work will now analyze state legislation, starting with the electoral campaign and going through the entire electoral process, finishing with the mechanisms used to transform votes into political representatives. There are 11 states whose statutes do not include provisions on languages in the electoral process. Of these, only Alaska and Michigan have districts under the VRA; another eight states have no affected political subdivisions (Montana, New Hampshire, North Carolina, Oklahoma, South Carolina, Tennessee, Vermont, and Wyoming), and Idaho only has one since 2016.

Despite more than 40 years of history, bilingual materials remain controversial. Their advocates consider that they improve voter turnout and increase the political influence of minority-language speakers (Tucker 2009). On the contrary, their detractors, U.S. English among them, argue that they diminish immigrants' efforts to learn English, do not increase voter turnout, could be

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

replaced by private assistance, and are a financial burden on citizens (Trasviña, in Crawford 1992: 257-263; Tucker 2009). Senator Hayakawa even asserted that bilingual ballots were an expression of "profound racism," as certain groups, such as Mexicans, Puerto Ricans, Japanese, and Chinese, were "assumed not to be smart enough to learn English" (Hayakawa 1985, in Crawford 1992: 96). Another argument from opponents is that bilingual materials encourage non-citizens to vote illegally (ProEnglish;[29] Chávez 2011).

2.1. Electoral Campaigns

Provisions on electoral campaigns are scarce and refer to very specific matters, such as the requirement to use party and candidate names in English in New York, the option of the candidate's English name being accompanied by his or her Hawaiian nickname, and the possibility for candidates to send statements to voters in other languages—at their own expense—in Illinois. California and Colorado run public information campaigns on voting and voter registration systems in the languages contemplated by the VRA, and Pennsylvania does the same with voters' registration where a language minority exceeds 5% of the population. Furthermore, only California has created by statutory law public agencies to manage language access in the electoral process: a working group with proven experience in language access in the VRA languages, and an

[29] See https://proenglish.org/multilingual-ballots/

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

advisory committee whose recommendations are received by the Secretary of State.

Legislation is also limited regarding the publication of notices with information on the electoral process, voting registration locations, voting procedures, and the announcement of candidates. In New Mexico, Spanish is used for these notices, and special measures are considered for counties under the VRA with unwritten Native American languages. In New Jersey this information is also published in Spanish, but only in counties where 10% of registered voters speak Spanish as their native language. In Texas and Nebraska, voting requirements are disclosed in the same languages for which voting materials are available, while in New York they are published in those languages determined by the board of elections. Ohio, the other state with legislation regarding this issue, only provides publications in English.

2.2. Voting Rights

New Mexico and Illinois reiterate in their constitutions the right to vote without discrimination on the basis of race, color or language recognized by the VRA. On the other hand, although currently prohibited by the VRA and not used, (Graham 2011: 74; Holland 2017) South Carolina and Delaware laws provide for the possibility of establishing English literacy tests in order to vote (South

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Carolina Constitution Art. II. §6; Delaware Constitution Art. V. §2). North Carolina contemplates them for voters' registration (Orth and Newby 2013).

In the case of passive suffrage, that is, the right to be elected to public office, New Mexico once again prohibits discrimination "on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages" (New Mexico Constitution Art. VII, § 3). On the contrary, Arizona's constitution provides that "the ability to read, write, speak, and understand the English language sufficiently well to conduct the duties of the office without the aid of an interpreter, shall be a necessary qualification for all state officers and members of the state legislature" (Arizona Constitution Art. XX, §8). This requirement was confirmed in 2012 by the Yuma County Superior Court and by the Arizona Supreme Court, which deemed valid the disqualification of Alejandrina Cabrera as a candidate for the San Luis City Hall for not having sufficient English proficiency (Escamilla vs. Cuello).[30]

2.3. Voter Registration

The U.S. electoral system requires voting citizens to register before the election, and the VRA considers voter registration to be part of the procedures included

[30] Full sentence available at http://bit.ly/2uGgO6I

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

in mandatory written and oral language assistance under section 2003. However, not all states follow that premise: for example, Arkansas, Massachusetts, Pennsylvania, and Washington have legislation on language access regarding registration, but not considering the voting procedures. On the contrary, Arizona, Connecticut, Florida, Indiana, Kansas, Minnesota, Nebraska, Ohio, and Utah refer to voting materials, but do not include registration. Only Alabama, Washington D.C., New Jersey, Rhode Island, and Texas work with the same standards for registration and for the rest of the electoral procedures. Furthermore, Colorado and Louisiana state that they will work to minimize problems experienced by LEP population during the electoral process and provide them with language assistance, but they do not specify these statements. Table 7 shows languages in which forms and assistance for voter registration are provided.

Table 7. Language access provisions for voter registration.

State	Language
Arkansas, Illinois, Massachusetts	English and Spanish.
New York	Russian (cities with a population over 1 million).
South Dakota	Sioux dialects.
New Mexico	English and Spanish. Unwritten minority languages.
Alabama	Voting age population from the same language minority representing 5% or more of the population.
Washington D.C.	Eligible voting population with the same language representing 5% of the eligible voting population in the district.
New Jersey	10% or more of registered voters in a given district speak Spanish as their native language.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

State	Language
Pennsylvania	Only one language minority; language minority representing 5% of total population.
Texas	Hispanic-origin or descent population representing 5% or more of total population of the county to which the district belongs to.
Rhode Island	VRA
Washington	VRA
California	VRA

2.4. Written Assistance: Translation of Electoral Materials

As indicated above, Section 203 is the core of a substantial part of the states' legislations on the electoral process. When translating election materials, Connecticut (voters' rights), Florida and Nebraska (ballots), Illinois (voting guide), Louisiana (materials generally), and Rhode Island (notices, information, and ballots) use Section 203 as their legal reference. California and Texas also refer to the VRA, although they include their own criteria regarding language assistance. Furthermore, it is noted that provisions are often very specific about the document to be translated, but completely vague in relation to the circumstances in which the voter is entitled to request the translation and in which languages.

Indiana, Minnesota, New York, and Kansas consider the possibility of providing voting instructions in languages other than English (also other electoral materials in Kansas), but without criteria for doing so. Arizona, Nebraska, Ohio,

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

and Utah provide them only in English; Maine, in French; and New York, in Russian in cities with a population over 1 million. South Dakota only provides election materials in English, whether instructions, ballots, or voter rights. Finally, sample ballots and votes on constitutional amendments must be issued in English and Spanish in New Mexico, where speakers of unwritten languages are also assisted. Colorado represents a special case in that it does not regulate the materials it translates, but rather makes explicit those it is not required to translate because they are not under the VRA: ballot issue initiatives and their corresponding informational documentation at a state and local level.

The remaining states provide materials in languages other than English if the established thresholds are exceeded; these thresholds differ from those of the VRA both in the elements considered to set them and in the percentages.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Table 8. Thresholds for providing election materials.

State	Threshold
Alabama	5% or more of the voting age population being part of the same language group (Alabama Code, §17-6-46).
Louisiana	5% or more of the voting age population being part of the same language group in the parish[31] (Louisiana Statutes, §18:1306).
California	3% or more of the voting age population in the county is LEP population and speaks the same native language (California Elections Code, §14201, 1971)
Washington D.C.	5% of the eligible voting population in the election ward has the same native language (D.C. Code, §1-1031.02, de 1976).
New Jersey	10% or more of registered voters in a given district speak Spanish as their native language (New Jersey Statutes, various sections).
Texas	Hispanic-origin or descent population representing 5% or more of total population of the county to which the district belongs (Texas Election Code, §272.002, among others).

Provisions in Alabama and Louisiana affect concrete documents: voting instructions in the former and absentee voting materials in the latter. The rest of the states include more documents. California and Texas, in addition to being required by the VRA to provide all materials in Spanish, introduce their own standards for some election materials: in the case of California, facsimile copies of the ballot issues and voting instructions; in the case of Texas, the 5% threshold affects every document, although it is not compulsory to provide them when a ballot translation is posted in the voting location and voters are informed of its availability. Washington D.C. envisages the possibility of providing materials in languages that do not meet the established threshold.

[31] The *parish* is equivalent to the county.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Finally, together with the legislation on election materials, 12 states require voting devices to meet VRA language access requirements; in California, this same condition is governed by section 14201 of the California Elections Code.

2.5. Oral Assistance

A total of 24 states have laws on aspects related to the provision of oral assistance to limited English proficiency voters, generally focusing on people who are allowed to provide assistance. In some cases, the voter choses who will help them (Alabama, Georgia, Massachusetts, Missouri, Maryland, Utah, Wisconsin, and North Dakota), although provisions do not affect the same type of election or procedure in all cases. In another group of states (Illinois, Minnesota, Indiana, and Virginia), assistance is provided by two electoral judges or two election officials from different political parties. In Iowa and Colorado, the voter may choose between a person of his/her choice or an electoral judge; in New York assistance is provided by a voter, and in South Dakota language assistance can be provided by any person proficient both in English and in the Sioux dialect of the voter. In New Mexico the voter may be assisted by someone of his or her own choice or by a member of the precinct board; in cases where the latter cannot provide assistance, the role of election translator is created. Finally, LEP voters are assisted by interpreters in Texas (vid. Section 3.6). Other states such as Connecticut, California, Kentucky, Louisiana, and Rhode Island mention the

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

right to be assisted or the necessary documents to receive assistance, but they do not make further specifications.

