

MAR 5 1976

Mr. Martin Ray
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Dear Mr. Ray:

This is in reference to the reapportionment of the Pickens County Board of Education (effected by Act No. 72 of the 1975 Alabama Legislature), which was submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on February 16, 1976.

First, we note that Act No. 41 of the 1966 Alabama Legislature, under which legislation the Pickens County Board of Education was previously apportioned, has never met the preclearance requirements of Section 5. We further note that prior to 1966, the Pickens County Board of Education elected five members from five single member districts.

Turning to the merits of this submission, on the basis of our consideration of the relevant demographic and geographic data, and comments from interested parties, we cannot conclude as we must under the Voting Rights Act, that the election of the Pickens County Board of Education on an at-large basis combined with a majority vote requirement, numbered posts, and staggered terms, will not have a racially discriminatory effect. Recent Supreme Court decisions, to which we feel obligated

to give weight, indicate that the combination of the above features may have the effect of abridging minority voting rights in Pickens County. E.g., White v. Regester, 412 U.S. 755 (1973); Whitcomb v. Chavis, 403 U.S. 124 (1971). We note that the use of single member districts (used previously to elect school board members), if fairly drawn and properly apportioned, might eliminate any racially discriminatory effect.

For the foregoing reasons, I must on behalf of the Attorney General interpose an objection to the combination of at-large election system, majority vote, numbered post and staggered term requirements. We have reached this conclusion reluctantly because we fully understand the complexities involved in devising a plan of this nature so as to satisfy the needs of the county and its citizens and simultaneously, to comply with the mandates of the Federal Constitution and laws. We are persuaded, however, that the Voting Rights Act compels this result.

Because issues relating to this matter are presently pending before the United States District Court for the Northern District of Alabama in Corder v. Kirksey, Civil Action No. 73-M-1086 (N.D. Ala.), I am taking the liberty of providing the Court with a copy of this response. Of course, Section 5 permits seeking approval of all changes affecting voting by the United States District Court for the District of Columbia irrespective of whether the changes have previously been submitted to the Attorney General.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division