School District Trustee Elections and and the California Voting Rights Act (CVRA)

Presentation to

San Bernardino County Chief Business Officials

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What is the County Committee on School District Organization?

The County Committee on School District Organization has responsibility for considering **proposals to change the organization** of one or more school districts.

There is in each county, except a county which is also a city and county, a county committee on school district organization …

Education Code 4000

Specifically, the County Committee deals with:

1. Organizational changes to **district boundaries and/or unification**
2. Organizational changes to **trustee elections**

San Bernardino County Committee on School District Organization

1. Consists of **11 members**—two from each supervisorial district and one member elected at-large.
2. **Terms of office** are for four years. Terms are staggered with elections held annually in conjunction with the Fall Meeting of the San Bernardino County School Boards Association.
3. County Committee members **cannot** be employed full or part-time by a school district in ***any*** county, community college district, or county superintendent, either in a classified or certificated position.

   Provisions in Education Code Section 4007 allow any member of the governing board of a school district or community college district to simultaneously serve as a member of the County Committee.

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Trustee Areas and Size of School District Governing Boards

With a few exceptions, the County Committee **may*:**

* Establish trustee areas
* Rearrange the boundaries of trustee areas
* Abolish trustee areas
* Increase to seven or decrease to five the number of governing board members

*Education Code 5019

Process to Change Election of School Trustees

Three methods can initiate the school district change from an at-large election system to either of the other two options:

- ✓ Initiated by petition of the **electorate** or legal challenge
- ✓ Initiated by resolution of the school district **governing board**
- ✓ Initiated by the **County Committee**

Education Code 5019

Trustee Areas and Size of School District Governing Boards

When a proposal is made, the County Committee **shall call and conduct at least one hearing** in the district on the matter.

At the conclusion of the hearing, the County Committee shall approve or disapprove the proposal.

If approved, the proposal must be submitted to the district's voters no later than the next succeeding election for members of the Governing Board (unless the school district receives a State Board of Education waiver).

Education Codes 5019 and 5020

California Voting Rights Act

Senate Bill 976

* Enacted in 2002 (took effect January 1, 2003)
* Elections Codes 14025 to 14032
* Provides 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 the dilution or the abridgment of the rights of voters who are members of a protected class.

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California Voting Rights Act

Districts with at-large voting **may** be in violation of CVRA if:

* They **appear** to have racially polarized voting, preventing minority candidates from succeeding in elections
* At-large **voting methods discourage** minority candidates from running
* There is **evidence (or the perception) of undermining** of voting rights

California Voting Rights Act
Lawyers' Committee for Civil Rights

LCCR is the Lawyers' Committee for Civil Rights

LCCR challenged Madera Unified School District under CVRA in 2008 citing examples of ***racial polarization***

Out of court settlement

* Madera Unified now has trustee area elections

As of 2015, over 105 California school districts (about one in nine) have voluntarily made the switch to trustee area elections after self-study.

Impact of CVRA (not just school districts)

Expensive Cases: (Media-reported figures)

Santa Barbara: $599,000 settlement
Palmdale: $3.2 million judgment (and counting)
Anaheim: $1.2 million settlement
Santa Clarita: mid-six-figures settlement
Tulare Regional Medical District: $500,000
Modesto: $3 million settlement
Escondido: $385,000 settlement
Madera Unified: $162,000 judgment
City of Compton: six-figure settlement

Massive change* in California election systems:

15 **cities** with more to come
About 20 **community college districts**
About 10 **water and other special districts**
Over 105 **school districts**

*Source: National Demographics Corporation, March 2, 2015

California Voting Rights Act Safe Harbor

A jurisdiction that elects "by-district" risks no liability under the CVRA

"By-district" also means elections by trustee area

School Elections in **San Bernardino County:**

- ✓ County Board of Education is elected ***by-district***
- ✓ Most school districts have ***at-large*** elections
- ✓ A few school districts have ***from-district*** elections
- ✓ One community college district changed to **by-district** elections in 2014

At-Large, From-District, and By-District Elections

	Candidates Must Reside:	Officeholders Elected By:
At-Large Elections	In the jurisdiction	All voters in the jurisdiction
"From-District" Elections	In a specific electoral district	All voters in the jurisdiction
"By-District" Elections	In a specific electoral district	Only voters in the district

Role of County Committee in CVRA Petitions

Changes in governance structure (such as moving from at-large voting to trustee area voting) **requires the approval** of the County Committee (unless it is a direct ballot initiative)

* Committee reviews the petition (from a district, the public, or the Committee's own petition)
* Committee reviews the trustee area map submitted, or develops it own map
* Committee holds public hearings in impacted district(s)
* Education Code 5019 describes who may submit a petition

California Voting Rights Act School District Options

Conduct Self-Assessment of Potential Liability

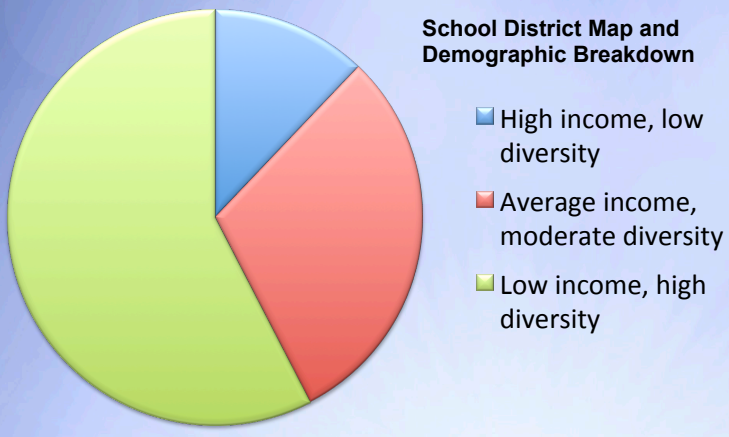
Change Election System voluntarily (***normal** process)*

