



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

4 OCT 1982

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

Dear Mr. Sedgeley:

This is in reference to the election date change from the first Tuesday after the first Monday in November in even-numbered years to the third Saturday in January in odd-numbered years for the election of members to the board of trustees for the Department of Education in Harris 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. Your submission was received on August 4, 1982. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have considered carefully the information you have provided, as well as comments from other interested parties and information previously provided by the Harris County Department of Education. At the outset, we note that this change to January elections is not significantly different from and raises the same concerns as those which were noted in the previous submissions of November 25, 1977, and December 20, 1979.

Our analysis shows that the submitted change to January would result in holding elections on a date when a significant portion of the county's non-minority population will be voting for local school board members. On the other hand, in the Houston Independent School District (HISD) portion of the county, which contains the predominant proportion of the county's black and Hispanic population, no voting for HISD

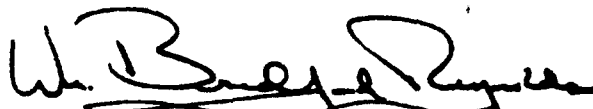
school board members will occur nor are there any other significant elections on the proposed January date as there are in November. Thus, our analysis reveals that, even with an increase in the number of polling places as compared to elections previously scheduled for January, the bifurcation of the election from other significant elections in the area encompassed by the HISD will have a significant negative impact on minority voting rights.

Under these circumstances, therefore, I am unable to conclude that the Harris County Department of Education has met its burden of showing that the submitted change does not have the purpose or effect of discriminating against minority voters. Accordingly, I must, on behalf of the Attorney General interpose an objection to the election date change. In this connection, we note that the Attorney General interposed Section 5 objections to similar changes on two previous occasions--May 1, 1978, and January 17, 1980.

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 this 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, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the requested election date change legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Harris County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

15 DEC 1982

Richard G. Sedgely, Esq.
Suite 1301
601 Fannin Building
Fannin & Texas
Houston, Texas 77002

Dear Mr. Sedgely:

This is in reference to your request that the Attorney General reconsider his October 4, 1982, objection under Section 5 of the Voting Rights Act of 1965, as amended, to the change in election date from the first Tuesday after the first Monday in November in even-numbered years to the third Saturday in January in odd-numbered years for the election of members of the Harris County Board of School Trustees, Harris County, Texas. Your request was received at your meeting with members of our staff on October 13, 1982.

We have reviewed carefully the information that you have provided to us in support of your request, as well as that already in our files concerning this matter. In this connection, we note the indication in your letter of request that "substantial new information" was available which would be furnished to us but, to date, we have not received that information. However, the information which has been provided is not sufficient to allay the concerns set forth in our October 4, 1982, letter which led to our being unable to conclude that the holding of the elections in January, rather than November, will not have a prohibited disparate impact on minority participation in the electoral process. Therefore, on behalf of the Attorney General, I must decline to withdraw the objection.

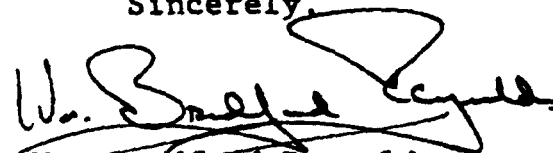
Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group, irrespective of whether the change previously has been

submitted to the Attorney General. However, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the change in question unenforceable. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.9).

In addition, we have noted the request in your letter for permission to conduct an election for Board of Trustee members on the first Saturday in April or the second Saturday in August 1983 if our objection is not withdrawn. The Attorney General can make no determination with regard to that request, since a change which is not finally enacted or capable of administration is not ripe for review by the Attorney General. See 28 C.F.R. 51.20(a). Accordingly, we cannot properly evaluate your submission of an alternate election date unless and until such change is formally adopted. We do observe, however, that the holding of the Harris County Board of School Trustees elections on any date when other elections are not scheduled in the Houston Independent School District area likely would raise the same concerns which led to our October 4, 1982, and prior objections relative to this matter.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Harris County Board of School Trustees plans to take. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division