

MAR 9 1976

Mr. Johnnie Henderson
Superintendent
Forney Independent School District
P. O. Box 939
Forney, Texas 75126

Dear Mr. Henderson:

This is in reference to the imposition of majority vote and numbered post voting requirements in Board of Trustees' elections, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on January 9, 1976.

We have given careful consideration to the submitted changes and the supporting information as well as the data compiled by the Bureau of the Census and information and comments from interested parties. After a careful examination of these factors as well as an analysis of recent court decisions, we are unable to conclude, as we must under the Voting Rights Act, that the imposition of the majority vote and numbered post voting requirements in the context of the at-large and staggered elections for the Board of Trustees will not have a racially discriminatory effect. Recent Supreme Court decisions, to which we feel obligated to give great weight, indicate that the combination of the above features would have the effect of abridging minority voting rights. The reasoning of these recent cases is illustrated by the Supreme Court's decision in June of 1973 which held that the multi-member election system, numerical

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post and majority vote requirement of Dallas and Bexar Counties, Texas, tended to abridge minority voting power and therefore violated the Fourteenth Amendment. White v. Regester, 412 U.S. 755 (1973). See also, Whitcomb v. Chavis, 403 U.S. 124 (1971).

For the foregoing reasons, I must on behalf of the Attorney General interpose an objection to the numbered post and majority vote features mentioned above. We have reached this conclusion reluctantly because we fully understand the complexities involved in devising a plan of this nature so as to satisfy the needs of the school district and its citizens and simultaneously, to comply with the mandates of the Federal Constitution and laws. We are persuaded, however, that the Voting Rights Act compels this result.

Of course, Section 5 permits seeking approval of all changes affecting voting by the United States District Court for the District of Columbia irrespective of whether the changes have previously been submitted to the Attorney General. However, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the changes in question legally unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division