



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

August 30, 1993

Mr. Edward Payton, Jr.
Superintendent
St. Mary Parish School Board
P.O. Box 170
Centerville, Louisiana 70522

Dear Mr. Payton:

This refers to the decrease in the size of the school board from fifteen to eleven members, the 1992 change in the method of election from six single-member districts and two multimember districts to eleven single-member districts, and the 1992 districting plan for the St. Mary Parish School Board in St. Mary 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 April 20, 1993, request for additional information on June 29, 1993; supplemental information was received on July 6 and 30 and August 18, 1993.

The Attorney General does not interpose any objection to the decrease in the size of the school board from fifteen to eleven members and the 1992 change in the method of election from six single-member districts and two multimember districts to eleven single-member districts. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With respect to the 1992 redistricting plan, however, we cannot reach the same conclusion. We have considered carefully the information you have provided, as well as Census data and comments and information from other interested parties. According to the 1990 Census, black residents constitute 31 percent of the population of the school district and 28 percent of the voting age population with most of the black population concentrated in the northwestern and southeastern portions of the parish.

Under the proposed plan, there are three school board districts that are majority black in total population. However, two of these districts (Districts 1 and 2) include only a bare black majority in total population and black voters do not constitute a majority of the voting age population in either district. Our review of past elections suggests that Districts 1 and 2, as drawn, will not afford black voters with an equal opportunity to elect their candidates of choice to the school board.

During the redistricting process, representatives of the black community strongly opposed the submitted plan indicating that it unnecessarily limited black voting strength by keeping black population concentrations at minimal levels. Black leaders presented two alternative plans (Plans A and C) each of which included three districts in which black voters constituted either a majority of the black voting age population or a majority of the registered voters. We understand that these alternative plans are generally favored by the black community and, indeed, in light of the apparent pattern of racially polarized voting in the parish, either plan would appear to more fairly reflect black voting strength in the school district.

The school board has offered two reasons for rejecting the alternative approaches. First, it is asserted that the proposed school board districts are combined majority-minority districts that accurately reflect cohesive voting patterns among the parish's black, Asian and Native American voters and; thus, black voting age population majorities are not required in order to recognize the school district's minority population. However, no information has been provided by the school board to support its claim of political cohesiveness. Second, the school board suggests that the redistricting approaches adopted by the alternative plans were unacceptable because they violated one of the school board's redistricting criteria: to maintain communities of interest. Our analysis shows that this criterion was never stated publicly, as such, prior to the presentation of Alternative Plan C. We understand that before the proposed plan was finally adopted, an attempt was made by black leaders to present Alternative Plan A which incorporated this criterion, but that attempt was rejected by the school board. The school board has proffered no legitimate, nonracial reasons for its failure to consider Alternative Plan A. While the school board is not required under Section 5 to adopt any particular plan, it is not free to adopt a plan that unnecessarily limits the ability of black voters to elect their candidates of choice.

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 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 1992 districting plan for the school board.

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 1992 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 St. Mary School Board plans to take concerning its districting plan. If you have any questions, you should call Colleen M. Kane (202) 514-6336, an attorney in the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division