

D.J. 166-012-3
X6692

JUL 16 1976

Honorable J. E. Shaw
Judge, Court of Ordinary
Long County
Luttwici, Georgia 31316

Dear Judge Shaw:

This is in reference to the change in method of selection of the Board of Education of Long County, Georgia, by Act No. 1200 of the 1976 General Assembly of Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on May 17, 1976.

The Attorney General does not interpose any objection to the change from the appointive to elective board of education nor to the use of an at-large election system. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

In this connection, we note that Section 2(b) of Act No. 1200 provides, in part, that "All members of said Board of Education shall be nominated and elected in accordance with the provisions of Code Title 34 known as the 'Georgia Election Code,' as amended." Section 34-1514 and Section 34-1002 of the Georgia Election Code, which require majority vote and numbered posts, respectively, in county elections,

have not been precluded under Section 5 of the Voting Rights Act and, therefore, are legally unenforceable in county elections. Consequently, Long County may not lawfully implement the majority vote and numbered post requirements provided for in Title 34 and our failure to object to the at-large system of election for the Long County Board of Education is based on that premise.

With respect to the use of education districts for candidate residency purposes provided for in Act No. 1200, we have given careful consideration to the materials and information you have submitted as well as information and comments from other interested parties, and relevant decisions of the federal courts. We have noted particularly information concerning recent minority political activity and racial bloc voting in the county. Additionally, we have not been apprised of any compelling reasons for the use of candidate residency districts.

The use of candidate residency districts, as in this case, in effect creates separate offices and permits each voter to vote for only one candidate in each place. In the context of an at-large electoral system, the opportunity for minority voters to elect a representative of their choice to the board of education is significantly lessened by the use of candidate residency districts. As one court decision indicates:

In a true at large election, if the majority spreads its vote around and the minority single shot votes, the minority strength is concentrated, thus increasing their chance of electing. However, if the minority

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

Sincerely,

Please inform us within ten days of your receipt of this letter of the steps you decide to take in light of this letter with respect to the primary and general elections for the board of education.

standing this objection.
District Court for the District of Columbia notwithstanding purpose or effect may be sought in the United States judgment that this change does not have the prescribed Section 5. However, as the law provides, a declaratory the Attorney General, impose an objection under discriminatory effect. Therefore, I must, on behalf of Long County Board of Education will not have a racially candidate residency districts in elections of the we must under the Voting Rights Act, that the use of for these reasons, we are unable to conclude, as

Dunston v. Scott, 336 F. Supp. 206, 213, n. 9 (E.D. N.C. 1972).

candidate is forced to run against a specific candidate or candidates for a specific seat, the majority can readily identify for whom they must vote in order to defeat the minority candidate.