2.6. Election Employees

State legislations also establish language requirements for individuals working on election day. A total of 18 states include the condition of reading and writing in English to be an electoral judge, clerk, inspector, coordinator, official, or member of election councils. New York's Election Law goes so far as to consider any person who cannot read and write English and acts as an election inspector or election clerk guilty of a misdemeanor. On the contrary, it is only possible in six states that there could be election officials present who are proficient in non-English languages. For this to happen, California requires that LEP voting age population represent at least 3% of the district; in Colorado, the threshold is 3% of the eligible voters with limited English proficiency. The provisions in Texas and New Jersey are explicitly aimed at the Spanish-speaking population: Spanish-speaking election officials will be present in Texas districts where at least 5% of residents are of Hispanic origin or descent, and in New Jersey districts where 10% or more of registered voters are Spanish speakers. Finally, Ohio considers the option of hiring interpreters in districts where the number of non-English speaking voters makes it necessary, with no further specifications. As

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

indicated in section 3.5, New Mexico also refers to the use of translators or oral assistance at the polling places in compliance with the VRA.

2.7. District Drawing

Electoral systems, considered "the most specifically manipulable instrument" of any political system (Sartori cf. Lago and Montero 2005: 281), are made up of elements that legislators try to influence in order to maximize their electoral payoff. In the United States, the most manipulable element of all is the electoral district, which can be reshaped through the technique known as gerrymandering to favor one or another political party or racial group. In order to avoid these practices, the constitutions of Florida and New York prohibit redistricting used to nullify or reduce the power of racial minorities, as well as of "language" minorities. Iowa, Oregon, and Wisconsin include similar sections in their statutes.

3. Commerce and Consumption

Language not only conditions the success of communication between the administration and citizens, but it can also become a barrier in private economic transactions. Due to their limited English proficiency, LEP consumers receive less information than others to assess and compare their options and make decisions, which often results in fraud, as shown in data from the Federal Trade

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Commission (Anderson 2013): the percentage of Hispanic victims of fraud reached 13.4% in 2011, almost 1.5 times higher than non-Hispanics; that rate marked a decrease of more than four points since 2007, the year of the previous report, when the rate was 18%; that figure, in turn, represented a major increase form the 2003 rate of 14.3%. The greatest problems arise among Hispanics who believe that they can conduct business in English, rather than among those who are aware of their own limitations understanding the language.

On the federal level, according to the Electronic Funds Transfer Act (15 U.S. Code, §16030-1, 1978) and its subsequent regulatory development, the consumer must receive all information concerning the electronic transfer of funds in both English and the language previously used by the agents to market or sell their services, or to communicate with the customer. Furthermore, the regulations developed in the Equal Credit Opportunity Act (1974) allow consumers to receive information in other languages, when that information is also provided in English and there is no discrepancy in content (Sachs, Kaplan, and Anderson 2015). According to some authors (Bender 1996; Raleigh 2008), as LEP consumer protection on the federal level is insufficient, assistance is largely determined by the individual state. State legislation has a core relevance, considering that the courts have not been particularly favorable to the rights of LEP consumers, particularly Spanish-speaking consumers (Raleigh 2008; Bender 1996).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

An analysis of the states' legislation on languages and commerce activities is presented below: first, laws regarding misleading commercial practices; then, laws on contracts and, finally, legal provisions regulating commercial labeling and records.

3.1. Misleading Commercial Practices

Legislation aimed at preventing commercial fraud shows, on one hand, how unfamiliarity with a language can be employed to take advantage of the person unable to understand that language and, on the other hand, the difficulty of managing multilingual and multicultural societies. Up to 30 states' legislation define misleading commercial or marketing practices as situations where one person takes advantage of another's person inability to protect his or her own interests in a commercial transaction because of a physical or mental impairment, illiteracy, or inability to understand the language or wording of an agreement. Depending on the state, the provision may be general or restricted to a particular type of commercial transaction, such as healthcare insurance, real estate or door-to-door sales. Furthermore, Delaware and North Carolina consider it an unlawful practice not to provide the buyer at door-to-door sale with a copy of the contract or a receipt and the cancellation notice in the same language used in the sales presentation (T. 6. Subt. II. Ch. 44. §4404, and §14-401.13, respectively).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

No state prohibits advertisements in languages other than English; in the seven states with legislation, if advertisements are in a given language, certain information is required to appear in that language. On the contrary, there is extensive legislation on the terminology that may or may not be used in business names, either in English or in other languages (such as "bank," "trust," "corporation," "accountant," "auditor," etc.).

One special case relates to the figure of the notary public, whose direct translation by "notario público" can lead to misunderstanding. In the U.S., a notary public is an official "appointed by state government to witness the signing of important documents and administer oaths."[32] On the contrary, in Latin America and Spain a "notario público" is a high-level civil servant—typically a judge or attorney—who can offer legal counsel and prepare official documents. Since U.S. notaries public are not authorized to perform those tasks, many states prohibit the use of misleading terms; in order to prevent fraud or confusion about the services offered, they also require notaries, when advertising their services in languages other than English, to provide their clients with a notice explaining that they are not authorized for legal practice.[33] California, Illinois,

[32] Definition provided by the National Notary Association's informational brochure, at http://bit.ly/2qhcw4e

[33] California, Georgia, Michigan, Minnesota, South Carolina, and Utah also include legislation on immigration consultants.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Kansas, and Oklahoma explicitly prohibit the translation of "notary public" as "notario público" in Spanish. So far, 34 states have legislation regarding this issue.

3.2. Contracts

Protection for LEP consumers varies widely from state to state. First, three states have no legal provisions regarding languages and commercial contracts: Kentucky, Virginia, and West Virginia. In three other cases (Alabama, Alaska, and Mississippi), the information disclosed to the consumer has to be in English. The remaining 46 states differ in the contracts covered by their legislation, and in the criteria used to determine which consumers will receive information in their native languages. In general terms, the information that is translated is the contract, its basic characteristics, or the notice of cancellation.

Several states regulate only one type of contract: Indiana, North Dakota, and Tennessee (debt-management services); Montana (telemarketing); Oklahoma (credits); and Wyoming (door-to-door sales). On the contrary, California includes the highest variety of cases (mortgages, loans, credits, telemarketing, door-to-door sales, cars, etc.). It must be noted that states' statutes are not identical: although there is a remarkable degree of similarity, differences can be found both in the subjects and in the level of detail of the provisions.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Criteria for deciding whether to provide LEP consumers with information in languages other than English vary from state to state and within states. Bender (1996: 1063-1064) has identified six different approaches to minority-language consumers' rights:

a) Protection of consumers whom the vendor knows or can intuit do not understand English (the Language of the Consumer Standard).
b) Protection of consumers with whom the vendor bargains in a non-English language (the Language of the Bargain Standard).
c) Protection of speakers of any minority language that the vendor has targeted through advertisements in non-English languages (the Language of the Solicitation Standard).
d) Protection of speakers of any minority language that represent more than a certain percentage of the population or of the vendor's clientele (the Variable Language Threshold Standard).
e) Protection of speakers of a single minority language, typically Spanish speakers (the Fixed Language Standard).
f) A combination of all the approaches listed above.

Table 9 summarizes the approaches used by each state taking into consideration all the sections and contract types that require provision of information in non-English languages.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Table 9. Criteria used to provide information to LEP consumers in non-English languages.

State	Consumer	Bargaining	Solicitation	Threshold	Fixed Language
Arizona		√	√		√ (Spanish)
Arkansas		√			
California	√	√	√	√ (Spanish, Chinese, Tagalog, Vietnamese, Korean)	√ (Spanish)
Colorado	√	√			√ (Spanish)
Connecticut		√			√ (Spanish)
D. C.		√			√ (Spanish)
Delaware		√			√ (Spanish)
Florida		√	√		
Georgia			√		
Hawaii	√	√			
Idaho					√ (Spanish)
Illinois		√[34]			√ (Spanish)
Indiana		√			
Iowa		√	√		
Kansas					√ (Spanish)
Maine		√			
Maryland	√	√	√		
Massachusetts		√			√ (Spanish)
Michigan	√	√			
Minnesota		√	√		
Missouri	√	√			
Montana		√			
Nebraska	√		√		
Nevada		√	√[35]		√ (Spanish)
New Hampshire	√	√			
North Carolina		√			
North Dakota		√			
New Jersey		√	√		√ (Spanish)
New York		√		X (Six most spoken languages; languages of more than 20% of the inhabitants in the area)	√ (Spanish)
New Mexico		√	√		√ (Spanish; Spanish and other languages)

[34] When the law refers to the language in which the presentation is made, it is included in "Negotiation," because it is considered that there is an oral interaction between the seller and the potential buyer.

[35] It only considers the option of providing information in Spanish if the advertisement is in Spanish.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

State	Consumer	Bargaining	Solicitation	Threshold	Fixed Language
Ohio		√			
Oklahoma		√			
Oregon		√	√		
Pennsylvania		√			
Rhode Island		√			√ (Spanish; Spanish and Portuguese)
Tennessee		√			
Texas		√	√		√ (Spanish; Spanish and other languages)
Utah		√			
Vermont		√			
Washington	√	√			√ (Spanish)
Wisconsin		√	√		√ (Spanish)
Wyoming		√			

As can be noted, most states mix several approaches. Of the 15 that only use one criterion, eight only have one section regarding contracts in their legislation. Furthermore, when a specific language is designated to provide information to the consumer, that language is usually Spanish.

Section 1632 of the California Civil Code, the centerpiece for most of California's legislation on languages and commercial transactions, is the only text with a general scope. The original section, from 1974, established the consumer's right to receive the contract translated in Spanish if it had been negotiated in that language, with the sole exception that the customer had himself provided an interpreter, not necessarily a professional, for the negotiation. Without a copy of the contract in Spanish, the consumer had the right to rescind it. After coming into force in 1976 and after subsequent changes, in 2003 Chinese, Tagalog,

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Vietnamese and Korean were added to Spanish as protected languages, thus covering the five most commonly spoken non-English languages in California in 2000 and 2014. In the 2014 amendment, foreclosure consultations and reverse mortgages contracts are included among those that need to be translated.

