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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

H. STUART CUNNINGHAM
UNITED STATES DISTRICT COURT

MAGISTRATE BUCKLO

LEONICIA QUINONES, CRUCITA)
VASQUEZ, NORBERTA MARTINEZ,)
JUAN SOTO, ANA ORTIZ, ISABEL)
LLANOS, MARIA GOMEZ, ELOISA)
JAZO, individually and on be-)
half of all others similarly)
situated,)

Plaintiffs,)

-vs-)

GREGORY COLER, in his official)
capacity as Director of the)
Illinois Department of Public)
Aid, and TIMOTHY A. GRACE, in)
his official capacity as)
Director of the Illinois Food)
Stamp Program,)

Defendants.)

NO.

JUDGE SHADUR

88 C 5712

COMPLAINT

PRELIMINARY STATEMENT

1.a. This is a class action for declaratory and injunctive relief brought under 42 U.S.C. § 1983 to secure rights under the Food Stamp Act ("Act") 7 U.S.C. § 2020(e)(i). The Act creates the Food Stamp Program ("Program") to provide food stamp coupons to low-income households in order to help them obtain a nutritionally adequate diet. 7 U.S.C. § 2011 et seq. Defendants, officials of the Illinois Department of Public Aid ("IDPA"), administer the Program in Illinois, and must provide bilingual personnel and bilingual certification materials in

project areas and certification offices where the estimated number of low income households who speak the same non-English language meet the standard established by federal regulation. 7 C.F.R. §272.4(b).

b. The named plaintiffs and class members are individuals in single-language (Spanish) minority households (as defined in 7 C.F.R. § 272.46(b)(1)), who have applied for, are applying, or will apply for food stamps. They live in IDPA project areas and certification offices required to have adequate Spanish-English bilingual staff, interpreters and Spanish certification materials. Defendants, however, have failed to provide the required bilingual services. Plaintiffs seek declaratory and injunctive relief.

JURISDICTION

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1337. Declaratory relief is sought pursuant to 28 U.S.C. §§ 2201.

PLAINTIFFS

3. The named plaintiffs are:
- a. Leonicia Quinones, a Spanish-speaking resident of Chicago, Illinois.
 - b. Crucita Vasquez, a Spanish-speaking resident of Chicago, Illinois.
 - c. Isabel Llanos, a Spanish-speaking mi-

grant worker who resides in Illinois during the migrant season each year.

- d. Norberta Martinez, a Spanish-speaking resident of Chicago, Illinois.
- e. Juan Soto, a Spanish-speaking resident of Chicago, Illinois.
- f. Ana Ortiz, a Spanish-speaking resident of Chicago, Illinois.
- g. Maria Gomez, a Spanish-speaking resident of Chicago, Illinois.
- h. Eloisa Jazo, a Spanish-speaking resident of Melrose Park, Illinois.

4. The named plaintiffs bring this action on their own behalf and on behalf of a class of other similarly situated persons pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The class is composed of:

All Illinois residents who, since September 26, 1983:

(1) have been, are or will be members of a single-language (Spanish) minority household as defined by 7 C.F.R. §272.4(b)(1); and

(2) have been, are or will be residing in Illinois Department of Public Aid project areas or certification offices which meet the requirements of 7 C.F.R. §272.4(b)(3) and (b)(4); and

(3) have tried to apply, are trying to apply, will try to apply, have applied, are applying or will apply for food stamp benefits.

The class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the class; the claims of the representative parties are typical of

the claims of the class, and the claims of the representative parties will fairly and adequately protect the interests of the class. Defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

DEFENDANTS

5. Defendant GREGORY COLER is the Director of IDPA, the agency which administers the Food Stamp Program in Illinois. 7 U.S.C. §2020(a). As such, he has ultimate responsibility for administering and supervising the Program and ensuring that it is administered in conformity with Federal law. 7 U.S.C. § 2020(e).

6. Defendant TIMOTHY A. GRACE, an agent of defendant COLER, is the Director of the Illinois Food Stamp Program. As such, his responsibilities include the day-to-day administration and supervision of the statewide program.

THE FOOD STAMP ACT AND ITS REGULATIONS

7. Congress enacted the program in 1964 to enable low-income households suffering from malnutrition and hunger to obtain a nutritionally adequate diet, and to strengthen the agricultural economy by promoting the distribution of the nation's agricultural abundance and the more orderly marketing and distribution of food. 7 U.S.C. § 2011.

