

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 14 1986

Dr. William J. Campion
President, Trinity Valley Community
College District
500 South Prairieville Street
Athens, Texas 75751

Dear Dr. Campion:

This refers to the February 3, 1986, redistricting plan, the appointment of a board member to fill a vacancy in District 4, and a decrease in the length of the terms of two board members for the Trinity Valley Community College District (formerly known as the Henderson County Junior College District) in Anderson, Henderson, Hunt, Kaufman, and Van Zandt Counties, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on August 12, 1986.

We have considered carefully the information you have provided as well as information received from other interested parties. At the outset, we note that according to the 1980 Census the proposed redistricting plan is significantly malapportioned, with a top-to-bottom deviation of approximately 49 percent. The district with the largest minority population (District 6, 43% black) is overpopulated by approximately 31 percent. We understand that this malapportionment resulted from using registration (rather than population) data as the basis for the apportionment; however, it is now well established that registration data may validly be used only where it produces a plan "not substantially different from that which would have resulted from the use of a permissible population basis." Burns v. Richardson, 384 U.S. 73, 93 (1966). Of particular relevance to our review is the observation that, had the college district prepared a properly apportioned plan otherwise using its stated criteria, District 6 would have been majority black rather than minority black as constituted in the proposed plan. This consequence is highly significant given the racially polarized voting which exists in the Terrell area, where District 6 is located.

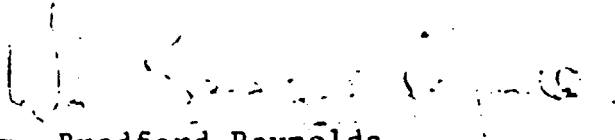
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above and other relevant circumstances, including those surrounding the process that led to the adoption of the plan, I cannot conclude, as I must under the Voting Rights Act, that the college district has carried its burden in this instance of showing the absence of a discriminatory purpose. Therefore, on behalf of the Attorney General, I must object to the redistricting plan submitted by the Trinity Valley Community College 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, 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 redistricting plan legally unenforceable. 28 C.F.R. 51.9.

In view of the foregoing objection, it would not be appropriate to reach a determination on the two related changes submitted with the redistricting plan. 28 C.F.R. 51.20(b).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Trinity Valley Community College District plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-8388), Attorney/Reviewer in the Section 5 Unit of the Voting Section.

Sincerely,


Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division