

Dr. James H. Malley  
Superintendent  
Midland Independent School  
District  
702 North W. Street  
Midland, Texas 79701

AUG 6 1976

Dear Dr. Malley:


This is in reference to the change to numbered post and majority vote requirements for the election of the Board of Trustees of the Midland Independent School District, Midland, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on June 7, 1976.

We have given careful consideration to the information furnished by you and to comments from interested parties. On the basis of our analysis of this information and of relevant judicial decisions, we are unable to conclude, as we must under the Voting Rights Act, that these requirements will not have a discriminatory effect on the basis of race, color, or membership in a language minority group. In this regard, we have noted the stated purpose of the numbered post requirement to prevent single shot voting and that racial bloc voting appears to exist in the district (see Bunston v. Scott, 336 F. Supp 206, 213 n. 9 (D.D.C. 1972)).

Accordingly, on behalf of the Attorney General, I must interpose an objection to the implementation of the numbered posts and majority vote requirements for the election of the Board of Trustees of Midland Independent School District. I note that although the evidence with regard to racial bloc voting is, to some extent, conflicting, the procedural guidelines for the administration of Section 5 provide, "If the evidence as to the purpose or effect of the change is conflicting, and the Attorney General is unable to resolve the conflict within the 60 day period, he shall, consistent with the above-described burden of proof applicable in the District Court, enter an objection and so notify the submitting authority." 28 C.F.R. 51.19.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that these 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. Until such judgment is rendered by the Court, however, the effect of the objection by the Attorney General is to make the changes in question legally unenforceable.

Sincerely,

  
J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division

NOV 13 1978

Mr. Charles Tighe  
Attorney  
Midland Independent School  
District  
Cotton, Bledsoe, Tighe,  
Morrow and Dawson  
Suite 1930, Wilco Building  
Midland, Texas 79701

Dear Mr. Tighe:

This is in reference to your request for reconsideration of the objection pursuant to Section 5 of the Voting Rights Act, as amended, to the numbered post and majority vote requirements for the election of Trustees to the Midland Independent School District of Midland County, Texas. The objection was interposed on behalf of the Attorney General on August 6, 1976; your request for reconsideration was received on September 11, 1978.

We have reviewed the information provided and we have reanalyzed the information previously available to us. As our August 6, 1976, letter indicated, our objection at that time was based primarily on our inability to conclude that racial bloc voting did not exist in the Midland Independent School District. Having now had the opportunity to reevaluate the information available to us, including the results of the 1977 and 1978 elections we do not conclude that racial bloc voting exists in the Midland ISD elections to such an extent as to provide the necessary basis for a continued objection to the implementation of the majority vote and numbered posts requirements. Accordingly, on behalf of the Attorney General, I hereby withdraw the objection to

the numbered post and majority vote requirements for the election of Trustees to the Midland Independent School District. However, I feel the 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 changes.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division