

DJ 166-012-3
A2564-65

APR 7 1978

Mr. M. R. Parrish, Superintendent
Neches Independent School District
Box 1208
Neches, Texas 75779

Dear Mr. Parrish:

This is in reference to the numbered post and majority requirements for the election of members of the Board of Trustees of the Neches Independent School District of Anderson County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on February 6, 1978.

We have given careful consideration to the information you have furnished. Our analysis reveals that blacks constitute a substantial proportion of the population of the Neches Independent School District, that trustees are elected at large with staggered terms, and that blacks have not been elected to the Board of Trustees. Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that the numbered post and majority vote requirements could have the potential for abridging minority voting rights. See White v. Regester, 412 U.S. 755, 766-67 (1973); Zimmer v. McKelthen, 485 F.2d 1297, 1305 (5th Cir. 1973), aff'd sub nom. East Carroll School Board v. Marshall, 424 U.S. 636 (1976); Robinson v. Commissioners Court, Anderson County, 505 F.2d 674 (5th Cir. 1974).

Section 5 of the Voting Rights Act places upon the submitting authority the burden of proving that a submitted change in voting practice and procedure does not have a racially discriminatory purpose or effect. (See Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 51.19.) Because of the potential for diluting black voting strength inherent in the use of a numbered post and majority vote requirements for the Neches Independent School District and because the District has advanced no compelling reason for their use, we are unable to conclude that the burden of proof has been sustained and that the imposition of these requirements in the context of an at-large system will not have a racially discriminatory effect in the Neches Independent School District. Accordingly, on behalf of the Attorney General, I must interpose an objection to the implementation of the numbered post and majority vote requirements for the election of members of the Board of Trustees of the Neches Independent School District.

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, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the numbered post and majority vote requirements legally unenforceable.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division