



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 21, 1993

G. Wayne Kuhn, Esq.
P. O. Box 587
Franklinton, Louisiana 70438

Dear Mr. Kuhn:

This refers to the increase in the number of school board members from eight to nine and the nine-member districting plan for the Washington Parish School District in Washington Parish, Louisiana, 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 response to our request for additional information on April 22, 1993.

We have considered carefully the information you have provided, as well as Census data and information received from the demographer and other interested parties. The 1990 Census shows that black residents make up 32.3 percent of the total population in the Washington Parish School District. The black population in the school district is concentrated in the northeastern corner of the parish and in the northwestern part of the parish beginning in the City of Franklinton and extending northward to the parish line. Under the existing eight-member districting plan, there is one district (District 8) that is majority black in population (78.6 percent black), which is located in the northwestern part of the parish. Our analysis indicates that there appears to be a pattern of racially polarized voting in elections in Washington Parish.

The submitted changes increase the number of school board members from eight to nine with a districting plan that has two districts that are majority black in population: District 8 (85.7 percent black), located in the northwestern part of the parish, and District 9 (84.2 percent black), located in the northeastern corner of the parish. Before considering an

expansion to nine members, the board reviewed three eight-member redistricting plans prepared by its demographer, each of which included two majority black districts. Thus, the information provided in your submission reveals that the board knew that the increase in the size of the board was not necessary to create a second black majority district. Rather, it appears that the decision to increase the number of school board members was the result of a desire to ensure that no incumbent would be placed in the new majority black district located in the northeastern corner of the parish.

As noted above, the other majority black district in the proposed plan (District 8) is located in the northwestern part of the parish. The proposed plan increases the share of the black population in this district from 78.6 percent to 85.7 percent. District 8 includes the City of Franklinton and part of the black population concentration north of the City of Franklinton. District 3, which is 46.0 percent black in total population, is located directly north of District 8 and includes the remainder of the black population concentration north of the City of Franklinton. Instead of shifting population between these two districts, which likely would have the effect of making both districts majority black in voting age population, the proposed plan places white population from existing District 8 into District 7, further underpopulating District 8, while adding black population to District 8 from District 7. The information available to us indicates that these shifts may have been made to satisfy the interests of incumbents.

We recognize that in certain circumstances, incumbency protection may be a proper redistricting goal, but we cannot preclear a plan where such protection is obtained at the expense of recognizing the community of interest shared by insular minorities. See, e.g., Garza v. Los Angeles County, 918 F.2d 763, 771 (9th Cir. 1990), cert. denied, 111 S. Ct. 681 (1991); Ketchum v. Byrne, 740 F.2d 1398, 1408-09 (7th Cir. 1984), cert. denied, 471 U.S. 1135 (1985).

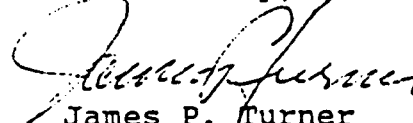
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In addition, a submitted change may not be precleared if its

implementation would lead to a clear violation of Section 2 of the Act. See 28 C.F.R. 51.55. 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 increase in the number of school board trustees and the nine-member districting plan for the Washington Parish School District.

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 or color. 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 nine-member districting plan 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 Washington Parish School District plans to take concerning this matter. If you have any questions, you should call Gaye Hume (202-307-6302), an attorney in the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division