Up to 12 states have legislation regarding insurance contracts that allows advertisements, policies, and other materials in languages other than English; although those policies are only informative, in the event of a conflict, the English version will prevail. Another group of 13 states does not explicitly mention the possibility of providing policies in other languages, but it indicates that these policies meet plain-language requirements if they are certified to be translations of the same policy in English; thus, it follows that policies in non-English languages are allowed. California (car insurance), and Minnesota and Texas (health insurance) prohibit in their legislation discrimination of potential customers on the basis of language. As for healthcare insurance carriers, in many cases they are required to elaborate access plans for LEP population; this will be addressed in the section regarding healthcare and social services.

Four states have provisions regarding interpreters' presence during contract negotiations. In Utah, these provisions apply only to insurance providers: the interpreter can be one of the employees or one provided by the client. In Illinois,

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

it applies to insurance sales, financial transactions at banks or saving banks, etc. Finally, if a lease is managed through an interpreter provided by the lessee, Oregon's law exempts from translating information about that contract, which would otherwise be mandatory; the same criterion is applied in California to financial institutions, with explicit mention of Spanish, Chinese, Tagalog, Vietnamese, and Korean.

Finally, in addition to the conditions imposed on private companies, California, Illinois, Texas, and Utah provide for educational and informational programs on investment and savings products in various languages, as well as information about insurances in languages other than English.

3.3. Records and Labeling

When banks, insurance providers and other businesses (thrift stores and moneylenders, among others) are required to maintain financial activity records or account books, these must be in English. This situation evidences an important change of perspective regarding the use of non-English languages: nearly a century ago, Yu Cong Eng v. Trinidad (1926) invalidated a law passed by the U.S. Colonial government in the Philippines that prohibited Chinese merchants from keeping records in their own language, as this was deemed a denial of their right to due process and equal protection as guaranteed by the Constitution (Dale and Gurevitz 1997: 7).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

As far as product labeling is concerned, of the 192 sections collected, only 10 require information in the label to be in a language other than English. In four states that language is Spanish: pesticides (New Mexico and New York, which also includes other languages), child hazard warnings on certain packaging and on gas cans (California), and hazardous substances (Texas). Provisions in the remaining five states (Arizona, Indiana, Louisiana, Michigan, and West Virginia) refer to information in languages other than English, again just for specific products. At the federal level, the Food and Drug Administration (FDA) guidelines only recommend labeling in non-English languages. Therefore, there is no general policy on labeling in other languages. Even in Hawaii, an officially bilingual state, all information required by law must appear in English.

4. Labor

The debate on language access to civil and political rights includes, in addition to communication with the government, public services and political participation, workers' rights (Schmidt 2000: 19). There are two main issues under discussion: first, whether a candidate's rejection for a job because of his or her level of English proficiency constitutes discrimination. In this regard, this section analyzes legislation on language requirements to access certain positions, both in the public and private sectors. The second controversial issue,

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

addressed in the second part of this section, relates to the languages that can be spoken in the workplace and to those known as English-Only policies.

4.1. Requirements for Employment

States impose language requirements for access to several positions, which can be grouped into two categories: the first, regulated professions requiring a license to practice; the second, positions in public administration. As for the first group, all candidates for a professional license who are non-native English speakers, or who were trained in non-English languages, must demonstrate English proficiency. While there are differences between states, regulated professions generally require a high degree of specialization (such as veterinary, architect, engineer, or healthcare), although there are also licenses and permissions for insurance brokers, real estate brokers, and professions related to cosmetics or to mining. Exceptions to English language requirements apply to nursing assistance (Illinois), nursing assistance, home and kitchen assistants (Nebraska), and acupuncture (Virginia): in these cases, applicants must be proficient in English or another language spoken by a substantial number of patients. Maryland includes a section stating that English proficiency should not be a requirement to grant a professional license, except in those cases in which it is essential to practice the profession (Business Regulation, Title 2, §2-110);

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

despite this provision, Maryland's English requirements are as extensive as the other states' ones.

Professional licensing examinations are generally conducted in English.[36] When other languages are allowed, legislation generally refers to Spanish: that is the case for California, Florida, New Jersey, New Mexico, and Texas for insurance brokers, and for other professions in California, Illinois, New Jersey, New York, New Mexico, and Oregon. In other states, legislation mentions the possibility of offering exams in other languages for specific professions (Delaware, Illinois, Minnesota, New York, Oregon, Washington, and West Virginia), or an oral exam if the language is a problem for a written test (food handler in Utah). Exams allowed both in Spanish and in other languages give access mainly to licenses for professions related with cosmetology.

Florida and Maryland are the states closest to having a general policy on the matter. In Florida, for professional licenses in healthcare or business positions, along with surveyors and funeral services providers, exams may be conducted in the applicants' native language if 15 or more request it. Except for Spanish, the request must be submitted six months in advance, and the competent council

[36] Eight states have legislation that provides for the possibility of taking the driving test in languages other than English.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

will determine whether it is in the public interest to translate the test, taking into consideration the percent of speakers of the required language. The applicants must bear the translation costs. Maryland allows the applicant to be assisted by an interpreter (at his or her own expense), as long as the interpreter's performance does not compromise the integrity of the exam.

Regarding the second group of positions, those in public administration, the general requirement is again to be proficient in English, although not all states have legislation on this issue and, when they do, it does not regulate the same positions. In Kentucky, Nebraska, Oregon, and Washington, the requirement applies to any person looking to access civil service. Indiana and Ohio English proficiency applies to railroad work; Illinois and Michigan, to mining, and Kentucky, New York, Pennsylvania, and Wyoming, to firefighter and police positions (also Missouri for police officers). Kentucky, Montana, Nebraska, New Jersey, and Washington include English requirements for specific positions. Finally, one of the requirements to become a notary public in 35 states is to be proficient in English.

Requirements of proficiency in non-English languages have an anecdotal presence in the legislation of most states, except in those with language access laws (California, Washington D.C., Hawaii, Maryland, and Minnesota; see

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

section 1.2), which include the hiring of bilingual staff, although never as newly created positions, but to fill vacancies within the existing budget. Furthermore, the D.C. one goes further and includes affirmative action or positive-discrimination measures when hiring public employees. The goal of the Affirmative Action in District Government Employment Act (1976) is to ensure the representation of all of groups of the labor force, including Spanish-speaking Americans. California also includes affirmative action in its constitution, but it does not refer to language, and the same is true of the sections against discrimination in public employment in New York. In addition, California contemplates announcing job openings in languages other than English to increase the number of minority employees. Apart from this, there is a supplement for bilingual public employees in Illinois and Texas (in the latter case only for firefighters and police officers). Along with these more general provisions, as with English proficiency requirements, there are sections regarding very specific positions, such as forest rangers in the border between Maine and Canada (French), and personnel to participate in vehicle inspections on the Texas-Mexico border (Spanish).

Finally, within this section on language requirements for employment, legislation reflects a direct link between English proficiency and access to the job market. However, Piller (2016) does not connect the difficulties experienced

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

by LEP population to find a job just with language issues, but with other aspects, such as cultural differences and a lack of other skills. Up to 20 states include English as a second language classes as part of training programs for unemployed people, with explicit mention to LEP people among those facing barriers to finding a job.

4.2. Language in the Workplace

The second area of language legislation and labor relates to the languages that can be used in the workplace in the private sector. Since there is no federal law on the matter, when cases of language discrimination reach the courts, they are usually evaluated under Title VII of the Civil Rights Act (§703.a.1 and 2), which prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin, specifically under the latter. The Equal Employment Opportunities Commission (EEOC), created to enforce Title VII, adopted in 1980 the "Guidelines on Discrimination Because of National Origin," in which English-only policies in the workplace are justified only if they respond to the "needs of the business;" that is, if they are mandatory for the business to achieve its goals. While some authors argue that these guidelines are not sufficient to avoid discrimination based on language, since the courts are not obliged to take them into consideration (Del Valle 2003: 121), others assert that the EEOC overreached its interpretation of Title VII (Leonard 2004; Prescott 2007).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

California, Illinois, and Tennessee have introduced the EEOC guideline into their statutes; the other mention to English-only policies in the workplaces appears in the statutes of Georgia, in which it is indicated that no municipality may prohibit private businesses from using languages other than English.

Executive Order No. 13166 requires employment agencies to provide language assistance to LEP population. Apart from this provision in the public domain, laws addressing the relationship between private employer and employee are scarce. The employer has then a wide margin for action: it is easier for each company to adopt English-only rules than it is to try to pass a state or federal law requiring speaking only English (Del Valle 2003: 118). In any case, as observed in other areas, state legislation assumes that English is the majority language in the workplace and then includes cases in which certain information can be provided in other languages, either through interpreters or in writing (translated documents and signs).

In five states, the use of interpreters is permitted for labor issues, both in the public and the private sector. In California, Maine, and Wisconsin, interpreters are limited to medical examinations and hearings to determine compensations for work-related accidents. In Texas and New Jersey, interpretation services are offered only in Spanish and associated with the Workforce Commission and with

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

the Bureau of Migrant Labor respectively. Finally, Iowa and Nebraska require employers with more than 10% of their employees speaking languages other than English to hire interpreters; this provision is part of two laws protecting non-English speaking workers (the Non-English Speaking Employees, from 1990, and the Non-English Speaking Workers Protection Act, from 2003, respectively).

