

THE THE CALIFORNIA VOTING RIGHTS ACT (CVRA)

Solana Beach School District
November 21, 2019



Purpose



Provide an overview of the:

- California Voting Rights Act
- Step-by-Step Transition process

California Voting Rights Act



- Took effect January 1, 2003
- Prohibits the use of “at-large” elections when such an election system would:

“impair the ability of a protected class, as defined, to elect

candidates of its choice or otherwise influence

the outcome of an election....”

(Elections Code §14027)

Does Not Require Intent



- The CVRA is far broader than its federal counterpart
- CVRA is easier for a plaintiff to bring a claim against a government entity
- Proof of intent on the part of voters or elected officials to discriminate against a protected class is ***not*** required

(Elections Code §14028(d))

Right to Attorneys' and Expert Fees



- CVRA grants a prevailing plaintiff the right to recover reasonable attorneys' fees **AND** expert witness fees
- However, if a district wins, it is **not** granted the same right

(Elections Code §14030)



What Constitutes a Violation of CVRA?



Racially Polarized Voting



- A violation of the CVRA is established if it is shown that ***racially polarized voting*** has occurred in a district's governing board election, or alternatively state or national elections (as measured by voters who live within the District's boundaries)
 - ***Racially Polarized Voting*** means voting where there is a difference in:
 - The choice of candidates (or other electoral issues) ***preferred by voters in a protected class***, and
 - The choice of candidates (or other electoral issues) ***preferred by voters in the rest of the electorate***
- (Elections Code § 14026(e); Elections Code § 14028)*

The *Only* “Safe Harbor” Provision from a CVRA claim is...



- Change to a “By-Trustee Area” election system

What is a “*By-Trustee Area*” Election System?



- School district is divided into trustee areas
- A governing board member is elected from each trustee area
- Board members are elected ***by only the registered voters in the particular trustee area*** where the governing board member resides

Recent Legislative Changes



■ AB 350

- Additional “pre-map” public hearing requirements
- Transition timelines with litigation “Safe Harbor”
- Plaintiff fee reimbursement

Transition Process



Step 1: Establishing By-Trustee Area Elections



- Pass a resolution of the governing board declaring:
 - Intent to establish “by-trustee area” election system
- Must occur within 45 days of receipt of a “Demand Letter” to limit pre-litigation costs
- Starts 90-day “Safe Harbor” window

Step 2: Two Public Hearings (within 30 days or less)



- Held prior to the preparation of draft trustee voting area plans by demographer
- Provides an opportunity for the Board to receive community comments and public testimony concerning:
 - The composition of potential trustee voting areas associated with the District's transition to a by-trustee area election system

Step 3: Draft Trustee Areas Maps: Establishing By-Trustee Area Elections



- Draw Draft Trustee Area Plans
 - Use multiple sources of data, including 2010 Census Data and additionally permitted data
 - “One person, one vote” standard established by U.S. Supreme Court
 - Population must be as equal “as is practicable” – people, not citizens
 - Ed Code section 1002: “...trustee areas shall be as nearly equal in population...”
 - A certain amount of deviation may be permitted - up to 10%



More Criteria for Consideration

- Compliance with the U.S. Constitution
- Achieve population equality as nearly as is practicable
- Comply with the Federal Voting Rights Act
- Voting districts shall be geographically contiguous
- Local *communities of interests*
- Geographical compactness

Common Local Considerations



Additional considerations/guidance:

- Dividing school attendance boundaries amongst several “trustee areas”
- Distributing school sites amongst “trustee areas”
- High growth areas

Step 4: Sharing Draft Voting Area Maps with District Constituents



- Draft plans are presented to the public (two public hearings) for comments before final Board consideration and approval
 - Hold public information sessions
 - Place draft plans on district website
- Communicate with County during process

Step 5: Board Approves By-Trustee Area Election Maps



- Following Public Hearings, Governing Board Approves Final Trustee Area Plan
- District sends By-Trustee Area Election Maps to the County Committee on School District Organization

Step 6: Trustee Area Maps Submitted to County Committee on School District Organization



- County Committee on School District Organization conducts a Public Hearing within the District's boundaries
- County Committee considers input received from community input and comments
- County Committee approves by-trustee area election map
- Ordinarily, once approved by the County Committee, the by-trustee area election proposal and final map may be placed on on ballot for approval by electorate or the District may apply for an election waiver from the State Board of Education (SBE)

Potential Waiver from SBE

- State Board of Education has power to waive requirement that by-trustee area proposal be placed on ballot (Ed Code §33050)
- Waiver will:
 - Expedite implementation of new election system;
 - Avoid uncertainty; and,
 - Reduce cost and risk to school district since only “Safe Harbor” under CVRA is implementation of by-trustee area election system.

General Waiver Request

Board must:

- Consult bargaining units and provide position of bargaining units
- Consult advisory committees or school site councils and list any objections
- Pass Resolution approving submittal of General Waiver Request at a duly noticed public hearing

Final Steps in Completing Transition

- File new Voting Area Plan with County Registrar of Voters
- Hold Governing Board elections under new by-trustee area election system – November 2020

Additional Items to Keep in Mind

- Once transition made to by-trustee area election system, then following each federal census:
 - Governing board must approve adjustment of trustee area boundaries to make sure the population in each trustee area is as nearly as equal as practical, among other things.

(Education Code section 5019.5(a))

Final Thoughts



By-Trustee Area Voting **DOES NOT** Change:

- Overall district boundaries
- School attendance boundaries
- How the District is governed

***Still one district with common goals,
successes, and challenges!!!***

Board Discussion/Action