

The California Voting Rights Act and the Process for Transitioning To A By-Trustee Area Election Method



Paramount Unified School District

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At-Large Elections

Candidates must reside within the District's boundaries and are elected by all the voters who reside in the District's boundaries. (Education Code Section 5030(a).)

From-Trustee Area Elections

Candidates must reside in specific geographic areas within the District's boundaries called "Trustee Areas", but are elected by all the voters who reside in the District's boundaries. (Education Code Section 5030(c).)

By-Trustee Area Elections

Candidates must reside in specific Trustee Areas within the District's boundaries and are elected only by the voters who reside in the same Trustee Areas. (Education Code Section 5030(b).)

The California Voting Rights Act of 2001

- Added Elections Code Section 14027 Which Provides:
 - An **at-large method of election** may not be imposed or applied in a manner that **impairs the ability of a protected class to elect candidates of its choice**,
 - or its ability to influence the outcome of an election,
 - as a result of the dilution or the abridgment of the rights of voters who are members of a protected class.

Liability Under the CVRA

- What Constitutes a Violation of the CVRA?
 - 14028. (a) **A violation [of the CVRA] is established if it is shown that racially polarized voting occurs** in elections for members of the governing body....
 - 14028. (d) **Proof of an intent** on the part of the voters or elected officials to discriminate against a protected class is **not required.**



Litigation Risk

- The California Voting Rights Act provides that prevailing parties (**other than the public entity**) are entitled to an award of their attorneys fees and costs.



Attorney Demand Letters

The Process

- Prospective CVRA plaintiff must send notice to local entity asserting election method may violate CVRA.
- No later than 45 days after receiving notice, local entity may pass a resolution of intent to transition to by-trustee area elections. Resolution must describe steps that will be taken.
- If a resolution is passed, any prospective plaintiff is barred from commencing litigation under the CVRA for 90 days.
- A prospective plaintiff who sent written notice may demand reimbursement of costs within 30 days of adoption of resolution.
- Within 45 days of the demand, the local entity must reimburse the prospective plaintiff up to \$30,000.

Assessing Liability Under the CVRA

- What Constitutes a Violation of the CVRA?
 - 14028. (a) **A violation [of the CVRA] is established if it is shown that racially polarized voting occurs** in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.
 - 14028. (d) **Proof of an intent** on the part of the voters or elected officials to discriminate against a protected class **is not required.**



Assessing Liability Under the CVRA

- What needs to be analyzed?

14028. (b) The occurrence of racially polarized voting shall be determined from examining results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.



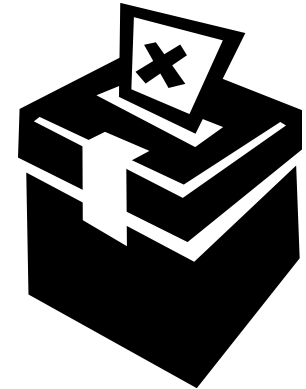
Demographic Data



- Census data
(Decennial and American Community Survey)
- Ethnic-Surname analysis of voter registration lists.
- Analyze a variety of population basis:
 - Total population; voting age population; citizen voting age population; registration by surname; voter turnout by surname;
 - Data from Census Blocks, Block Groups, and Precincts must be standardized to allow apples-to-apples analysis.

Precinct Data

- Precincts change from election to election.
- Precinct consolidations change from election to election.
- Some data is available electronically, some only on paper.



Process for Transitioning to By-Trustee Area Elections



Transitioning From At-Large to By-Trustee Area Election Process

The Process

- Three different procedures can be used to change from an at-large trustee area process to a by-trustee area election process:
 - Initiated by petition of the electorate;
 - Initiated by the county committee; and
 - **Initiated by resolution of the district (“District-initiated”).**
(Education Code Section 5019(c)(1).)

Transitioning to By-Trustee Elections

The Process

- Recent amendments to Elections Code section 10010 added the following:
- **Prior** to preparing proposed trustee area maps, a local entity must hold **at least two public hearings to gather community input** on the composition of the trustee area maps.
- A local entity must publish at least one proposed trustee area map for consideration by the community.
- Publish the potential sequence of elections to show how the staggered terms will impact individual trustee areas.
- Hold at least **two additional public hearings over a 45 day period** to gather input on proposed map(s) and election sequencing.
- If revisions are made, publish for at least 7 days prior to adoption.

Creation of a By-Trustee Area Plan

A demographer and legal counsel can assist the District with dividing the District into Trustee Areas based upon a number of factors:

1. Constitutional “one person, one vote” factor
2. Communities of Interest
3. Natural and man-made boundaries
4. Federal Voting Rights Act Compliance
 - » Citizen Voting Age Population
 - » “Packing” and “Cracking”
5. Respecting Incumbency
6. Other Factors

Additional Community Input Options

The Process

- Once published after the initial public hearing process, the maps can be posted on the District's website for review and comment 24 hours a day, 7 days a week.
- The District can hold community input meetings at locations within the District. At these meetings, community members can, learn more about the CVRA transition process, ask questions of the District's demographer, make suggestions for potential map revisions, and provide written feedback.

Transition From At-Large to By-Trustee Area Election Process

The Process

- District-Initiated Process:
 - After the public hearing process and any community input meetings, the District **adopts a by-trustee area election map**
 - The Board also adopts **a resolution** requesting that the County Committee on School District Organization approve the transition from an at-large election process to by-trustee area election process.

Transition From At-Large to By-Trustee Area Election Process

The Process

- The Los Angeles County Committee on School District Organization must hold at least one public hearing within the District's boundaries. (Education Code Section 5019 (c)(2).)
- Following the public hearing, the Los Angeles County Committee must by resolution either approve or reject the proposal and set a date for an election on the sole question of the transition to trustee areas.

Transition From At-Large to By-Trustee Area Election Process

Default Process After County Committee Approval

- If approved, the proposal must be submitted to the District's voters not later than the next succeeding election for members of the Governing Board. (Education Code Section 5020(a).)
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Waiver of the Election Requirement

As an alternative to the election requirement and in order to avoid the expense and uncertain outcome of an election on whether to change its election process, the District may file with the State Board of Education (“SBE”) a request to waive the election requirement.

- In order to obtain a waiver, a proper application must be completed and submitted to the SBE.
- The application needs to reflect whether the exclusive representatives of the District’s employees have been involved in the preparation of the waiver request, and their position thereon.

The Waiver Process

- The Board must hold a public hearing on the waiver request prior to submitting the request to the SBE. (Education Code Section 33050(a),(d)(1) and (2).)
- Following the public hearing, the Board may adopt the waiver request.
- District must be aware of SBE meeting schedule and plan accordingly.

Timeline

The timeline for completing the process before the County Committee and the SBE may range from four to six months and involve at a minimum two school board meetings, at least one County Committee meeting, and one State Board of Education meeting.

Implementing By-Trustee Area Election Method

Regardless of the method used to implement the transition, there is no immediate impact on the term of any current member of the District's Governing Board. (Education Code Section 5021).

Instead, all future elections would occur in the trustee areas in which the Board members whose terms are expiring currently reside.

Implementing By-Trustee Area Election Method

Decennial Updates

- By Law, Trustee Areas must be updated following every decennial census. (Education Code Section 5019.5).
- The 2010 census results were released in April of 2011.

Question & Answer

Thank You

For questions or comments, please contact:

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