



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 14, 1986

C. Havird Jones, Esq.  
Assistant Attorney General  
P. O. Box 11549  
Columbia, South Carolina 29211

Dear Mr. Jones:

This refers to the implementation schedule for the election of the board of education from single-member districts for the Consolidated School District of Aiken County in Aiken and Saluda Counties, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on September 24, 1986. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.32).

We have considered carefully the information you have submitted in support of the proposal, as well as information provided by other interested parties. We note that the change from at-large to single-member district elections has already met the Section 5 preclearance requirements. We note further that, although the terms of five of the current school board members expire in 1986, thus providing a perfect opportunity for the orderly implementation of the new precleared plan, including an election in the sole black-majority district where no incumbent resides, the proposed implementation plan provides that members will be elected from only three single-member districts, while two members again will be elected at large, by numbered positions.

On these terms, it would not be until 1988 that a large number of voters, including those residents in the newly created black majority district, will be allowed to enjoy the benefits of their opportunity under the precleared single-member plan to elect a candidate of their choice. The school district has

not presented any compelling nonracial justification for proceeding with implementation of the precleared plan on such a piecemeal basis. Indeed, the record before us indicates that the choices reflected in the proposed implementation plan were made in order to protect white incumbents now serving on the school board. Such an effort to preserve incumbencies under circumstances that appear designed to thwart, rather than ensure, full and prompt implementation of a precleared plan, cannot itself obtain preclearance unless and until the inference of racial animus is dispelled.

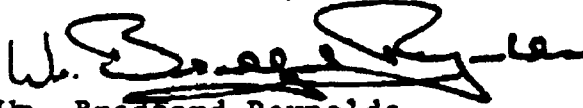
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the implementation schedule for the election of school board members from nine single-member districts for the Consolidated School District of Aiken County.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the implementation schedule for the election of school board members from nine single-member districts for the Consolidated School District of Aiken County legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Consolidated School District of Aiken County plans to take with respect to this matter. If you

have any questions, feel free to call Ms. Lora L. Tredway  
(202-724-8388), Attorney/Reviewer of the Section 5 Unit of  
the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds", with a stylized flourish at the end.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division