

JAN 17 1980

Richard G. Sedgeley, Esq.
609 Fannin Building, Suite 1301
Fannin & Texas
Houston, Texas 77002

Dear Mr. Sedgeley:

This is in reference to the procedures to be followed in the January 19, 1980, election of the County School Trustees of Harris County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, and to compliance with Section 5 by the county school trustees with respect to the date of school trustee elections. Your submission was received on December 20, 1979.

The seven members of the board of trustees serve six-year terms, with two or three positions filled every two years. As of November 1, 1972, school trustee elections were held on the first Saturday in October of odd-numbered years. The legal effect of House Bill 275 (1975), was to shift the election date to the first Tuesday after the first Monday in November of odd-numbered years. Before the school trustees had an occasion for holding an election on the new election date, the legislature enacted House Bill 443 (1977), which gave the school trustees discretion to choose from among four possible election dates, including the November date specified by House Bill 275. Pursuant to House Bill 443, the school trustees chose the third Saturday in January of even-numbered years as the election date.

A change of election date is subject to the preclearance requirement of Section 5 of the Voting Rights Act. The school trustees' submission of the choice of the January date was received by the Attorney General on November 25, 1977. More

cc: Public File

information with respect to that submission was requested on January 20 and received on February 28, 1978, and an objection with respect to the choice of the January date was interposed on May 1, 1978. Following a request for reconsideration received on July 3, 1978, I declined, on September 1, 1978, to withdraw the objection.

In brief, the basis for the objection was that black and Mexican-American voters in Harris County would have a lesser opportunity to participate in school trustee elections if those elections were held in January, when there would generally be fewer opportunities for joint elections in areas where most black and Mexican-American voters reside than if those elections were held in November, when they could be held jointly with elections of the City of Houston and of the Houston Independent School District and with constitutional amendment elections. Although the required federal preclearance had not been obtained, the school trustee election was conducted on January 21, 1978.

Your submission with respect to the proposed January 19, 1980, election indicates no changes in circumstances that could provide a basis for the withdrawal of the objection to the choice of the January election date. We note that, according to your submission, in the area that comprises the Houston Independent School District, only 25 polling places are scheduled to be used on January 19, 1980, although this area contains 275 Harris County voting precincts. Since the same adverse effect on minority voters that led to our previous objection would be expected to again peculiarly disadvantage minority voters, were the election held on January 19, 1980, on behalf of the Attorney General I must again object to the county school trustees' choice of election date.

The combined effect of House Bill 275 (1975) and the objections under Section 5 of the Voting Rights Act is that the legal election date for the election held on January 21, 1978, was November 8, 1977, and that the legal election date for the election scheduled to be held on January 19, 1980, was November 6, 1979. Because the two legal election dates are no longer available for use, we believe that the most adequate remedy for the school trustees' failure to comply with Section 5 is for new elections to be held in conjunction with the primary elections of May, 1980, at which time

all seats filled in January, 1978 and those that were to be filled in January, 1980 would be open for election to fill the seats for the remainder of their terms. Any conflict with state law may be resolved through a consent decree filed in a Section 5 enforcement action in federal district court. All future elections would be held in November, unless and until an alternative date is precleared pursuant to Section 5.

To enable us to carry out our responsibility to enforce the Voting Rights Act, please let us know immediately whether the county school trustees accept this proposed schedule of elections.

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 the county school trustees' choice of election date has neither the purpose nor the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

If you have any questions concerning the matters discussed in this letter, please do not hesitate to telephone Voting Section Attorney David Hunter, at 202--724-7189.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division