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DJ 166-012-3
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August 19, 1983

Mr. Bennie Wolff
Superintendent, Stockdale
Independent School District
P. O. Box 7
Stockdale, Texas 78160

Dear Mr. Wolff:

This is in reference to the use of numbered positions for the election of board members of the Stockdale Independent School District in Wilson County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on June 20, 1983.

We have given careful consideration to the information you have submitted, as well as that provided by other interested parties. Our analysis reveals evidence of racially polarized voting in the Stockdale area. Our analysis further reveals that the imposition of numbered positions will make it more difficult for Hispanic voters to elect candidates of their choice than under the present system because the change eliminates the benefits that accrue to minority voters from being able to vote single-shot. Since designated positions often cause head-to-head contests, this would, in effect, amount to a majority vote requirement to win elections, a success the minority would have little likelihood of attaining in the context of the racial bloc voting that seems to exist.

Under Section 5 of the Voting Rights Act, the submitting jurisdiction bears the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures of the Administration of Section 5

(28 C.F.R. 51.39(e)). In order to show the absence of a racially discriminatory effect, the jurisdiction must demonstrate that the proposed change will not lead to "a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976).

In view of the above discussion, it would appear to us that the use of a designated post system of elections for the Stockdale Independent School District will lead to a retrogression in the ability of minority voters to elect candidates of their choice. For that reason, and because the school district has not advanced any compelling reason for the use of numbered positions, I am unable to conclude that the burden of proof has been sustained and that this change, in the context of an at-large system and the racially polarized voting that seems to exist in the Stockdale area, does not have a racially discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the implementation of numbered positions for the election of board members of the Stockdale 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 the change has 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, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the use of numbered positions for the election of board members of the Stockdale Independent School District legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Stockdale Independent School District

plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Sandra S. Coleman (202-724-6718), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division