The use of translations to disclose information to employees has a greater presence in the states' legislation, although as many as 19 states lack provisions in this regard. Alabama, Indiana, and West Virginia only consider information in English. Table 10 summarizes the criteria that states apply to determine which languages the public administration or private businesses must use to inform workers. The classification is based on Bender's approach (1996) for analyzing protections for LEP consumers (see section 4.2); this table considers the language of the worker, the language in which the employer and employee communicate, and the use of thresholds or fixed languages.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Table 10. Criteria for determining the languages other than English to provide information to workers.

State	Language of the Worker	Employee Communication	Threshold	Fixed Languages
Arizona				√ (Spanish; other languages)
California	√	√	√ (the seven languages most spoken by participants in the unemployment program)	√ (Spanish, Chinese, Korean, Vietnamese, Tagalog; other languages)
Connecticut	√	√		√ (Spanish, French; other languages)
Delaware				√ (Spanish)
D.C.	√		√ (languages spoken by 3% or 500 of the population)	√ (Spanish)
Florida			√ (the language spoken by the majority of non-English-speaking employees; the language of 5% of family units in a given country)	√ (Spanish)
Illinois	√			√ (Spanish and Polish)
Iowa			√ (the language spoken by 10% of the employees)	
Kansas				√ (Spanish)
Maine	√			
Maryland				√ (Spanish and other language)
Massachusetts	√		√ (primary language of 10.000 residents in the state or of half of 1% of the residents)	√ (Spanish, Chinese, Haitian Creole, Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian)
Michigan			√ (language of a substantial number of employees)	
Minnesota	√			√ (Spanish)
Nebraska			√ (the language spoken by 10% of the employees)	√ (Spanish)
Nevada	√			√ (various languages)
New Jersey	√		√ (language of a substantial number of workers in the state)	√ (Spanish)
New York	√			√ (Spanish, Chinese, Korean; other languages)
New Mexico				√ (Spanish; other language; Navajo)

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

State	Language of the Worker	Employee Communication	Threshold	Fixed Languages
Ohio				√ (Spanish)
Oklahoma	√			
Oregon	√	√	√ (the language of the majority of the employees)	√ (Spanish; other language)
Pennsylvania	√			√ (other languages)
Rhode Island	√			√ (other languages)
Texas	√		√ (the two most spoken languages in the state)	√ (Spanish; other languages)
Vermont	√			
Virginia				√ (Spanish)
Washington	√		√ (the workplace's five most-used languages)	
Wisconsin	√			

Once again, there is no common pattern for the languages into which information must be translated, either between states or within them. The same is observed regarding what information is translated: although the most common subjects are related to the characteristics of the contract, working conditions, minimum wage, work-related accidents, and sick leave, each state has different provisions. Whenever there are fixed languages, Spanish appears, but unlike noted with English proficiency requirements, usually linked to highly qualified professions, in this case Spanish is associated with low-skilled jobs, migrant labor, and in general agricultural work.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

5. The Justice System

People with limited English proficiency also face significant barriers to access the justice system. In these cases, the enforcement of due process guarantees[37] (the right to a fair and speedy trial by an impartial jury, to be informed of the charges, to be represented by an attorney, and to confront witnesses testifying against defendants) entails unique challenges (Kibbee 2016: 53). The federal justice system is governed by the Court Interpreters Act of 1978 (28 U.S.C. §1827), which requires federal courts to provide interpreters in criminal cases and in civil cases brought by the government. Furthermore, the EO 13166 of 2000 extends this requirement to state courts. Nowadays, the protection of non-English-speaking people at the state level has overcome that at the federal level, under which people who do not speak or understand English well enough to participate in proceedings can see how they are denied an interpreter (Abel 2013).

However, the challenges for LEP people are not limited to what happens in the courtroom, but "from the moment the police begin to question a suspect through their arrest and trial to post-sentencing procedures, non-English speakers are at a frightening disadvantage when entangled within the US's criminal justice machinery" (Del Valle 2003: 160). The following analysis of the

[37] Fifth and Fourteenth Constitutional Amendments; the latest extends due process from federal courts to state courts.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

states' legislations is divided into three sections: the first one includes all pre-trial proceedings; the second, those affecting the trial itself; and the third, subsequent proceedings.

5.1. Before Court Proceedings

Language issues are present in judicial procedures from the moment a law enforcement agent decides who he or she interrogates, who he or she suspects may have committed a crime or infraction. When that decision is guided by race or national origin, it is considered to constitute profiling,[38] a discriminatory practice. Colorado, New Mexico, and Oregon have passed legislation including language among those discriminatory elements.

Later on, when a person becomes part of a legal proceeding, law enforcement agents are required to read them their rights. In the case of a suspect, these are known as the Miranda Warning; if they are not read, subsequent legal proceedings may be deemed inadmissible. Kibbee (2016) and Del Valle (2013) have noted that education level and social factors can influence whether these warnings are understood, and language is also an essential element. The case originating this warning (Miranda vs. Arizona, 1966) did not establish a

[38] See https://bit.ly/2kPn8nZ

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

particular text, so even in English there are variations.[39] In 2017, the American Bar Association urged federal, state, and local authorities to provide a standardized Miranda Warning translation to accurately inform individuals of their rights.[40]

In general, states do not explicitly refer to the Miranda Warning, but there is legislation regarding the languages in which the rights of suspects and victims must be communicated. Five states refer to the rights of detainees: D.C. (rights of individuals arrested in demonstrations, in Spanish and other languages); Texas (rights in the detainee's native language and with interpreters); in California, they will inform detainees of their right to an attorney through signs in English and any language spoken by 5% or more of the population, while in Illinois those signs are in English.

13 states have legislation regarding the languages in which victims of crimes and other individuals involved in a process should be informed of their rights. In Florida, New Jersey, New York, and Texas, victims of domestic violence must be informed of their rights in Spanish, and in Massachusetts and New York, in their native language. Individuals who have their rights explained in Spanish include:

[39] Although there is not an official text, the Miranda Warning includes the following statements: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be appointed to you." See https://bit.ly/2IaWXQC

[40] Resolution available here: https://bit.ly/2SwE67J

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

victims of traffic accidents in New Jersey, parents of abandoned children in New York, and those whose vehicles have been confiscated in Oregon. In the remaining cases, information must be disclosed in the person's native language or in "other languages:" Alabama, Arkansas, California, and Texas (children taken into custody); Massachusetts (victims of harassment, victims or witnesses to crimes and their families); New York and Ohio (people whose incapacity is being determined); Tennessee (people from whom the state seeks to recover benefits incorrectly paid); Texas (guardians of adults); Utah (parents of children taken into custody); and Washington (parents of children taken into custody, and victims or witnesses of a crime).

In addition to these rights, there are other warnings, notifications and information that must be provided to the persons involved in judicial proceedings. As usual, California is the state with the largest volume of legislation. When publication of notices in newspapers is required, they must generally be in English, with the exceptions of Louisiana (court notices in general, French), New Mexico (proceedings against non-residents or unknown parties, foreclosure notices or property sales, etc., Spanish), New York (subpoenas, other languages), and Rhode Island (probate court's notices, other languages).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Up to 27 states have legislation regarding the languages in which information is provided to victims of human trafficking, generally in Spanish and in the languages that the state is obliged to consider under the VRA for election materials. Furthermore, seven states have introduced in recent years legislation on eviction notifications: they must be in English, Spanish and in other languages in Delaware, Illinois, and Texas; in the owner's language in New Hampshire; in the language generally used in communications with the tenant or owner in Massachusetts, and, in D.C., in the languages determined by Section 2-1933 (3% or 500 people).

As noted in most analyzed areas, states do not translate the same information or the same languages; nor is there a fixed criterion within a given state. It is observed, though, that most of the translated information has to do with proceedings in which minors are involved: 24 states require to inform parents or guardians about the proceedings in a language they understand, and the same is true of the document by which a parent consents to the assignment of a guardian to his/her child. The other area that concentrates the largest volume of legislation is that of domestic and sexual violence; in nine states, potential victims must be provided with information on legal and assistance resources available in languages they understand or in their native languages.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

As for the languages considered, different formulas can be found: from "a language they can understand,"[41] "primary language," or "other languages," to the use of thresholds (D.C.) or fixed languages, only Spanish with two exceptions: in California, the consent to be interviewed by the U.S. Immigration and Customs Enforcement and the notification of the initiation of a procedure related to firearm or drug activity (Spanish, Chinese, Tagalog, Vietnamese, and Korean); and in Rhode Island, information in cases of domestic violence (Portuguese, Spanish, Khmer, Hmong, Lao, Vietnamese, and French).

5.2. Court Proceedings

Every state has legislation—either general or related to a specific type of court proceeding, such as domestic relations or juvenile matters—according to which any document presented in a court proceeding must be in English, or accompanied by an English translation.[42] Up to 11 states (Arkansas, California, Colorado, Iowa, Michigan, Missouri, Montana, Nevada, Utah, Vermont, and Wisconsin) go a step further by stating that all court proceedings will be in English. Once again, from this general rule legislation establishes exceptions in which language assistance will be provided.

[41] Sometimes (always in proceedings related to minors) the possibility is offered to use an interpreter to explain the information to LEP people.

[42] Most of these provisions are part of uniform interstate laws, which seek to create uniformity among various states' legislations. The *National Conference of Commissioners on Uniform State Laws,* created in 1892, proposes laws that states then decide whether or not to adopt.

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports.* 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

As mentioned above, the Court Interpreters Act guarantees the presence of interpreters in criminal cases and in civil cases brought by the Government in the federal justice system (Abel 2013), and the Department of Justice interprets EO 13166 as extending the requirement to provide interpreters to state courts receiving federal funding.[43] Every state offers court interpreter services, although they do not all have the same legal design or scope. Only the constitutions of California (Art. I. §14) and New Mexico (Art. II. §14) recognize the right to an interpreter for defendants. Arizona, Colorado, Connecticut, New Jersey, North Carolina, and Tennessee do not have provisions concerning court interpreters for LEP population in their statutes; instead, regulation is established generally by administrative rules.