8. The United States Department of Agriculture ("USDA") administers the Food Stamp Program nationally. The Secretary of the USDA ("the Secretary") is authorized to promulgate regulations consistent with the Act that he deems necessary and appropriate for the Program's effective administration. 7 U.S.C. § 2013(c).

9. In each state, there is one state agency designated to administer and operate the Food Stamp Program. 7 C.F.R. §271.4. In Illinois, that state agency is the IDPA, and it is required to follow the Act and USDA's implementing regulations. 7 C.F.R. § 272.2.

10. The Food Stamp Act of 1977 comprehensively revised the operation of the Program to make it more accessible to low-income individuals. 7 U.S.C. § 2011 et seq. Beginning in 1977, the Act required use of appropriate bilingual personnel and bilingual certification materials in areas where substantial numbers of low-income households speak only one language other than English, e.g., Spanish. 7 U.S.C. § 2020(e)(1)(B). Certification materials include the food stamp application form, change report form and notices to households. 7 C.F.R. 272.4-(b)(3)(A).

11. The USDA regulations require, in relevant part, that the IDPA provide bilingual certification materials and staff to "single-language minority" households in certain IDPA "project areas" and "certification offices." A "single-language mino-

rity" is defined as "households which speak the same non-English language and which do not contain adult(s) fluent in English as a second language." 7 C.F.R. § 272.4(b)(1). A "project area" is the county or political subdivision which is the administrative unit for food stamp program operations. 7 C.F.R. 271.2. A "certification office" is an IDPA office that certifies individuals as eligible for food stamps.

12. Pursuant to the Act, the federal regulations require IDPA to:

- (a) provide both certification materials in the appropriate language and bilingual staff or interpreters in each certification office that provides service to an area containing approximately 100 single-language minority low-income households. 7 C.F.R. §§ 272.4(b)(3)(i);
- (b) provide bilingual materials and staff or interpreters to single-language minority low-income households in project areas with a seasonal influx of non-English speaking households, which meets the requirements set out in subparagraph (a) of this paragraph. 7 C.F.R. § 272.4(b)(4);
- (c) ensure that certification offices, which fall within subparagraphs (a) and (b) of this paragraph, provide sufficient bilingual staff or interpreters to timely process non-English speaking applicants. 7 C.F.R. § 272.4(b)(5);
- (d) develop estimates of the number of single language minority low-income households in each project area and certification office by using census data and other demographic data. 7 C.F.R. § 272.4(b)(6).

IDPA'S POLICIES AND PRACTICES

13. Since September 26, 1983, the IDPA has:

a. failed to use the 1980 census data to identify the project areas which contain approximately 100 single-language (Spanish) minority low-income households;

b. failed to identify project areas where the number of single-language (Spanish) minority low-income households is approximately 100 households when there is a seasonal influx of non-English speaking households.

c. failed to provide Spanish language certification materials and Spanish-English bilingual staff or interpreters for appropriate project areas and certification offices;

d. failed to set forth specific reasons for a recipient's change in benefits or termination of benefits in the Spanish language when Spanish language form notices are sent to single language (Spanish) minority households.

e. failed to provide English-Spanish interpreters at fair hearings held pursuant to appeals of IDPA actions when the households live in appropriate project areas and certification offices.

f. required applicants and recipients of food stamps in project areas entitled to bilingual staff and interpreters to bring their own interpreters to IDPA offices.

APPLICATION OF DEFENDANTS' POLICIES AND
PRACTICES TO PLAINTIFFS AND MEMBERS OF
THE PLAINTIFF CLASS.

14. The named plaintiffs have been and are being subjected to the policies and practices as described in ¶13, as follows:

(a). Plaintiff Leonicia Quinones:

(i). Quinones is a fifty-two year old female whose first language is Spanish. She can read and write in Spanish. She is not fluent in English and there are no adults in her household who are fluent in English.

(ii). Quinones has been receiving food stamps since 1980. Her only income is a General Assistance grant of \$154.00 per month. Her nephew Angel Ruiz, age 21, is currently in her food stamp household. The applications and recertification forms she has signed have all been in English. Quinones' current caseworker at the Metro West Office of IDPA ("Metro West") does not speak Spanish. Her food stamp worker at the Humboldt Park office of IDPA ("Humboldt Park") did not speak Spanish. Quinones has had to rely on her daughter, Zoraida Espinoza, to communicate with IDPA about problems with her food stamps. For example, in 1985, Quinones did not receive her food stamps for February through June, 1985. Each time she communicated with the IDPA she had to have Espinoza call for her or go with her to the local office. On or about July 1, 1985 she signed a "Request to Withdraw Appeal", which was written in English, when the agency agreed to pay her food stamps for April through June, 1985. A representative of Public Aid incorrectly told her daughter that they could not pay her more than three weeks of back benefits.

