

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



Ocean View School District

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Frequently Asked Questions Regarding The California Voting Rights Act (CVRA)

Why is the governing board of the Ocean View School District considering a change from an at-large system of voting to a district-based system?



- The governing board of the Ocean View School District may be considering changing from an at-large system of voting to a district-based system because the California Voting Rights Act (CVRA) strongly discourages at-large voting and strongly encourages district-based voting.
- Almost every public agency that had an at-large voting system and was sued under the CVRA has lost in court and has had to pay attorney fees to the plaintiffs' attorneys.

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 (District Based) 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 states:
 - 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**.



Frequently Asked Questions Regarding The California Voting Rights Act (CVRA)

How does the CVRA define racially polarized voting?

- The CVRA defines racially polarized voting as meaning voting in which there is a difference 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.



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

- **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.

Additional Community Input Options

The Process - Maps

- 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.

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 Orange 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 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 (i.e., the question of “Should the District transition to by-trustee area elections?”) 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).)

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

- If an election is called by the County Committee, the only questions before the voters would be:
 - For the establishment of trustee areas in Ocean View SD – **Yes**
 - OR
 - For the establishment of trustee areas in Ocean View SD – **No**

- Questions required by Ed. Code Section 5020

What if the Voters Vote **NO**?

- If the voters reject the District's transition to by-trustee area elections, the District would continue to conduct at-large elections.
- At-large elections subject the District to liability under the CVRA.
- If sued under the CVRA, the District would not be able to use the outcome of the election as a defense.

Waiver of the Election Requirement



Waiver of the Election Requirement

- (SB 442) allows the District to seek a waiver of the election requirement for the question of method of election transition from the Orange County Committee on School District Organization.
- The Committee's resolution required by Education Code Section 5020 must "include a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act of 2001."

Stakeholder Feedback Recommended

- Recommend consult with bargaining units and obtain their positions on the waiver:
 - Neutral
 - Support
 - Oppose
- Recommend consult with “appropriate advisory councils or advisory committees:”
 - Bilingual advisory committee
 - DELAC
 - LCAP

The Waiver Process

- The Board must hold a public hearing on the waiver request and include a request that the County Committee grant a waiver within the Board's transition resolution.

Important Note

- THE WAIVER **DOES NOT** ELIMINATE THE PUBLIC'S RIGHT TO VOTE FOR SCHOOL BOARD MEMBERS!

Timeline

The timeline for completing the process before the County Committee may range from four to six months and involve at a minimum four school board meetings and at least one County Committee 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).

Questions & Answers