There are notable differences in the rest of the states. On one hand, some states have separate provisions for different situations (California, New York), while others have passed more comprehensive laws that include various types of courts (for instance, D.C. and Kansas). On the other hand, some legal texts provide interpreters for all persons involved in the proceedings (defendants, victims, plaintiff, witnesses); in others, the extent of assistance is limited (for example, the laws of Florida and Utah only refer to witnesses, and Michigan's, to

[43] "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." Department of Justice 2002. Federal Register Vol. 67, n.° 117. Tuesday, June 17, 2002.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

defendants). Furthermore, while some states have the same legislation both for hearing-impaired and for non-English-speakers (D.C., Florida, Idaho, Indiana, Kentucky, Maryland, Minnesota, Nebraska, Ohio, West Virginia, and Wisconsin, as well as Arkansas for civil cases), there are separate provisions in other cases. The greater presence of interpreting laws for people with disabilities may be related with the earlier development of this type of interpreting; as Cabrera (2017: 56) points out, while sign language interpreter certification has "reached maturity," certification for spoken languages remains "in the earlier stages."

The statements of purpose of laws on court interpreting emphasize again the core notion of language access: non-English-speaking population cannot take part in legal proceedings enjoying the same guarantees and rights than an English-speaking person, so interpreting services must be provided to correct such inequality.[44] As noted in the sections above, this assistance is not conceived as a recognition of the presence of languages other than English in the U.S., but as an aid to people who face language barriers and who, because of having a language other than English, sometimes are considered to have deficiencies or disabilities in communication.[45]

[44] See Arkansas (Code §16-10-1101); California (Government Code, §68560); Nebraska (Code §25-2401); Oregon (Statutes §45.273); Pennsylvania (Statutes §4401); Rhode Island (General Laws §8-19-1); and Washington (Revised Code §2.43.010).
[45] See the definition of "communication-impaired person" in the D.C. Code §2-1901, and that of "persons disabled in communication" in the Minnesota Statutes §546.42.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Unlike other areas managed under perspective of language access, in which assistance applies to specific languages, the right to due process is considered somehow a right of all U.S. residents, despite the fact the legal design and implementation of the rules reveal significant issues that can lead to inequalities (Abel 2013). Interpreter certification programs can also introduce differences between languages. For example, the Federal Court Interpreter Certification Examination program only certifies Spanish-English interpreters, in response to the main need of the judicial system,[46] while the National Center for State Courts (NCSC) certifies nine languages, including Spanish (Cabrera 2017). California was the only state requiring interpreters to be certified before the Courts Interpreters Act was passed in 1978 (Abel 2013: 594), and it is the only state establishing in the statutes the languages in which interpreters will be certified, although it only applies for administrative hearings: Spanish, Tagalog, Arabic, Cantonese, Japanese, Portuguese, and Vietnamese. Along with California, the statutes of Arkansas, D.C. Florida, Illinois, Kentucky, Massachusetts, Mississippi, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Pennsylvania, Rhode Island, Washington, West Virginia, and Wisconsin also create or consider the establishment of interpreter certification programs.

[46] See https://paradigmtesting.com/fcice-ov/

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

All this legislation on language access in the judicial system does not apply to juries. Different from defendants, plaintiffs, victims, or witnesses, interpretation services are not provided to juries, leading to a situation similar to that observed regarding political participation: assistance is provided for LEP people, but their active participation in the judicial proceedings as juries is not encouraged (or, sometimes, even prohibited). At the federal level, the Jury Selection and Service Act (U.S.C. §1865) established that anyone who is not able to speak, write, read, or understand English with enough proficiency cannot be considered to serve in a jury. Except for eight states (Florida, Minnesota, Mississippi, Montana, Oregon, Rhode Island, Tennessee, and Virginia), the rest have the same requirement in their laws, apart from New Mexico, which prohibits restricting the right of any citizen to serve in a jury because of his or her inability to speak, read, or write English or Spanish (Constitution, Art. VII, §3). Even if LEP population improve their English proficiency, members of language minorities are often excluded from juries because it is thought that, because of their proficiency in other languages, they will consider direct testimonies from victims, defendants, and witnesses in languages other than English instead of the official record in English (Kibbee 2016: 68).

Finally, English proficiency can also play a key role in certain court decisions. Six states (Alaska, Idaho, Kentucky, North Carolina, Vermont, and Wyoming) take

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

into account the English proficiency of a person who waives his or her right to an attorney in order to determine whether they were aware of the consequences of their decision. New Jersey has the same provision for minors. In California, Nebraska, and Washington (in the last two cases, limited to children of Native American tribes), the parents' consent to the appointment of a guardian for their children will not be valid if a judge cannot certify that they understood the terms and consequences of that authorization. In other cases, English proficiency is taken into account to determine the validity of a prenuptial agreement (California), a consent of adoption (Michigan), and a medical consent (Ohio).

5.3. After Court Proceedings

Once the courts make a decision, it has to be communicated and enforced. States lack a clear policy on this issue; what is observed are very specific provisions that vary from case to case, with the exception of California, where the Judicial Council must provide translations of all forms necessary for the enforcement of civil judgements in languages other than English (*Code of Civil Procedure*, §681.030). Much of the information that is translated relates to minors: child support (Arizona, Spanish); recommendations to guardians and foster parents and information about the terms of a minor's parole (California, in their own language); the plan to assist a child (Florida, Idaho, Oklahoma, and Texas, in their own language); and minors under state custody (Minnesota and Nebraska,

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

in their own language). Other information is intended for victims of crime: the assistance application is translated to Spanish, Chinese, Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic, Farsi, Hmong, Khmer, Punjabi, and Lao in California, and other information materials are translated to Spanish in D.C.

Notice of penalties for violation of custody or visitation of a child in New Jersey, and information on the payment of judgements in Wisconsin are also provided in Spanish. Finally, Minnesota and Texas neighbors are notified in a non-English language in the first case, and in Spanish in the second, about the presence of a sex offender in the area; in Pennsylvania the sexual aggressor is notified in a language that he understands about the obligation to register as a sexual aggressor.

Language issues are also taken into account when designing programs for perpetrators of domestic violence in Washington, and the courses for inmates who drove under the influence of alcohol; family stabilization courses for parents with children under custody must be available in Spanish in Texas. In addition, Minnesota, Missouri, South Carolina, and Washington include English as a second language (ESL) classes as part of the support provided to victims of human trafficking and of other crimes in Washington.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Imprisonment is also linked to language matters. Seven states (Arizona, Colorado, Hawaii, Louisiana, Michigan, Nevada, and Pennsylvania) provide ESL courses for inmates or as a requirement for parole. Among the information communicated to inmates in languages other than English are the prison rules in New Jersey and New York, in Spanish, and the special procedures and body searches for pregnant inmates in Colorado and New York. Finally, New York and D.C. require the inclusion in their annual reports on programs for victims of the language of people served, so that translation and interpretation services can be evaluated. Provisions requiring the collection of data on mother tongues or preferred languages can be found as well in legislation regarding professional licenses and on health programs and social services.

6. Healthcare and Social Services

Speaking a mother tongue other than English results in inequalities in access to healthcare and in the incidence of certain diseases (Kibbee 2016: 149-150). In this regard, Martínez (2015) points out the existence of a "linguistic gradient" that would explain the differences in health outcomes using a linguistic continuum, in this case specifically for Latinos: monolinguals in English have better indicators than bilinguals in English and Spanish, who in turn have better indicators than monolinguals in Spanish. This notion of the language difference as a barrier is observed in much of the legislation, which refers to the need to

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

take measures to reduce these barriers or to implement actions to reach underserved populations, which often include LEP population.

At the federal level, the legal basis for language assistance in healthcare lies on the prohibition of discrimination on the basis of national origin in Title VI of the Civil Rights Act. Furthermore, EO 13166 also applies to agencies receiving federal funding, including healthcare and social services agencies. After the publication of EO 13166 in 2000, the U.S. Department of Health and Human Services updated the guidelines for the provision of language assistance (Fed. Reg. Vol. 68, No. 153: 47311-47315), and the Office of Minority Health established in the same year the standards to provide LEP patients with cultural and linguistically appropriate services, defined as "health care services that are respectful of and responsible to cultural and linguistic needs." (U.S. Department of Health and Human Services 2001: 5). Of the 14 standards, four correspond to language access services and are mandatory for all agencies receiving federal funds: offering language access services, including bilingual staff or interpreting services for LEP patients; providing patients with written and oral information about their right to these services; ensuring their provision through interpreters and bilingual staff, avoiding family and friends; and making easy-to-understand materials and signs available in the languages of the most representative groups in the area in which they provide services (ibid.).

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

The analysis of the states' legislations is offered below, with laws that vary notably between states in scope and in the languages considered, among other aspects; furthermore, as was noted in the judicial field, it is shown how in recent years legislative and regulatory activity at the state level has surpassed that at the federal level (Chen, Youdelman, and Brooks 2007). First, written assistance in healthcare and social services is examined, followed by oral assistance and interpretation.

6.1. Written Language Access

There is no common pattern regarding what information to translate for LEP patients.[47] The content translated and the languages vary on a case-by-case basis in the 47 states with legislation, with no possibility to identify a systematic approach to written language assistance for LEP people. With regard to languages, the translation of materials in Spanish, Chinese, Vietnamese, Korean, Cantonese, Russian, Tagalog, and Arabic is considered. Spanish is once again the language with the largest presence (18 states). The only provision with a general scope corresponds to D.C. and requires the translation of all application forms and brochures related to health, safety, or welfare services into Chinese, Korean, and Vietnamese.