(iii). Quinones has almost always had to bring her daughter, Espinoza, to her local public aid office to translate for her. For exam-

ple, in January, 1986, Quinones brought Espinoza with her to Metro West to help her recertify for food stamps. The IDPA worker spoke only English and the recertification form was in English. In August, 1985, Quinones had gone to Metro West to recertify for food stamps, but her daughter could not come. Quinones was required to bring her landlord's daughter, Maria Rosario, to translate. Because Rosario has two children, Quinones had to pay \$10.00 for a babysitter to care for Rosario's children while she was at the Public Aid office.

(iv). Quinones has received all notices regarding her food stamps in English. Because she cannot read English she must take the notices to her daughter Zoraida Espinoza. In the past, Quinones received English notices from the Humboldt Park office and she had to use money from her General Assistance grant of \$154.00 per month to take public transportation to her daughter's apartment on West Grand Avenue to have the notices translated. In May, 1985, Quinones moved to the same building as her daughter, Espinoza. She is still receiving all of her notices in English and still must have her daughter translate them for her.

(b). Plaintiff Crucita Vasquez:

(i). Vasquez is a thirty-six year old female whose first language is Spanish. She can read and write in Spanish. She is not fluent in English and there are no adults in her household who are fluent in English.

(ii). Vasquez has been receiving food stamps since about 1981. She receives food stamps for herself, her four children, Omayra (17), Nilda (15), Maritza (7), Linda (1) and her grandchild, Maria (8 months). She receives her food stamp notices in English.

(iii). In February, 1986, Vasquez went to the Wicker Park office of IDPA ("Wicker Park") to recertify for food stamps. The caseworker spoke only English and there was no interpreter. The worker, in English, told her to put the birthdates of her children and grandchild on the form and told her to sign the form. Vasquez

did as she was told. The caseworker did not attempt to explain the recertification process to her or ask her for information. The form was in English.

(iv). Approximately four days later Vasquez called her caseworker to ask when she would be receiving her food stamps. Vasquez' daughter, Omayra, translated for her. The caseworker told her that the application was misplaced.

(v). Later the same week Vasquez spoke to a Spanish-speaking caseworker who told her that her application had been misplaced. The Spanish-speaking caseworker told her to ask for her when she came to fill out another application. On or about March 8, 1986, Vasquez re-applied. The Spanish-speaking caseworker interviewed her but the form was in English. On or about March 10, 1986 she was sent an English notice that stated that her food stamp case was approved for February, 1987 thru January, 1987 (sic) for \$307.00 per month. Because of the delay, Vasquez received her food stamps for February, 1986, in March, 1986.

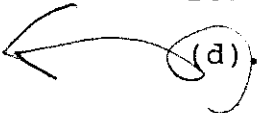
(c). Plaintiff Isabel Llanos:

(i). Llanos is a migrant worker who works in Illinois and receives food stamps during the migrant season, approximately May, June, July and August each year.

(ii). Llanos cannot read or speak English. No adult member of her family reads or speaks English.

(iii). Llanos' current caseworker speaks only English, and she receives all her food stamp notices in English, as she has for the past eight years. In order to understand her notices, she relies on her friends and a local social service agency to translate them.

(iv). In 1986, Llanos has been denied food stamps, and does not understand why.

 (d). Plaintiff Norberta Martinez:

(i). Martinez is a thirty-seven-year old

female whose first language is Spanish. She can read and write in Spanish. She is not fluent in English and there are no adults in her household who are fluent in English.

(ii). Martinez lives with her two children, Jose (15) and Armando (13). Their only income is a public assistance grant of \$341.00.

(iii). On or about October 15, 1985 Martinez went to the Western District Office of the IDPA ("Western"). She wanted to apply for cash assistance, medical benefits and food stamps for herself and her two children. Martinez brought Consuelo Castro, a friend, to interpret for her because she has previously received aid at Western and knew she would have problems communicating with the IDPA employees there. She was given an English language application and told to bring it back completed.

(iv). On or about October 25, 1985 Martinez returned to Western with Castro. She also brought the application for public assistance which Castro had helped her fill out. Martinez was told, through her friend, that her case was cancelled, but that the caseworker would have her put back on aid. She was also told to return to check with the IDPA employee at a later date.

