

MAY 11 1979

Mr. William M. Holland  
Attorney at Law  
Post Office Drawer 230  
Rusk, Texas 75785

Dear Mr. Holland:

This is in reference to the imposition of a place system and a majority vote requirement for the election of trustees to the Board of Trustees of the Alto Independent School District, Cherokee 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 March 15, 1979.

We have given careful consideration to the information furnished by you as well as Bureau of the Census data and information and comments from interested parties. Although we have received conflicting information as to the black population of the Alto Independent School District, there is apparent agreement on the black student population which is estimated to be approximately 40%. We must assume, therefore, that the total population of the school district is at least 20-30% black, which represents a substantial proportion of the overall population of the Alto Independent School District. Under the present method of election, school trustees are elected at-large. Under these circumstances, court decisions, to which we feel obligated to give great weight, indicate that a place system and majority vote requirement can have the potential for abridging minority voting rights. See Dunston v. Scott, 336 F. Supp. 206, 213 (N.D.N.C. 1972); White v. Rogester, 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); and Blacks United for Lasting Leadership v. City of Shreveport, 71 F.R.D. 623, 628, 632, 636 (W.D. La. 1976).

The information we have been provided does not demonstrate that the place system and majority vote requirement's recognized potential for diluting minority voting strength does not exist in the Alto Independent School District.

Although black candidates have been elected to the Board of Trustees, this was under the at-large, plurality method of election. The addition of potentially discriminatory electoral devices such as the place system and majority vote requirement will make it more difficult for black candidates to be elected and inhibit their full and equal participation in the school district's political process.

Section 5 of the Voting Rights Act places upon the submitting authority the burden of proving that submitted changes in voting practice and procedure do not have a racially discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526, 538 (1973); City of Richmond v. United States, 422 U.S. 353, 380-81 (1975) (Brennan, J., dissenting); 28 C.F.R. 51.19. Because of the potential for diluting black voting strength inherent in the use of a place system and majority vote requirement in the Alto Independent School District and because the school 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 the place system and majority vote requirement, in the context of an at-large election system, does not have a racially discriminatory purpose and will not have a racially discriminatory effect in the Alto Independent School District. Accordingly, on behalf of the Attorney General, I must interpose an objection to the implementation of the place system and majority vote requirement for the election of trustees to the Board of Trustees of the Alto 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 or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(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 objection by the Attorney General is to make the place system and majority vote requirement legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the Alto Independent School District plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Voting Section Attorney David Hunter at 202--724-7439.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division