

JUL 7 1978

Mr. W. M. Holm
Superintendent
Ector County Independent
School District
Post Office Box 3912
Odessa, Texas 79760

Dear Mr. Holm:

This is in reference to the numbered post and majority vote requirements for the election of Trustees of the Ector County 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 completed on May 8, 1978.

We have given careful consideration to the information furnished by you as well as Bureau of the Census data and information and comments from other interested parties. Our analysis reveals that Mexican Americans and blacks constitute a substantial proportion of the population of the Ector County Independent School District, that the Board of Trustees is elected at-large, and that racial bloc voting may exist. Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that numbered post 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. McKeithen, 485 F.2d 1297, 1305 (5th Cir. 1973), aff'd sub nom. East Carroll Parish School Board v. Marshall, 424 U.S. 636 (1976); Nevitt v. Sides, 571 F.2d 209 (5th Cir. 1978).

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 numbered post and majority vote requirements under circumstances such as exist in the Ector County 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 election system, will not have a racially discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the numbered post majority vote requirements for the election of Trustees of the Ector County 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 these changes have neither 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. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.2(b) and (c), 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 Attorney General's objection is to make the numbered post and majority vote requirements legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division