[47] In some cases, the option of providing LEP patients with this information through oral assistance is also considered, without specifying whether it will be done through interpreters or bilingual employees.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Apart from this exception, legislation consists of sections that refer to very specific diseases: for example, D.C. provides the form waiving the human papillomavirus vaccine in Spanish and other languages, but there is no legislation about other vaccines. Maryland and Michigan translate information on HIV, but not on other conditions. The same occurs in New Jersey, which provides information in Spanish on diseases such as breast or ovarian cancer, Parkinson's or Down syndrome. All these lead to the conclusion that the primary purpose of these laws is to address specific medical problems rather than set standards for providing translations of medical information (Chen et al. 2007: 364).

The only issue on which a certain pattern can be observed is abortion. Up to 21 states translate information related to voluntary termination of pregnancy into other languages, most of them under the so-called Women's Rights to Know Act, which requires informing women about the existence of assistance resources if they decide to continue with the pregnancy, the characteristics of the fetus, and the potential adverse effects of abortion. The language in which this information is provided varies from state to state: while some refer a language that the woman can understand or her primary language, others point to specific languages (Spanish in seven states, along with Arabic in Michigan and Vietnamese in Pennsylvania). In Arkansas, Georgia, Minnesota, North Carolina,

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Virginia, and West Virginia, this information is translated into all non-English languages spoken by 2% or more of the population, a much lower threshold than those usually considered for language assistance (ibid. 364). On the other hand, with the exception of Minnesota, all are states with English-Official laws. Again, language access does not seem to be the main objective of these laws.

Apart from these cases, three other states establish thresholds to determine in which languages certain medical information is provided. In New York, the ten or six most spoken languages are considered, while Rhode Island mentions the three most common languages. In several provisions California's legislation refers to the "Medi-Cal threshold languages," a language that "has been identified as the primary language, as indicated on the MEDS (Medi-Cal Eligibility Data System), of 3,000 beneficiaries or five percent of the beneficiary population, whichever is lower, in an identified geographic area" (California Code of Regulations, Title 9, Section 1810.410).[48] There are also provisions governed by the Dymally-Alatorre Act, which includes language groups representing 5% or more of the population; others use the In-Home Supportive Services threshold languages for home assistance services for elderly people, blind and disabled people; and others work with thresholds of 5% or 1% of people in health care facilities. Finally, for healthcare service plans, assistance depends

[48] This definition is part of the California Code of Regulations, not the Statutes.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

on the total number of people enrolled and the percentage of patients with a preferred language. Plans with more than one million enrollees must translate materials into the two most widely spoken languages after English, and into any other languages preferred by 0.75% or 15,000 of those enrolled. Plans with between 300,000 and one million enrollees must translate materials into an additional language, and into others preferred by 1% or 6,000 of those enrolled. Finally, for plans with fewer than 300,000 members, materials must be translated into any language preferred by 5% or 3,000 of those enrolled.

Along with these provisions, most states have provisions that require informing patients of their rights in a language they understand or in their primary language; these provisions generally refer to mental health centers, centers for people with disabilities, or residential care homes. Only Illinois (5% of the county population), and New York (the six most spoken languages in the state) work with language thresholds. Arizona, California, and Delaware consider Spanish in some cases. Once again, there is not a consistent pattern in legislation on patients' rights.

Finally, legislation requires that warnings about toxic products and dangerous substances appear in English. The exceptions are California (pesticides, and biological waste, in Spanish); Rhode Island (contaminated fish and latex, in

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Spanish); and Texas (pesticides, volatile substances abuse, Spanish). Warnings about the emission of toxic substances must be made in languages other than English in Washington if a significant part of the population speaks them.

6.2. Oral Language Access

Once again, besides the common federal standards, notable differences can be appreciated between states in the legislation regarding healthcare and social services interpreters. Some of them consider using interpreters only in very specific situations: Alabama, Iowa, Kentucky, and Mississippi, to evaluate children with disabilities; Washington, in cases of organ donation; Alaska, in the hearings for people in isolation or quarantine; Maine, to explain available services for autistic or disabled people; Montana, to evaluate the patient's ability to make decisions; and Arizona, to evaluate the individual's mental health. Finally, language assistance through interpreters is linked to only one disease in Rhode Island, tuberculosis, or Kentucky, with legislation urging to provide Spanish-speaking interpreters to HIV patients. Except in the latter case, the rest do not mention specific languages, but they refer to "native language," "preferred language," or they simply refer to the availability of interpreting services.

In another group of states, interpretation services are linked to the type of healthcare facility. This is the case in Massachusetts, which legislates on interpretation services in acute care hospitals and acute care psychiatric

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

hospitals. Connecticut (acute care hospitals), and New Jersey (general hospitals) provide written and oral assistance: in the first case no criteria are established regarding this help, while in the second case, assistance is offered when language minorities exceed a threshold, 10% of the population in the geographical area served by the hospital.

Furthermore, up to 19 states have passed legislation requiring insurance carriers and healthcare services providers[49] to design and implement language access plans for LEP people or, at least, to have a directory with the languages spoken in the facilities or by each specialist. Minnesota is a special case because of its legislation model, with numerous sections including requirements for health care providers and an interpreter certification law but lacking a language assistance law as such. Only three states have passed provisions regarding language assistance services with a general scope, in addition to these more concrete rules.

In California, healthcare facilities consider that a language barrier exists when at least 5% of the population served, or in the area served, speaks the same non-

[49] The U.S. healthcare system works with private providers. In this regard, legislation on healthcare sometimes intermingles with that regulating commercial issues. For instance, in Alabama, the right to be informed of mental health services in a language the individual understands is part of the Mental Health Consumer's (not patient) Right Act.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

English language: in these cases, the use of bilingual staff or interpreters is considered (Health and Safety Code §1259). In the case of Medi-Cal, the abovementioned Medi-Cal Threshold Languages are used to decide whether to provide language assistance.

The Illinois Language Assistance Services Act (Statutes §205 87/5 to §87/19) sets the threshold for language assistance (interpreters and translations) at 5% of the population served and provides for the possibility of the patient being assisted by a friend or family member, so long as the patient is informed of the availability of interpreting services. Furthermore, the Illinois Mental Health Hispanic Interpreter Act (Statutes §405 71/1) requires mental health centers and facilities for people with disabilities to provide a qualified interpreter if at least 1% of those annually admitted are of Hispanic descent.

In Washington, language access law does not refer to healthcare services, but to public assistance, both in general and for children; it states that bilingual staff will be hired, and translations and interpreting services provided when more than half of the applications and recipients of assistance have a language other than English.

The certification of healthcare interpreters at a federal level is done through The National board of Certification for Medical Interpreters (for Spanish, Russian,

© Rosana Hernández
Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Mandarin, Cantonese, Korean, and Vietnamese), as well as through the Certification Commission for Healthcare Interpreters (for Spanish, Arabic, and Mandarin)[50]. Only three states include interpreter certification programs in their legislation: Minnesota (Interpreter Services Quality Initiative, §144.058), Oregon (Health Care Interpreters, §413.552 a 413.558), and Utah (§58-80a-101 a 58-80a-601). Other states developed their programs through legal provisions indicating the need to certify language assistance providers: that is the case of Washington (Statutes §74.04.025). Minnesota and Oregon legislation do not mention specific languages to be certified; Utah certifies Spanish, Russian, Bosnian, Somali, Mandarin, Cantonese, and Navajo.

Besides working with interpreters, there are other alternatives to facilitate communication with LEP people. On one hand, the figure of the community health worker (Massachusetts, New Mexico, Oregon, Rhode Island, and Texas), a mediator halfway between the healthcare professional and the patient who uses his or her knowledge of the patient's language and culture to assist communication between them.[51] In this regard, as mentioned in section 5.1, Illinois and Nebraska require applicants for a nursing assistant or home help assistant license to be proficient in English or in a language spoken by a

[50] See http://www.ncihc.org/faq
[51] See the definition used by the World Health Organization: https://bit.ly/1pjTC7j

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

substantial number of patients. On the other hand, Maryland passed the Cultural and Linguistic Health Care Professional Competency Program in 2009 (§20-1301 a 20-1304), a voluntary program aimed to offer healthcare professionals (physicians, dentists, nurses, social workers, pharmacists, etc.) different methods to improve their communication with patients with other languages and cultures. These types of measures to manage multilingualism can only be found in healthcare legislation.

Conclusions

This work offered a comprehensive overview of language legislation in the 50 states and D.C., along with the most relevant laws at the federal level. This legislation constitutes just one part of the rules regulating the language scenario in the U.S.: executive orders, judicial decisions and, certainly, regulatory development of the laws should be included in order to have the complete analysis of the situation. On the other hand, this work and the conclusions that are now presented refer exclusively to official legal texts, that is, to top-down language policies, which does not deny the presence of non-English languages in other areas and the possibility of a different consideration towards them.

It is possible to distinguish two approaches to the U.S. language diversity, conflicting in appearance, when analyzing U.S. language legislation. On the one

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

hand, there is a set of laws that seeks to reinforce English as the only official language of the country and to limit the use of non-English languages in the public sphere. On the other hand, a second group of legal provisions recognizes how people who are not proficient in English, the majority language and the language of public administration, face difficulties in communicating with the government; then, there is a need to adopt measures in order to minimize these barriers. The first group includes some of the English-Official laws; the second, language access laws, which contemplate, among other things, the use of translations and interpreters. While it is true that U.S. English, the main driving force behind initiatives to declare English as the official language, rejects language access tools, the two approaches coexist: first, because of the obligation of the states to meet language assistance standards set by federal law and often included in the English-Official laws themselves; and second, because the language access approach does not challenge the main English-Only argument (English is *the* language of the U.S.), but rather supports the need to help non-English speakers who experience difficulties in exercising their civil and social rights through assistance that varies from state to state. These two positions could be considered as answers to different questions: "Who are we?" vs. "How do we communicate with the others, the non-English speakers?"