Caveat: moving to "by-district" will protect you from CVRA, but not necessarily federal voting rights litigation

Litigation (***court** process)*

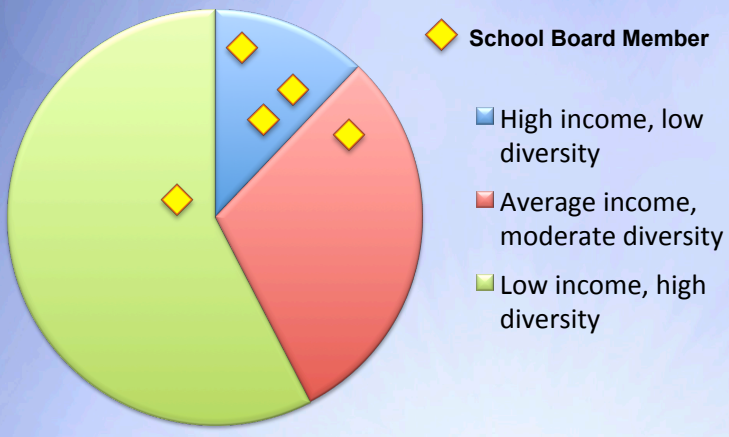
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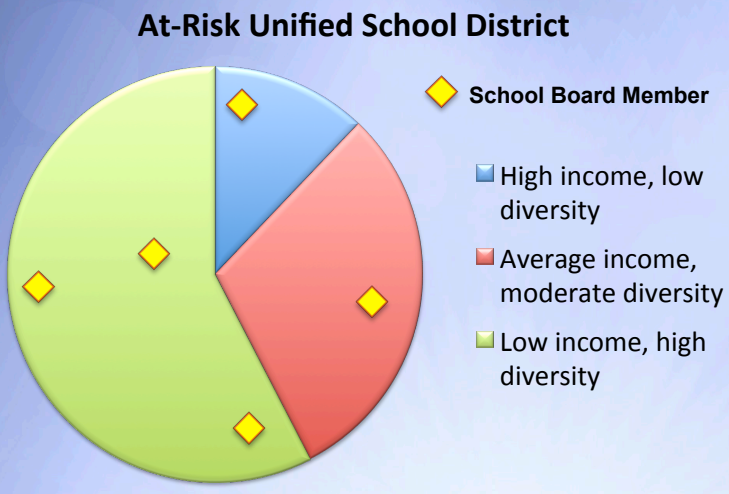
At-Risk Unified School District



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At-Risk Unified School District





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Changing Method of School Trustees Elections

If a district decides to adopt districts/electoral areas:

* Adopt criteria
* Conduct public hearings to get community input
* Multiple draft plans
* Fine tune final plan in response to feedback
* School Board adopts resolution requesting the change

School districts require approval of County Committee

Generally requires majority vote of jurisdiction's residents (school districts **may** seek waiver of election requirement from State Board of Education)

Changing Method of School Trustees Elections (continued)

A demographer can assist the school district with dividing the district into Trustee Areas based upon a number of factors:

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

Trustee Areas and Size of School District Governing Boards

* When a proposal is made, the County Committee **shall call and conduct at least one hearing** in the district on the matter
* At the conclusion of the hearing, the County Committee **approves or disapproves the proposal** (in Los Angeles County, the Committee may direct staff to do a feasibility study before voting to approve or disapprove CVRA/trustee area petitions)
* 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 unless the school district receives a State Board of Education waiver

Community college districts have a separate process

Education Codes 5019 and 5020

Trustee Areas and Size of School District Governing Boards (continued)

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**

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

Completing the process may take from **four** to **six** months and involves at a minimum two school board meetings

Court Process to Change Election of School Trustees

* District does have first opportunity to draft a plan, but court must approve
* Plaintiffs have a right to participate in court hearings on the plan
* No need for majority vote of jurisdiction residents or waiver by State Board of Education
* Attorney fee awards to prevailing plaintiffs

Responding to CVRA Challenge

- Districts advised to engage an attorney experienced with CVRA issues
- Hire a demographer experienced with CVRA issues
- Evaluate the local landscape and communities of interest
- Talk to neighboring districts and cities
- If there is a mismatch between a community/students and the board/ candidates, district should:
  - ✓ Hold public meetings, hearings, and forums to discuss moving to trustee areas
    - ✓ Engage multiple stakeholders/constituencies
      - ✓ Discuss frankly the benefits and potential challenges

CVRA Cases are a Battle of Experts

- Debate is over databases and methodologies
- Expect weeks of depositions and days of testimony
- Very specialized experts and attorneys
- Even if a district wins, it may spend $500,000 to over a million dollars on the defense

Only one case debated on the facts/merits:
City of Palmdale lost in Superior Court
Ordered to pay $3.2 million in attorneys' fees
Case awaits an appeal hearing

Source: National Demographics Corporation, March 2, 2015

Other Costs for Changes to Election of School Trustees

* Whenever a proposal to initiate a change in trustee area boundaries is submitted to a County Committee by resolution of the governing board of a district, and the proposal is approved, the **costs of preparing, developing, and duplicating the maps and legal descriptions shall be borne by the district.**
* The county superintendent shall also prepare and keep in his or her office a record of all actions taken by the County Committee in connection with trustee area boundaries.

Education Code 5031

Case Studies in Progress:

Moreno Valley Unified

City of Rancho Cucamonga

Questions on Changes to Trustee Elections?

School District Trustee Elections and and the California Voting Rights Act (CVRA)