



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 18 1985

Mr. Tony E. Murray
Superintendent, Rusk
Independent School District
204 East Third Street
Rusk, Texas 75785

Dear Mr. Murray:

This refers to the adoption of numbered positions for the Rusk Independent School District in Cherokee 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 information to complete your submission on November 19, 1984.

We have considered carefully the materials furnished by you, information and comments provided by other interested parties, and information in our files relating to similar changes submitted previously by other jurisdictions in Cherokee County. Blacks constitute an estimated 14.8 percent of the general population and 17.1 percent of the student population of the school district, and voting appears to exist along racial lines. Under the existing system, the district's board of trustees is elected at large with staggered terms and a plurality vote requirement; one black has been elected under this system through the technique of single-shot voting.

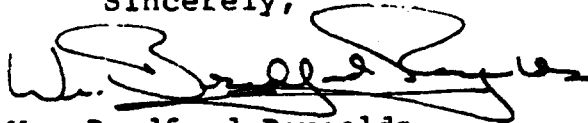
Our analysis shows that the addition of the numbered positions requirement will, in effect, nullify the ability of blacks to single-shot vote and, thus, significantly reduce, if not extinguish, their potential for electing a candidate of their choice to the school board. In such circumstances, the proposed change would lead to an impermissible retrogression in the position of minority voters contrary to the Voting Rights Act. See Beer v. United States, 425 U.S. 130 (1976).

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or 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. 51.39(e)). Under Beer v. United States, *supra*, the absence of such an effect is shown only when it is demonstrated that there has been no retrogression in the political strength already attained by the affected minority group. 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 utilization of numbered positions for the election of school board members in the Rusk Independent School District.

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, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the imposition of numbered positions legally unenforceable. 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 the Rusk Independent School District plans to take with respect to this matter. If you have any questions, feel free to call Poli A. Marmolejos (202-724-8388), Attorney-Supervisor of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division