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FREQUENTLY ASKED QUESTIONS (FAQ)

CALIFORNIA VOTING RIGHTS ACT (CVRA)

1. When was the CVRA enacted?

The CVRA was enacted in 2002 by the California Legislature and signed by Gov. Gray Davis.

2. What was the intent or purpose of the CVRA?

The intent of the CVRA was to enhance the voting rights protections embodied in the federal Voting Rights Act. In signing the legislation, Gov. Davis stated that the purpose of the legislation was to provide voters with a cause of action to challenge at-large elections when it was shown that a minority's voting rights have been abridged or diluted.¹

3. Why is the school district moving to a trustee area based election system?

Currently, school board members are elected at-large rather than by districts or trustee areas. In recent years, the majority of cities and school districts have gone to a district based election system to avoid costly CVRA litigation by voluntarily agreeing to change to a district based system.

4. What does the CVRA prohibit?

The CVRA prohibits the use of any election system (e.g., at large system) that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.²

5. How is the CVRA different than the federal Voting Rights Act?

While the CVRA is modeled after the federal Voting Rights Act, a protected class of citizens does not have to geographically compact or concentrated to allege a violation of the CVRA. Also, proof of intent to discriminate against a protected class is not required. A protected class of citizens is defined as a class of voters who are members of a race, color, or language minority

¹ Stats, 2002, ch. 129 (SB 976), Governor's Signing Statement.

² Elections Code section 14027.

group as defined in the federal Voting Rights Act of 1965.³ Due to the lower threshold of proof, no public agency has prevailed in a lawsuit to date. For this reason, and the fact that public agencies are liable for attorney fees if they lose in court, the majority of public agencies have voluntarily implemented district-based elections.

6. Does the CVRA disfavor at large elections?

Yes. The CVRA disfavors at large elections. The CVRA defines the at-large method of election as any one of the following methods of electing members of the governing body of a public agency:

1. One in which the voters of the entire jurisdiction elect the members of the governing body;
2. One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members of the governing body;
3. One which combines at-large elections with district-based elections.⁴

7. How does the CVRA define district based elections?

The CVRA defines district-based elections as a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.⁵

8. How does the CVRA define racially polarized voting?

The CVRA defines racially polarized voting as meaning voting in which there is a difference, as defined in case law under the federal Voting Rights Act, in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates or other electoral choices that are preferred by voters in the rest of the electorate. The methodologies for estimating group voting behavior to establish racially polarized voting that have been approved by the federal courts to enforce the federal Voting Rights Act may be used for purposes of the California Voting Rights Act to prove that elections are characterized by racially polarized voting.⁶

³ Elections Code section 14028(d).

⁴ Elections Code section 14026(a).

⁵ Elections Code section 14026(b).

⁶ Elections Code section 14026(e).

9. When is the at large method of voting in violation of the CVRA?

The CVRA states that 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 a dilution or abridgment of rights of voters who are members of a protected class.⁷

10. How is a violation of the CVRA determined?

A violation of the CVRA is established if it is shown that racially polarized voting occurred in elections for members of the governing body or in elections incorporating other electoral choices by the voters of the political subdivision.⁸

11. How is racially polarized voting determined?

The occurrence of racially polarized voting in violation of the CVRA 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. One circumstance that may be considered in determining a violation is the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of the political subdivision.⁹

12. What remedies are available under the CVRA?

The CVRA states that upon a finding of a violation, the court shall implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the violation.¹⁰

13. May the court award attorney fees to a successful plaintiff?

In an action to enforce the CVRA, a court shall award the prevailing plaintiff reasonable attorney's fees and litigation expenses including, but not limited to, expert witness fees and expenses as part of the cost. Prevailing defendants shall not recover any costs, unless the court finds that the action was frivolous, unreasonable, or without foundation.¹¹

⁷ Elections Code section 14027.

⁸ Elections Code section 14028(a).

⁹ Elections Code section 14028(b).

¹⁰ Elections Code section 14029.

¹¹ Elections Code section 14030.

14. 13. Has the CVRA been held to be constitutional by the courts?

Yes. In Sanchez v. City of Modesto,¹² the Court of Appeal held that the CVRA was constitutional.

15. What is the process for drawing the boundaries for trustee areas?

The process begins with two public hearings during Board meetings. During the public hearings, the members of the public may provide input to the Board on the criteria and composition of proposed trustee areas. Following the second public hearing, the Board will consider a Resolution that identifies criteria for the demographer to use in preparing draft maps of trustee areas. Usually, the demographer will prepare at least two sets of draft trustee area maps and an election plan identifying in which trustee areas elections will be held in 2020 and 2022, for subsequent review by the Board.

The demographer will then draft maps and a third and fourth public hearing will be conducted to obtain public input regarding the content of the draft trustee area maps and proposed sequence of elections. Following the fourth public hearing, the Board will vote on a Resolution adopting a trustee area map and sequence of elections and authorize submission of the proposal to the Los Angeles County Committee on School District Organization. The Board will also vote on submitting a waiver request to the State Board of Education.

The Orange County Committee on School District Organization will then hold a public hearing within the boundaries of the District and consider approval of the proposal to change the District's election system to a district based system and the trustee area maps. Following approval by the Orange County Committee on School District Organization, either the County Committee or the State Board will grant a waiver of an election for the electorate to approve the transition to a trustee area election system.

16. What are the pros and cons of changing from an at-large voting system to a district based voting system?

There are many different views about the advantages and disadvantages of a district based system. The advantages include a small area in which to run for office, a smaller area can mean less money needs to be raised for an election campaign, which provides more opportunity for a broader range of individuals, including members of minority communities, to run for office. The disadvantage is that members of the board will be elected from only a part of the school district and this might lead to a focus on one area of the district over another rather than focusing on what is best for the whole school district.

¹² 145 Cal.App.4th 660 (2006).

17. Will the change to a district based election system affect where my child attends school?

No. The change to a district based election system will have no impact on school attendance boundaries.

18. Will the change to a district based election system affect my vote?

Yes. Instead of voting for all five members of the governing board of the school district, voters will vote for the one trustee who represents their area of the school district.