What can be observed in legislation is a series of more or less extensive exceptions to the general rule: English is the U.S. language, regardless of the

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

existence of a legal text that officially declares it so. Even in states with other official languages (Alaska and Hawaii), their laws explicitly mention the prevalence of English. Languages other than English are considered strange, foreign. This can be clearly noted in the statements of political representatives associated to U.S. English, the main lobby supporting English as the only official language: "I welcome the Hispanic [...] influence in our culture," affirms Senator Hayakawa (cf. Crawford 1992: 98), welcoming other cultures as the host. It can also be observed in legislation: some of the anti-language discrimination provisions have been developed from laws prohibiting discrimination on the basis of national origin, thus linking languages other than English to countries other than the U.S. This is the case of the EEOC guidelines regarding languages in the workplace, which is based on Title VII of the Civil Rights Act, the legal provision that prohibits employment on the basis of nationality. There is no doubt that people with limited English proficiency often come from other countries, but the direct association of non-English languages with foreigners is inaccurate and can have perverse effects. Furthermore, while it is true that people with difficulties communicating in English require special policies to assist them, the representation of LEP people in legislation often goes beyond a person requiring support, and it is associated to disabilities for communication, underserved groups, difficulties to find a job; there are hardly any provisions in which speaking a language other than English is considered a positive skill.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

These are all general statements that attempt to condense the information examined. However, the analysis of any aspect of the U.S. reality requires bearing in mind how often it is not possible to talk about one "United States," but about many different United States. Approximately 12% of the legal sections collected for this work belong to California; 18% of the cases in which Spanish is referred to as a specific language to be translated or in which to interpret some information are part of California legislation. Although it is not possible to take legislative sections as perfectly comparable units, because they differ in content and relevance, these two percentages are intended to show the important differences between states.

All states are subject to federal laws and regulations. The Supremacy Clause and the use of coercive mechanisms by the federal government, such as the subordination of funds to federal law enforcement, ensure the compliance with language access standards across the country, at least on paper. Section 203 of the Voting Rights Act, EO 13166 and its appliance to labor, healthcare and social services agencies, the Electronic Funds Transfer Act, and the Equal Credit Opportunity Act are mandatory for all states, which limits the execution of proposals restrictive with the use of non-English languages. From these standards, each state introduces its own legislation. Authors such as Raleigh (2008) and Bender (1996) highlight how LEP consumer protection rests mainly

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

in the states' legislation, while Abel (2013) and Chen et al. (2007) point out how the main progresses and innovation in language access in the areas of justice and healthcare have been made in recent years at the state level; which means that important differences are arising between states.

These inequalities can be explained for several reasons; this does not imply the existence of a direct association, nor that they constitute exclusive explanations: on the contrary, as shown by the contradictions observed in legislation, it is necessary to turn to case analyses such as those of Tatalovich (1995) in order to find the factors that are influencing the legislation of each state. The first element that may be acting on the level of tolerance with the use of non-English languages is political ideology. 15 out of the 20 most conservative states have passed English-Official laws, while four out of six states with general language access laws are among the 20 least conservative ones;[52] in addition, 25 states with English-Official laws score above average on the Cultural Conservatism Index.[53]

The second reason for differences between states relates to their demography. Texas, New Jersey, and New Mexico, all of them among the states with the largest Latino population, offer language access measures clearly oriented to Spanish;

[52] See http://ava.prri.org Figures from 2017 are used. No data available for D.C.
[53] The Cultural Conservatism Index includes as indicators the opinion on the legalization of abortion and on same-sex marriage.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Louisiana, to French; and California, D.C., and New York have approaches more inclined to multilingualism. There is no mention of Spanish in the legislation of ten states,[54] although it can be incorporated when language thresholds are used: all of them are among the 30 states with the lowest percentage of Hispanic population; in seven of them, Hispanics do not exceed 5% of total. Therefore, the demographic characteristics of each case have a certain reflection in its legislation.

The history of the territories that currently constitute the United States is the third element that could explain part of the differences between states. The only two mentions of German appear in Pennsylvania's legislation; those to French, mainly in Louisiana; the Spanish-language presence, although more diffuse, is clearly superior in the states of the southwest, together with New York, New Jersey, and Connecticut. However, this historic sediment has gradually blurred to the point that the reality described by Kloss in 1977 (1998), showing how, in the 19th century and at least until the first 20th century decades, the laws were printed and notices were published in non-English languages, which could even be heard in the legislatures, has already disappeared, which directly affects the status of Spanish language in the country.

[54] Alaska, Hawaii, Maine, Mississippi, Missouri, New Hampshire, North Dakota, South Dakota, West Virginia, and Wyoming.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

The historic reality of the Spanish language in the U.S. has been removed from the collective imaginary (Lozano 2018), and gradually from legislation too. New Mexico is a state with an official song and an official salute to the flag in Spanish, and its legislation prohibits discrimination on the basis of language for holding public office or serving in a jury; but even in this case, laws have not been published in Spanish for decades. There are no legal provisions asserting the Hispanic heritage or the Spanish language in any state. That is the reason why Louisiana, with a French language services program and the Council for the Development of French, is so interesting, even though, as with language access, this position does not challenge English-Only arguments. We lack evidence to explain this difference between Spanish and French, so we can only point to two intuitions derived from the work carried out for this analysis: the first, the identification of Spanish as an immigration language (ibid.) and not as a language with historical presence in the territory, as opposed to the traditional recognition of French as a language of culture. The second, the perception of Spanish as a threat because of its magnitude in the country, as the English-Only policies shown, while French has a very limited influence, at least quantitatively. The second element that clearly affects the situation of the Spanish language in the U.S. official areas and policies is multilingualism, although this dynamic is not exclusive from the U.S., but has also been identified in the European Union (Valdivieso 2014) in which the coexistence of multiple languages is also

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

managed. There are many legal provisions establishing the languages in which assistance will be provide through thresholds, and not through the designation of a specific language. Two laws with a broad scope, the D.C. Language Access Act and Section 1632 of California's Civil Code have evolved in recent decades from English-Spanish bilingualism to multilingualism, precisely after Executive Order 13166, which works with thresholds. With these types of approaches, languages other than the majority one receive equal treatment: qualitative differences, such as historical presence, are not taken into account, nor quantitative differences once the established threshold is exceeded. Thus, Spanish is considered a foreign language with a history and a magnitude that, at least in the legislation, are gradually blurring.

References

Abel, Laura K. (2013). "Language Access in the Federal Courts." *Drake Law Review*, 61: 593-638. Available at: https://bit.ly/2xQGNLd [Consulted on el 06-02-2018].

Adler, Mark (2012). "The Plain Language Movement." In Lawrence M. Solan, and Peter M. Tiersma, *The Oxford Handbook of Language and Law*. Oxford University Press, pp. 66-83.

Aka, Phillip C., and Lucinda M. Deason (2009). "Culturally Competent Public Services and English-Only Laws." *Howard Law Journal*, 53 (1): 53-131.

Anderson, Keith B. (2013). "Consumer Fraud in the United States, 2011. The Third FTC Survey." Staff Report of the Bureau of Economics Federal Trade Commission. Federal Trade Commission. Available at: http://bit.ly/20aSCzO [Consulted on 04-12-2017].

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Batalova, Jeanne, and Jie Zong (2016). "Language Diversity and English Proficiency in the United States." Migration Policy Institute. Available at: https://bit.ly/2kPL4Fo [Consulted on 03-20-2018].

Bender, Steven W. (1996). "Consumer Protection for Latinos: Overcoming Language Fraud and English-Only in the Marketplace." The American University Law Review, 45: 1027-1109. Available at: http://bit.ly/2ulQet2 [Consulted on 03-23-2017].

Berstein, Hamutal, Julia Gelatt, Devlin Hanson, and William Monson (2014). "Ten Years of Language Access in Washington, DC." Washington D.C.: The Urban Institute. Available at: http://urbn.is/2vrw44Y [Consulted on 03-18-2017].

Berthoud, Anne-Claude, and Georges Lüdi (2011). "Language Policy and Planning." In Ruth Wodak, Barbara Johnstone, and Paul Kerswill, *The SAGE Handbook of Sociolinguistics*. Los Ángeles: SAGE, pp. 479-495.

Britannica Academic (s.f.). "Common Law." Available at: http://bit.ly/2tN5Rvs [Consulted on 11-27-2018].

Cabrera, Tamara (2017). "The Translation and Interpreting Industry in the United States." Informes del Observatorio/Observatory Reports OI/OR. Cambridge: Instituto Cervantes at Harvard University. Available at: http://bit.ly/2vrml98 [Consulted on 03-18-2017].

California State Auditor (2010). "Dymally-Alatorre Bilingual Services Act. State Agencies Do not Fully Comply With the Act, and Local Governments Could Do More to Address Their Clients' Needs." California: California State Auditor, Bureau of State Audits. Report 2010-106. Available at: http://bit.ly/2uhRIbu [Consulted on 04-04-2017].

Camarota, Steven A., and Karen Zeigler (2017). "U.S. Immigrant Population Hit Record 43.7 Million in 2016." Center for Immigration Studies. Available at: http://bit.ly/2hMzOIj [Consulted on 10-19-2017].

Chávez, Linda (2011). "Bilingual ballots are a bad idea." *The New York Post*. Available at: https://nyp.st/2JfGKhu [Consulted on 05-17-2018].

