



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Galen R. Elolf, Ed.D.
Superintendent of Schools
Judson Independent School District
P.O. Box 249
Converse, Texas 78109

NOV 18 1994

Dear Dr. Elolf:

This refers to the procedures for conducting the November 19, 1994, special bond election and two early voting locations for the Judson Independent School District in Bexar 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 your submission on October 20, 1994; supplemental information was received on November 15, 1994.

We have carefully considered the information you have provided, as well as information from other interested persons. According to the 1990 Census, the school district has a total population of 58,190, of whom 24 percent are Hispanic and 13 percent are black. According to the 1990 Census, countywide approximately 85 percent of Hispanic citizens of voting age speak Spanish at home and, in the Judson School District, approximately one-third of those persons of voting age who speak Spanish at home require Spanish-language assistance to participate effectively in elections.

Under Sections 4(f)(4) and 203 of the Voting Rights Act, 42 U.S.C. 1973b(f)(4) and 1973aa-1a, whenever the Judson School District provides any "materials or information relating to the electoral process ... it shall provide them in the language of the applicable language minority group as well as in the English language." Under Section 5, when a jurisdiction subject to these sections submits a request for preclearance of a special election, one factor the Attorney General considers is whether the election materials and information for that election will be provided bilingually. In that regard, we are guided by the Attorney General's guidelines for implementation of Sections

4(f)(4) and 203, which state that covered jurisdictions must take all reasonable steps to provide bilingual materials in such a way as to allow minority group members "to be effectively informed of and participate effectively in voting-connected activities." 28 C.F.R. 55.2(b)(1).

Our review indicates that an important part of the election process for the November 19, 1994, special bond election has been the distribution of various materials by the school district, as well as by a committee organized by the school district, that sought to educate voters on the proposed bond issue. These materials included several newsletters, a one-page summary sheet, "door-hanger" advertisements, and posters. However, with the exception of the summary sheet, none of these materials were provided in Spanish. In addition, numerous informational meetings were conducted, but apparently only one included Spanish translation. While the school district published the official election notice in both English and Spanish, and the ballot is bilingual, Sections 4(f)(4) and 203 are not narrowly limited to requiring the translation of materials specifically concerned with the calling of an election and polling place procedures. 28 C.F.R. 55.15.

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 your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the holding of the November 19, 1994, special bond election.

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 proposed 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, 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, the special election continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10 and 51.45.

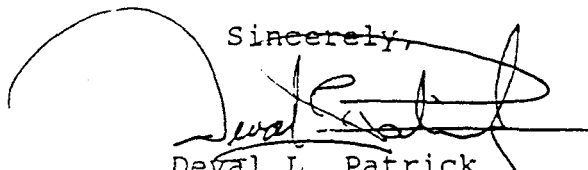
In this regard, we note that we were not able to make the requisite Section 5 decision regarding this bond election until now because the school district did not make the necessary submission to the Attorney General until about a month ago, thus not allowing the Attorney General the full 60-day review period.

granted by Section 5. Nevertheless, we wish to emphasize that because the school district has not received preclearance for this election, federal law does not permit it to be conducted.

Finally, with regard to the submitted early voting locations, no determination under Section 5 is necessary since they are directly related to the objected-to change. 28 C.F.R. 51.22(b).

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Judson Independent School District plans to take concerning this matter. If you have any questions, you should call Mark A. Posner, Special Section 5 Counsel, at (202) 307-1388.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval Patrick", is written over a horizontal line. To the left of the signature is a large, sweeping, curved line that starts under the word "Sincerely," and extends to the left edge of the page.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division



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Office of the Assistant Attorney General

Washington, D.C. 20035

DEC 8 1994

Galen R. Elolf, Ed.D.
Superintendent of Schools
Judson Independent School District
P.O. Box 249
Converse, Texas 78109

Dear Dr. Elolf:

This refers to your request that the Attorney General reconsider and withdraw the November 18, 1994, objection under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, to the procedures for conducting the November 19, 1994, special bond election for the Judson Independent School District in Bexar County, Texas. We received your reconsideration request on November 29, 1994, and, as you further requested, we have undertaken to make an expeditious decision on whether to continue or withdraw the objection.

As set forth in our November 18 determination letter, the objection was interposed because the school district, in preparing to conduct the bond election, provided materials and information relating to the election process predominantly in the English language but not in Spanish, contrary to the bilingual requirements of Sections 4(f)(4) and 203 of the Voting Rights Act, 42 U.S.C. 1973b(f)(4) and 1973aa-1a. In reviewing a special election submitted for Section 5 preclearance, an important consideration is whether a jurisdiction covered by the Act's bilingual provisions will conduct the election in compliance with those provisions.

In the reconsideration request, the school district contends that the English-only publicity was prepared and distributed in part by a campaign committee composed of private individuals acting independently of the school district. Our further review of this issue pursuant to the reconsideration request, however, confirms that the committee was closely aligned with, and not independent of, the school district. The committee was formed at the instigation of the school district, the school district

played a major role in selecting the committee's members, and district officials then provided important advice and assistance to the committee regarding the committee's activities. Written materials prepared by the committee included articles written by you in your role as school superintendent. The committee newsletter identified the school district as the return addressee, and the newsletter was mailed using the school district's post office nonprofit mailing permit.

The school district points out that the English-only newsletter it published regarding the election also included articles unrelated to the election, and other newsletters published by the district do not relate to any election. However, this does not alter the fact that the newsletter in question directly addressed the bond election process.

Finally, the school district contends that there only is a very slight need for bilingual materials among the Hispanic electorate of the district, thus apparently suggesting that the district need not provide any election materials bilingually. Our review of the Census data does not support that proposition. Well over 2,000 voting age citizens of the school district require bilingual assistance. While it may be that these persons comprise only a minority of the district's entire Hispanic population, that provides no basis under the law for concluding that important election materials may be provided in English but not in Spanish.

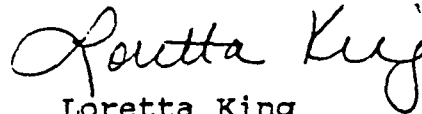
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must decline to withdraw the objection to the holding of the November 19, 1994, special bond election.

As we previously have advised, under Section 5 the school district has the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the special election continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10 and 51.45.

Finally, we understand that the school district has selected a new date (January 28, 1995) for conducting a special referendum election on the proposed bond should the objection not be withdrawn. If the school district intends to proceed with that election, it should seek Section 5 preclearance immediately and we will make every effort to expedite our review of that submission. In this regard, we note that in order to obtain Section 5 preclearance for the new election, the district will need to remedy the absence of bilingual information with regard to the November election.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Judson Independent School District plans to take concerning this matter. If you have any questions, you should call Mark A. Posner, Special Section 5 Counsel, at (202) 307-1388.

Sincerely,



Loretta King
Acting Assistant Attorney General
Civil Rights Division