(v). On or about November 14, 1985 Martinez returned to Western with a different friend, Maria De La Paz Martinez, to find out what happened regarding her case. She was told, through her friend, that she had to file a new application and return on November 25, 1986. She was given another English language application.

(vi). On November 25, 1985 Martinez returned to Western with the application a friend had helped her fill out, but she was unable to bring an interpreter. When her name was called, the English-speaking IDPA employee motioned her back to the waiting room when he saw she did not have an interpreter. Martinez asked a Hispanic woman in the waiting room to interpret for her and the IDPA employee, through the interpreter, told Martinez that her application was cancelled and that she would have to wait one month

and file a new application.

(vii). On or about January 8, 1986 Martinez returned to Western and brought a friend, Sylvia, to interpret. The friend helped her complete an English language application and interpreted for her. The IDPA employee told Martinez to bring some papers back to her the following day. On or about January 9, 1986 Martinez returned to Western with Sylvia and brought the papers IDPA requested. She was told, through her friend, that her application would be processed.

(viii). On or about January 16, 1986 Martinez went to the 18th Street office of LAF. LAF filed an administrative appeal on her behalf. On or about February 21, 1986 IDPA agreed to pay Martinez retroactive benefits to November, 1985.

(e). Plaintiff Juan Soto:

(i). Soto is a seventy-four year old male whose first language is Spanish. He can read and write in Spanish. He is not fluent in English and there are no adults in his household who are fluent in English.

(ii). Soto is disabled and his only income is his Supplemental Security Income of \$336.00 per month. He has been receiving food stamps for approximately five years.

(iii). In November, 1985, Soto had to recertify his eligibility for food stamps. An English language recertification form was sent to him. His niece helped him fill out the form and he sent it to IDPA.

(iv). Soto did not receive his food stamps for December, 1985 so he called his caseworker. His caseworker speaks Spanish and she told him to come to the office to fill out another recertification form. Soto went to the office on or about December 13, 1985. The form was in English and his caseworker helped him fill it out.

(v). Soto did not receive food stamps for January and February, 1986. On April 22, 1986, Soto came to the Northwest Office of LAF. LAF

filed an appeal on his behalf and IDPA agreed to pay Soto food stamp benefits for January and February, 1986 and to raise the amount of his food stamp benefits.

(vi). Soto receives his food stamp notices in English. He is required to have his nieces, nephew and friends translate these forms for him.

(g) Plaintiff Ana Ortiz:

(i). Ortiz is a fifty-five year old female whose first language is Spanish. She can read and write in Spanish. She is not fluent in English and there are no adults in her household who are fluent in English. She usually receives her food stamp notices in English, and occasionally she receives a form in Spanish with reasons for the Department's action printed in English.

(ii). Ortiz has been receiving food stamps since approximately 1974. Ortiz receives a general assistance grant of \$154.00 per month for herself. She is the head of a foodstamp household which includes her son, Guillermo (28) and her daughter Gloria (16). Gloria speaks English.

(iii). On or about January 31, 1986 Ortiz went to the Wicker Park office to recertify for food stamps. Her caseworker, Ms. Parker, speaks only English. Her caseworker told her to get somebody to interpret for her so Ortiz went to the waiting room and asked a person she did not know to translate for her. The woman from the waiting room agreed to help her and acted as an interpreter for Ortiz and Parker. The recertification form Ortiz signed was in English.

(iv). Ortiz did not receive her foodstamps for March and April, 1986. She has gone to the Wicker Park office approximately three times and has called approximately four times. When she has gone to the IDPA office she has had to ask a person in the waiting room to translate for her. When Ortiz calls the IDPA office she goes to a restaurant on Armitage, asks somebody to interpret for her and calls from the restaurant, even though she has a telephone in her home.

Wicker Park

When her caseworker calls her at home she asks to speak to Ortiz' sixteen year old daughter.

(v). On April 29, 1986, Ortiz went to the Northwest Office of LAF. LAF filed an administrative appeal on her behalf and IDPA has agreed to pay the food stamp benefits it owes to Ortiz.

(h). Plaintiff Maria Gomez:

(i). Gomez is a twenty-one year old female whose first language is Spanish. She can read and write in Spanish. She is not fluent in English and there are no adults in her household who are fluent in English.

(ii). Gomez has been receiving food stamps for approximately one year. She receives food stamps for herself, her daughter, Veronica (10 months) and her brother.

