



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 22 1993

Mr. Earl Scarborough
Business Manager
Corsicana Independent School District
601 North 13th Street
Corsicana, Texas 75110

Dear Mr. Scarborough:

This refers to the change from a plurality to a majority vote requirement for election to the board of trustees for the Corsicana Independent School District in Navarro 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. We received responses to our request for additional information on December 2, 1992, January 22, 1993, and March 3, 1993.

We have carefully considered the information you have provided, as well as Census data and information and comments from other interested parties. According to 1980 Census data, blacks comprised 22.5 percent and Hispanics comprised 4.5 percent of the school district's population. While 1990 Census data have not been provided for the school district as a whole, the 1990 data for the City of Corsicana, which contains almost all of the school district's population, reflect an increase in the minority population percentages since 1980.

Prior to 1978, the school district's seven-member board of trustees was elected at large with a plurality vote requirement. As you are aware, on April 28, 1978, we interposed a Section 5 objection to the school district's proposal to add majority vote and numbered place requirements to its at-large system. We noted in our objection letter that the proposed changes might "have the effect of diluting black voting strength in elections for school trustees." Shortly thereafter, the school district repealed the resolution that provided for a majority vote requirement and obtained Section 5 preclearance for the imposition of numbered places. Thus, the change to a majority vote requirement now before us would impose the same electoral system,

at-large elections with numbered place and majority vote requirements, to which we had objected in 1978.

Our analysis of elections involving voters within the school district suggests that they remain characterized by racially polarized voting patterns. We are aware, however, that since 1978, only black candidates have run for Place 3, and that the school board has been comprised of six white members and one black member. But it appears that under the current system minority voters have not had a realistic opportunity to elect candidates of choice to the school board other than from Place 3, and that as a result minority candidates may have been discouraged from running for the board other than from Place 3.

In this context, the imposition of a majority vote requirement may further limit the opportunity of minority voters to elect candidates of their choice by increasing the probability of "head-to-head" contests between minority and white candidates. See, e.g., Rogers v. Lodge, 458 U.S. 613, 627 (1992); City of Port Arthur v. United States, 459 U.S. 156 (1982). Under these circumstances, we cannot say that the school district has demonstrated that the adoption of a majority vote requirement will not "lead to a retrogression in the position of . . . minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976).

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. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the school district's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the use of a majority vote requirement for election of school board trustees.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the use of a majority vote requirement in elections for school board trustees 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, you may 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, use of a majority vote requirement in elections for school board trustees continues to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Corsicana Independent School District plans to take concerning this matter. If you have any questions, you should call Ms. Zita Johnson-Betts (202-514-8690), an attorney in the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division