U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

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Mr. Gregory B. Grimes
Superintendent
Pointe Coupee Parish School District
Post Office Drawer 579
New Roads, Louisiana 70760-0579

Ronald E. Weber, Ph. D.
President, Campaign & Opinion
Research Analysts, Inc.
116 East Cornerview Road
Gonzales, Louisiana 70737

Dear Mr. Grimes and Dr. Weber:

This refers to the 2002 redistricting plan and the postponement of the October 5, 2002, primary election for the Pointe Coupee Parish School District in Pointe Coupee Parish, Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your response to our July 7, 2002, request for additional information on August 5, 2002; supplemental information was received through September 12, 2002. We received your submission of the postponement of the primary election on September 23, 2002.

With regard to the postponement of the primary election, the Attorney General does not interpose any objection. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41). When the procedures for the conducting the postponed election, including the new date, are finalized and adopted, these procedures, and any other changes affecting voting will require Section 5 review. See 28 C.F.R. 51.15.

With regard to the 2002 redistricting plan, we have considered carefully the information you have provided, as well as census data, comments from interested parties, and other information, including the school district's previous submissions. As discussed further below, I cannot conclude that the school district's burden to demonstrate that the plan does

not result in a discriminatory effect under Section 5 has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 2002 redistricting plan for the school district.

The 2000 Census indicates that the Pointe Coupee Parish School District has a total population of 22,763, of whom 8,572 (37.7%) are black. The school district is governed by an eight-member board, elected from single-member districts to concurrent four-year terms. According to the 2000 Census, there are three districts under the benchmark plan, Districts A, C, and D, in which black persons are a majority of the voting age population: in District A it is 50.0 percent; in District C it is 72.0 percent, and in District D it is 75.3 percent. In contrast, the proposed 2002 redistricting plan contains only two such districts, Districts C and D. Application of the 2000 Census to the proposed plan reveals that the black percentage of the voting age population in District A falls to 47.4 percent.

Our analysis of elections held in the school district indicates that black voters in District A as well as in Districts C and D have been electing candidates of choice under the benchmark plan on the basis of strong, cohesive black support. A review of school board elections in District A during the 1990s shows that a black candidate of choice was elected in 1990, lost the 1994 runoff election by 23 votes, and then again prevailed in the 1998 primary election by 25 votes. The school board's own analysis of these elections shows extremely high polarization in these elections: 93.7 to 95.7 percent of the blacks who turned out voted for the preferred black candidate. Our statistical analysis also shows that white voters provide only minimal support to candidates supported by the minority community.

In the face of this analysis, the school board has argued that proposed District A, which reduces the proportion of minority voting age residents by 2.6 percentage points, will remain a district in which minority voters will retain the ability to elect candidates of their choice. The board points to the results of the 1995 and 1999 gubernatorial races involving a black candidate as relevant to determining the performance of elections in new District A. However, these elections are not as probative as the endogenous elections discussed above. Moreover, while the minority-preferred candidate did appear to attract a small amount of white crossover in 1995, the results once again show an overall pattern of severe racial bloc voting with white voters giving only minimal support to the candidate supported by the minority community.

Given the slim margins of victory and defeat experienced by the minority candidate in District A school board elections and the prevalence of racially polarized voting, there is substantial doubt that minority voters would retain the ability to elect their candidate of choice in District A under the proposed plan.

Our review of the school district's benchmark and proposed plans suggests that the significant reduction in the black voting age population in District A in the proposed plan, and the likely resulting retrogressive effect was neither inevitable nor required by any constitutional or legal imperative. The board claims that the only change that could be made to District A, which was underpopulated, was to add Precinct 5 which lies immediately to its south. While it is true that Precinct 5 lies directly to the south of District A, it was not necessary to add the entire precinct in order to bring the plan into population equality. The board split other precincts into new precincts in order to make the changes it wished to make in other areas of the district, and could have done so with Precinct 5, thereby, avoiding the retrogression.

Under the Voting Rights Act, a jurisdiction seeking to implement a proposed change affecting voting, such as a redistricting plan, must establish that, in comparison with the status quo, the change does not "lead to a retrogression" in the position of minority voters with respect to the "effective exercise of the electoral franchise." See Beer v. United States, 425 U.S. 130, 141 (1976). If the proposed plan materially reduces the ability of minority voters to elect candidates of their choice to a level less than what they enjoyed under the benchmark plan, preclearence must be denied. Georgia v. Ashcroft, 195 F. Supp. 2d 25 (D.D.C. 2002). In Texas v. United States, the court held that "preclearance must be denied under the 'effects' prong of Section 5 if a new system places minority voters in a weaker position than the existing system." 866 F.Supp. 20, 27 (D.D.C. 1994). Finally, the submitting authority has the burden of demonstrating that the proposed change has neither the prohibited purpose nor effect. Id. at 328; see also Procedures for the Administration of Section 5 (28 C.F.R. 51.52).

In light of the consideration discussed above, I cannot conclude that your burden of showing that a submitted change does not have a discriminatory effect has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the submitted redistricting plan. Under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the

proposed changes neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. See 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 2002 redistricting plan continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

If you have any questions, you may call Ms. Judybeth Greene (202-616-2350), an attorney in the Voting Section. Refer to File No. 2002-2717 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

Ralph F. Boyd
Assistant Attorney General