

Mr. W. G. Morton
President, Board of Trustees
Somerset Independent School
District Post Office Box 278
Somerset, Texas 78069

MAR 17 1977

Dear Mr. Morton:

This is in reference to the imposition of a place system and the bilingual election procedures for the April 2, 1977 election for the Somerset Independent School District, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on January 17, 1977. Although we noted your request for expedited consideration, we were unable to comply.

The Attorney General does not interpose an objection to the bilingual procedures for the April 2, 1977 election. 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.

In regard to the addition of the place system to the at-large election of school board members, we have made a careful examination of the information you provided and comments from interested parties, as well as recent court decisions. Our analysis reveals that Mexican-Americans constitute a substantial proportion of the population of the Somerset Independent School District and that there are indications that bloc voting along ethnic lines exists. Under such circumstances, 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. See White v. Regester, 412 U.S. 755 (1973), and Beer v. United States, 425 U.S. 130 (1976); see also Zimmer v. McKeithen, 485 F. 2d 1297 (5th Cir. 1973), affirmed on other grounds sub nom. East Carroll Parish School Board v. Marshall, 424 U.S. 636 (1976) and Graves v. Barnes, 378 F. Supp. 640 (W.D. Tex. 1974).

On the basis of our examination, we are unable to conclude, as we must under the Voting Rights Act, that the imposition of the place system in the context of the at-large election system for the school board will not have a discriminatory effect on the basis of race, color, or membership in a language minority group.

Accordingly, I must on behalf of the Attorney General interpose an objection of the imposition of the place system for electing school board members in the Somerset Independent School District.

Of course, Section 5 permits your seeking a declaratory judgment in the United States District Court for the District of Columbia that the change does not have the proscribed purpose or effect 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 change in question legally unenforceable.

Please advise us within 10 days of the steps that you intend to take to comply with this decision.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division