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MAY 24 1976

Mr. Richard A. Green  
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Woods & Culley  
Attorneys for the Hereford  
Independent School District  
140 East Third Street  
Hereford, Texas 79045

Dear Mr. Green:

This is in reference to the adoption of bilingual election procedures, the change in polling place, the designation of election by place, and the adoption of a majority vote requirement by the Hereford Independent School District, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on March 24, 1976.

The Attorney General does not interpose an objection to the bilingual election procedures adopted by the District. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

The Attorney General will make no determination with regard to the change in polling place since this change was made prior to November 1, 1972 and is therefore not subject to the preclearance requirements of Section 5.

With respect to the designation of election by place and the majority vote requirement, we have given careful consideration to the materials and information you have submitted as well as information and comments from other interested parties. We have noted particularly the growing minority population of the district, the electoral history of the district, the increase in minority political activity, the lack of any minority representation on the Board of Trustees of the district, and the fact that these features would be added to an at-large election system.

The place system in effect creates separate offices and permits each voter to vote for only one candidate in each place. In the context of an at-large electoral system, and other circumstances as they affect the electoral process in the Heraford Independent School District, the opportunity for minority voters to elect a representative of their choice to the School Board is significantly lessened by the addition of the numbered place requirement. As one court decision indicates:

In a true at large election, if the majority spreads its votes around and the minority single shot votes, the minority strength is concentrated, thus increasing their chance of electing. However, if the minority candidate is forced to run against a specific candidate for a specific seat, the majority can readily identify for whom they must vote in order to defeat the minority candidate.

Manston v. Scott, 336 F. Supp. 206, 213, n. 9 (S.D. S.C. 1973). The majority vote requirement exacerbates this problem, by preventing a minority candidate who receives a plurality against two or more majority candidates from being elected without facing a run-off election against a single majority candidate.

For these reasons, the Attorney General has interposed objections under Section 5 of the Voting Rights Act to numbered place systems and majority requirements in a number of other similar jurisdictions, and we are unable to conclude, as we must under the Voting Rights Act, that the numbered place and majority vote requirements in the Herford Independent School District will not have the effect of discriminating on account of race, color, or membership in a language minority group. Therefore, on behalf of the Attorney General, I must interpose an objection under Section 5. However, as the law provides, a declaratory judgment that this change does not have the proscribed purpose or effect may be sought in the United States District Court for the District of Columbia notwithstanding this objection.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division