



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 22 1987

James B. Richardson, Jr., Esq.  
Richardson and Smith  
1338 Main Street  
Columbia, South Carolina 29201

Dear Mr. Richardson:

This refers to the procedures for conducting the April 14, 1987, special election to elect school board trustees under a new method of election and the districting plan for the Edgefield County School District in Edgefield County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on April 14, 1987.

We have considered carefully the information you have provided, as well as comments from other interested parties, including the plaintiffs in Jackson v. Edgefield County School District (Civ. Action No. 85-709-3 (D.S.C.)). With regard to the procedures for conducting the April 14, 1987, special election, you have advised us that the school board's plans to hold that election were abandoned. Therefore, it would be inappropriate for the Attorney General to make any further determination with respect to this matter. See Sections 51.25 and 51.35 of the Procedures for the Administration of Section 5 (52 Fed. Reg. 493 and 495 (1987)).

With regard to the districting plan, we note at the outset that this endeavor stems from the court's order in Jackson which found the preexisting at-large election system violative of Section 2 of the Voting Rights Act and required the school district to devise a new election plan to remedy the violation. While the school district has sought to show that its proposed districting does this by providing blacks with an opportunity to elect candidates of their choice to office in four of the plan's seven districts, our analysis shows that this is not a valid assessment of the plan's impact. First of all,

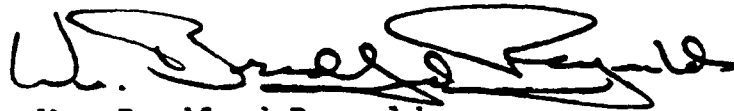
the existence of racial bloc voting and other factors adversely affecting black participation in the electoral process in Edgefield County strongly suggest that blacks will have a realistic opportunity for electing candidates of their choice in only two of the school board's proposed districts. Secondly, the affected black constituency seems firmly to oppose the districting incorporated into the school district's proposal and our information is that the plaintiffs in the Jackson litigation and other blacks were afforded no input into the development of this plan. Rather, assertions that the school district's plan was drawn in a manner calculated to minimize black voting strength have come to our attention and seem supported by the fact that alternate configurations, which would observe the school district's stated nonracial criteria for drawing districts as well or better than the submitted plan, easily could have been drawn so as more effectively to provide the black population an equal opportunity to participate in the electoral process and to elect candidates of their choice to office. These assertions have not been adequately rebutted.

Under Section 5 of the Voting Rights Act the school district has the burden of showing that the submitted change is free of any discriminatory purpose and effect. See Georgia v. United States, 41 U.S. 526 (1973); Busbee v. Smith, 549 F. Supp. 454 (D. D.C. 1982), aff'd, 459 U.S. 1166 (1983). See also Section 51.52(a) (52 Fed. Reg. 497-498 (1987)). In view of the circumstances discussed above, I cannot conclude that that burden has been sustained in this instance. Accordingly, I must, on behalf of the Attorney General, object to the proposed districting plan which you have submitted.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.45 of the guidelines (52 Fed. Reg. 496-497 (1987)) permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the districting plan legally unenforceable. See Section 51.10 (52 Fed. Reg. 492 (1987)).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Edgefield County School District plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is fluid and cursive, with a large initial "W" and "B".

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division