



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 4 1988

Mr. John R. Saul
Superintendent, Columbus
Independent School District
P. O. Box 578
Columbus, Texas 78934

Dear Mr. Saul:

This refers to the adoption of numbered positions and a majority vote requirement for the election of the Board of Trustees for the Columbus Independent School District in Colorado and Austin 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 November 4, 1987.

We have given careful consideration to the information furnished by you as well as information and comments by interested parties. At the outset, we note that minorities constitute 23.9 percent of the 1980 Census population and that a pattern of racially polarized voting appears to exist in the Columbus ISD. Under the present method of election school trustees are elected at large by a plurality vote to staggered terms, a system which provides to minority voters a realistic opportunity, through the technique of single-shot voting, to elect a candidate of their choice to the board of education. In this context, the proposed numbered positions would operate to remove the benefits enjoyed by minority voters from the use of single-shot voting and, thus, restrict their ability to participate meaningfully in school board elections. The incorporation of a majority vote requirement, which is likely to promote "head-to-head" contests between minority candidates and white candidates, would serve only to enhance the ability of the majority group to control the election of all board members and thereby exacerbate the election difficulties faced by minority voters. No nonracial justification has been presented to refute the strong inferences that the proposed changes were designed to hinder minority voting opportunities.

Section 5 of the Voting Rights Act places upon the submitting authority the burden of showing that submitted changes in voting practices and procedures do not have a racially discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52(a)). In view of the circumstances discussed above, we are unable to conclude that the burden of proof has been sustained in this instance. Accordingly, on behalf of the Attorney General, I must interpose an objection to the implementation of the numbered position and majority vote requirements for the election of members of the Board of Trustees of the Columbus ISD.

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, Section 51.45 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 and a majority vote requirement legally unenforceable. 28 C.F.R. 51.10.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Columbus ISD plans to take with respect to this matter. If you have any questions, feel free to call Rebecca J. Wertz (202-724-8290), Attorney/Reviewer of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds", written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division