(iii). Gomez' caseworker, Ms. Hiner, at the Ashland Office of IDPA ("Ashland") does not speak Spanish. Gomez has had to rely on her sister, Zoraida Espinoza, to communicate with Ms. Hiner about problems with her public aid. Gomez' application for public assistance was in English and the notices she receives from IDPA are in English.

(iv). In January, 1986 Gomez received a notice, in English, from IDPA stating that her financial assistance was being reduced because she had received an overpayment. Espinoza read the notice and the papers attached to the notice, but did not understand them. Espinoza called Hiner and was told that IDPA had information that Gomez had been working and receiving financial assistance. Espinoza told Hiner that Gomez had not been working. Gomez did not appeal the decision and IDPA began to take money from her check each month.

(v). In April, 1986, Gomez received a notice, in English, from IDPA. The notice stated that Gomez had failed to report employment for the months of September, 1985 through November, 1985. The attached papers indicated that Gomez had received a financial assistance overpayment of \$750.00 and a food stamp overpayment of

\$149.00. Espinoza read the notice, but did not understand the calculation sheets attached to the notice. Espinoza called the Northwest Office of the Legal Assistance Foundation because they were helping her mother, Leonicia Quinones, with a food stamp problem. On April 29, 1986, an administrative appeal was filed. On May 21, 1986 Gomez, with her attorney, met Hiner and her supervisor at the Textile Craft Company. An employee of Textile stated that Gomez was not the individual who had worked at the company. IDPA agreed to rescind its overpayment notice.

(i). Plaintiff Eloisa Jazo:

(i) Jazo cannot speak or read English. There are no adults in her household who are fluent in English.

(ii) Jazo has been receiving food stamps for approximately 3 1/2 years. Her caseworker does not speak Spanish. When Jazo must talk to her caseworker, she brings a friend to translate. Jazo receives her food stamps notices in English, and she relies on her friend to translate for her.

(iii) In February, 1986, Jazo received a food stamp notice in English that said she was working, and her food stamps were discontinued for three months.

(iv) After Jazo received the notice, she went to her public aid office to explain that she was not working. Her friend could not accompany her to the office that day, so she asked for a Spanish interpreter. Instead of being helped by her caseworker or given a Spanish-speaking interpreter, she was motioned to the waiting room, where she remained for several hours. She eventually left because no one waited on her, and because her caseworker advised her that no one at the office spoke Spanish.

(v) Jazo received no food stamps for the months of December, 1985 through February, 1986.

15. The defendants' policies and practices as described

in ¶13, have been applied, are being applied, and, unless enjoined, will continue to be applied to the named plaintiffs and to members of the plaintiff class members in the same or a similar manner as they are being and will be applied to the named plaintiffs.

16. Members of the plaintiff class have been subjected to, continue to be subjected to, and, unless the policies and practices described in ¶13 are enjoined, will continue to be subjected to the same or similar types of injuries as have the named plaintiffs. The named plaintiffs themselves will continue to be subject to the same or similar types of injury, unless such policies are enjoined.

17. The named plaintiffs and the class they represent have suffered and are suffering irreparable injury as a result of defendants' policies and practices and will continue to suffer such injury until the defendants' policies and practices, as described in ¶13, are declared unlawful and are enjoined by this Court.

18. There is no adequate remedy at law.

CLAIM

19. The defendants' policies and practices, as described in ¶13, violate 7 U.S.C. § 2020(e)(1)(B) and 7 C.F.R. §272.4(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Declare that defendants' policies and practices, described in ¶13, violate 7 U.S.C. § 2020(e)(1)(B) and its implementing regulations.

B. Preliminarily and permanently enjoin the defendants, their successors in office, their agents or employees, and all other persons acting in concert with them, from failing to:

- (1) develop estimates of single-language (Spanish) minority low-income households in project areas and certification offices in Illinois;
- (2) provide Spanish language certification materials and English/Spanish bilingual staff or interpreters in appropriate project areas and certification offices;
- (3) develop procedures to ensure Spanish language certification materials are provided to, or sent to, single-language (Spanish) minority heads of households in appropriate project areas and certification offices;
- (4) provide sufficient Spanish-speaking staff or interpreters for the timely processing of Spanish-speaking applicants as required by federal regulations;
- (5) provide adequate procedures to inform Spanish-speaking households of their right to receive Spanish language certification materials;
- (6) replace lost food stamp benefits pursuant to 7 C.F.R. § 273.17.

C. Award plaintiffs their reasonable costs and attorneys' fees.

D. Grant such further and additional relief as may be just and equitable.

Respectfully submitted,

ONE OF PLAINTIFFS' ATTORNEY

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