Chen, Alice H.; Youdelman, Mara K., and J. Brooks (2007). "The Legal Framework for Language Access in Healthcare Settings: Title VI and Beyond." *Journal of General Internal Medicine* 22 (Suppl 2): 362-367.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Crawford, James (ed.) (1992). *Language Loyalties. A Source Book on the Official English Controversy*. Chicago: The University of Chicago Press.

Daigon, Glenn (2000). "U.S. English." In Immanuel Ness, *Encyclopedia of Interest Groups and Lobbyists in the United States*. Vol. II. Brooklyn College, City University of New York.

Dale, Charles V., and Mark Gurevitz (1997). "Legal Analysis of Proposals to Make English the Official language of the United States Government." Congressional Research Service Report for Congress. Available at: http://bit.ly/2uGDtQf [Consulted on 03-05-2017].

Del Valle, Sandra (2003). *Language Rights and the Law in the United States. Finding our Voices*. New York: Multilingual Matters Ltd.

Fedynskyj, Jurij (1971). "State Session Laws in Non-English Languages: A Chapter of American Legal History." *Indiana Law Journal*, 46 (4): 463-478.

Fernández-Armesto, Felipe (2014). *Our America: a Hispanic history of the United States*. New York: W.W. Norton & Company.

Friedman, L. M., and G. M. Hayden (2017). *American Law: An Introduction*. New York: Oxford University Press. 3rd Edition.

García, Ofelia (2015). "Language Policy." *International Encyclopedia of the Social & Behavioral Sciences*: 353-359. 2nd Edition. Available at: https://bit.ly/1KnrTqG [Consulted on 05-15-2018].

Graham, Cole Blease, Jr. (2011). *The South Carolina state constitution*. New York: Oxford University Press.

Holland, Randy J. (2017). *The Delaware State Constitution* (2nd Edition). New York: Oxford University Press.

Ikonomova, Violet (2018). "Michigan Democrat explains his vote to make English the official state language." *Detroit Metro Times*, February 23th. Available at: https://bit.ly/2kPaooo [Consulted on 03-20-2018].

Johnson, David C. (2013). *Language Policy*. New York: Palgrave Macmillan.

Kibbee, Douglas A. (2016). *The Language and the Law: linguistic inequality in America*. United Kingdom: Cambridge University Press.

Kymlicka, Will, and Alan Patten (eds.) (2003). "Introduction: Language Rights and Political Theory: Context, Issues, and Approaches." In Will Kymlicka,

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

and Alan Patten (eds.), *Language Rights and Political Theory*. New York: Oxford University Press, pp. 1-52.

Lago, Ignacio, and José Ramón Montero (2005). "'Todavía no sé quiénes, pero ganaremos': manipulación política del sistema electoral español." *Zona Abierta*, 110-111: 279-348.

Language Connections (s.f.). "The Need for a Spanish Miranda Rights Translation." Disponible en: http://bit.ly/2uPXjJ8 [Consultado el 07-06-2017].

Leonard, James (2004). "Bilingualism and Equality: Title VII. Claims for Language Discrimination in the Workplace." *University of Michigan Journal of Law Reform*, 38 (I): 57-140.

López, Gustavo, and Kristen Bialik (2017). "Key findings about U.S. immigrants." *Pew Research Center*. Available at: https://pewrsr.ch/2p5E33c [Consulted on 02-19-2018].

Lowi, Theodore J.; Benjamin Grinsber, Kenneth A. Shepsle, and Stephen Ansolabehere (2012). *American Government: Power and Purpose*. New York: W.W. Norton & Co. 12th Edition.

Lozano, Rosina (2018). *An American Language. The History of Spanish in the United States*. Oakland: University of California.

Martínez, Glenn (2015). "Spanish in the U.S. Health Delivery System." *Informes del Observatorio/Observatorio Reports* IO/OR 013-09/2015SP. Instituto Cervantes at Harvard University. Available at: https://bit.ly/2RxDkd8 [Consulted on 20-06-2017].

Meny, Ives, and Jean-Claude Thoening (1992). *Las políticas públicas*. Barcelona: Ariel.

Murphy, Alexander. B. (2008). "Placing Louisiana in the Francophone world: Opportunities and challenges." *Atlantic Studies*, 5 (3), December 2008: 363-381.

Office of Language Access (2014). "Annual Report to the Governor and State Legislature." Honolulu: Office of Language Access. Available at: https://bit.ly/2HpCGWf [Consulted on 04-07-2018].

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Orth, John V., and Newby, Paul Martin (2013). *The North Carolina State Constitution*. New York: Oxford University Press.

Ortman, Jennifer M., and Guarneri, Christine E. (2009). "United States Population Projections: 2000 to 2050." U.S. Census Bureau. Available at: https://bit.ly/2rgZlhs [Consulted on 03-22-2018].

Prescott, Natalie (2007). "English Only at Work, Por Favor." *University of Pennsylvania Journal of Labor and Employment*, 9 (3): 445-494.

Piller, Ingrid (2016). *Linguistic Diversity and Social Justice*. New York: Oxford University Press.

Raleigh, Lisa M. (2008). "Consumer Protection in the Hispanic Community." *The Florida Bar Journal*, February 2008, pp. 32-38.

Romero, Lisette P. (2011). "Why English-Only Notice to Spanish-Only Speakers is Not Enough: The Argument for Enhancing Procedural Due Process in New Mexico." *New Mexico Law Review*, 41 (2): 603-632.

Rubio-Martín, Ruth (2003). "Language Rights: Exploring the Competing Rationales." In Will Kymlicka, and Alan Patten (eds.), *Language Rights and Political Theory*. New York: Oxford University Press, pp. 52-79.

Sachs, Gerald; Lawrence Kaplan, and Alexandra Anderson (2015). "Regulatory Scrutiny of Language Discrimination in the Marketing and Offering of Consumer Financial Products and Services." Paul Hastings. Stay Current. A client alert from Paul Hastings. April 2015. Available at: https://bit.ly/2Toou2V [Consulted on 03-02-2017].

Schmidt, Ron (2000). *Language Policy and Identity in the U.S. Philadelphia*. Temple University Press.

Stepler, Renee, and Anna Brown (2016). "Statistical Portrait of Hispanics in the United States, 1980-2013." *Pew Research Center Hispanic Trends*. Available at: http://pewrsr.ch/1HluSCR [Consulted on 03-02-2017].

Subirats, Joan; Peter Knoepfel, Corinne Larrue, and Frederic Varonne (2008). *Análisis y gestión de políticas públicas*. Barcelona: Ariel.

Tatalovich, Raymond (2015). *Nativism Reborn? The Official English Language Movement and the American States*. Lexington: The University Press of Kentucky.

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

Tucker, James Thomas (2009). *The battle over bilingual ballots: language minorities and political access under the Voting Rights Act*. Vermont, USA: Ashgate Publishing Company.

U.S. Census Bureau (s.f.). "Quick facts. Population estimates, July 1, 2017" (V2017). Available at: https://bit.ly/2p6uIKj [Consulted on 03-03-2018].

U.S. Department of Health and Human Services, Office of Minority Health (2001). "National Standards for culturally and Linguistically Appropriate Services in Health Care. Final Report." Washington D.C. Available at: http://bit.ly/2ulTDYK [Consulted on 06-22-2017].

U.S. Census Bureau (2015). "Census Bureau Reports at Least 350 Languages Spoken in U.S. Homes." Available at: https://bit.ly/2nLN6pl [Consulted on 03-23-2017].

U.S. Census Bureau/American FactFinder (2016). "PEPASR6H. Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States: April 1, 2010 to July 1, 2016." 2016 American Community Survey-1 Year Estimates. Available at: http://bit.ly/2u6GQA0 [Consulted on 19-10-2017].

U.S. Census Bureau/American FactFinder (2016). "C16005. Nativity by Language Spoken at Home by Ability to Speak English for the Population 5 years and over." 2016 American Community Survey 1-Year Estimates. Available at: https://bit.ly/2JcHEvn [Consulted on 03-09-2017].

U.S. Census Bureau/American FactFinder (2016). "B16001. Language Spoken at Home by Ability to Speak English for the Population 5 years and over." 2012-2016 American Community Survey 5-Year Estimates. Available at: https://bit.ly/2Jf7pah [Consulted on 02-11-2018].

U.S. Census Bureau (2017). "The Nation's Older Population Is Still Growing, Census Bureau Reports." Available at: http://bit.ly/2sFWQFt [Consulted on 07-24-2017].

U.S. Census Bureau (2018). «Midwest Home to Most of the Counties With Decreases in Median Age». https://bit.ly/2If3TLw [Consulted on 28-06-2018].

Valdivieso, María (2014). "El español en la Unión Europea. Los platos rotos de un multilingüismo de idea y vuelta." In Pollux Hernúñez (coord.), *La*

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio *Reports*. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

traducción y la proyección internacional del español. Actas del Vi Congreso El español, lengua de traducción. April, 25th and 26th, 2014. Esletra.

Vespa, Jonathan, David M. Armstrong, and Lauren Medina (2018). "Demographic Turning Points for the United States: Population Projections for 2020 to 2060." U.S. Census Bureau. https://bit.ly/2tL4Auc [Consulted on 09-06-2018].

Rosana Hernández
Rafael del Pino Foundation Research Fellow
Instituto Cervantes at Harvard University

Language Legislation in the U.S. A Nationwide Analysis
Cambridge, MA. Instituto Cervantes at Harvard University
Informes del Observatorio / Observatorio Reports. 047-01/2019EN
ISBN: 978-0-578-45301-9 doi: 10.15427/OR047-01/2019EN

INSTITUTO CERVANTES AT HARVARD