

THE CALIFORNIA VOTING RIGHTS ACT (CVRA)



Monrovia Unified School District

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

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

- The governing board of the Monrovia Unified School District may wish to consider 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.



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

When was the CVRA enacted?

- The CVRA was enacted in 2002 by the California Legislature and signed by Gov. Gray Davis.

What was the intent or purpose of the CVRA?

- The intent of the CVRA was to enhance the voting rights protections embodied in the federal Voting Rights Act. In signing the legislation, Gov. Gray Davis stated that the purpose of the legislation was to provide voters with a cause of action to challenge at-large elections when it was shown that a minority's voting rights have been abridged or diluted.¹



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

What does the CVRA prohibit?

- The CVRA prohibits the use of any election system (e.g., at large system) that impairs the ability of a protected class (e.g., racial or ethnic minority) to elect candidates of its choice or its ability to influence the outcome of an election.²



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

How is the CVRA different from the federal Voting Rights Act?

- While the CVRA is modeled after the federal Voting Rights Act, a protected class of citizens does not have to be geographically compact or concentrated to allege a violation of the CVRA.
- Also, proof of intent to discriminate against a protected class is not required.
- A protected class of citizens is defined as a class of voters who are members of a race, ethnic, or language minority group as defined in the federal Voting Rights Act of 1965.³

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- Due to the lower threshold of proof, no public agency has prevailed in a lawsuit to date.
- For this reason, and the fact that public agencies are liable for attorney fees if they lose in court, the majority of public agencies have voluntarily implemented district-based elections.



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

Does the CVRA disfavor at-large elections?

- Yes. The CVRA strongly disfavors at-large elections.
- The CVRA defines the at-large method of election as any one of the following methods of electing members of the governing body of a public agency:
 1. One in which the voters of the entire jurisdiction elect the members of the governing body;
 2. One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members of the governing body; and

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3. One which combines at-large elections with district-based elections.⁴



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How does the CVRA define district-based elections?

- The CVRA defines district-based elections as a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part (usually five or seven district or trustee areas) of the political subdivision and is elected only by voters residing within that election district.⁵



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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.⁶



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

When is the at-large method of voting in violation of the CVRA?

- The CVRA states that an at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class (e.g., racial or ethnic minority) to elect candidates of its choice as a result of a dilution or abridgment of rights of voters who are members of a protected class.⁷



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

How is a violation of the CVRA determined?

- A violation of the CVRA is established if it is shown that racially polarized voting occurred in elections for members of the governing board or in elections incorporating other electoral choices by the voters of the political subdivision.⁸



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How is racially polarized voting determined?

- The occurrence of racially polarized voting in violation of the CVRA is determined by examining the results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, that affect the rights and privileges of members of a protected class.
- A school district may be ordered by a court to implement a district based election system if racially polarized voting is found.

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What remedies are available under the CVRA?

- Upon a finding of a violation, the court must implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the violation.⁹



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May the court award attorney fees to a successful plaintiff?

- In an action to enforce the CVRA, a court shall award the prevailing plaintiff reasonable attorney's fees and litigation expenses including, but not limited to, expert witness fees and expenses as part of the cost.
- Prevailing defendants shall not recover any costs, unless the court finds that the action was frivolous, unreasonable, or without foundation.¹⁰

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

Has the CVRA been held to be constitutional by the courts?

- Yes. In Sanchez v. City of Modesto,¹¹ the Court of Appeal held that the CVRA was constitutional.



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

What is the process for drawing the boundaries for trustee areas?

- The process begins with two public hearings during Board meetings.
- During the public hearings, the members of the public may provide input to the Board on the criteria and composition of proposed trustee areas.

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- Following the second public hearing, the Board will consider a Resolution that identifies criteria for the demographer to use in preparing draft maps of trustee areas.
- Usually, the demographer will prepare at least two sets of draft trustee area maps and an election plan identifying in which trustee areas elections will be held in 2024 and 2026, for subsequent review by the Board.



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

What are requirements for determining the criteria for drafting the boundaries for trustee areas?

- Effective January 1, 2024, the Education Code requires trustee areas to comply with Elections Code section 21130.
- Elections Code section 21130(a) requires trustee area maps to be substantially equal in population.
- The courts have interpreted this to mean that the population variance between the most populous and least populace trustee area cannot vary more than 10% in population.

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- Election Code section 22130(b) requires school boards to adopt trustee area boundaries that comply with the U.S. Constitution, the California Constitution, and the federal Voting Rights Act.
- The Board is required to determine whether it is possible to create a trustee area in which a minority group is sufficiently large and geographically compact to constitute a majority in a single trustee area.

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- The Board must publish on its redistricting website the results of its analysis within seven days of completing the analysis or prior to adopting trustee area boundaries, whichever occurs first.
- Election Code section 21130(c) sets forth ranked criteria for adopting trustee area boundaries as follows:
 1. To the maximum extent practicable, election districts must be geographically contiguous.

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2. To the maximum extent practicable, and where it does not conflict with being geographically contiguous, the geographic integrity of any neighborhood or local community of interest shall be respected in a manner that minimizes its division. A community of interest is defined as a population that shares common social or economic interests that should be included within a single election district.

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3. Characteristics of communities of interest may include, but are not limited to, shared policy concerns such as education, public safety, public health, environment, housing, transportation and access to social services. Characteristics of communities of interest may also include, but are not limited to, cultural districts, shared socio-economic characteristics, similar voter registration rates and participation rates, and shared histories. Communities of interest do not include relationships with political parties, incumbents, or political candidates.

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4. To the maximum extent practicable, and where it does not conflict with the preceding criteria, the geographic integrity of a city or census designated place shall be respected in a manner that minimizes its division.
5. To the maximum extent practicable, and where it does not conflict with the preceding criteria, an election district shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the local jurisdiction. An election district should be easily identifiable and understandable by residents.

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6. To the maximum extent practicable, and where it does not conflict with the preceding criteria, election districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.



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- Election Code section 21130(d) states, “The districting body shall not adopt election district boundaries for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.”
- Section 2113(d) provides for significant challenges to school districts. In practice, any given proposal could possibly favor one incumbent or candidate while, at the same time, disfavor or discriminate against another incumbent or candidate.

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- Elections Code section 21130(e) states that the Board shall not adopt election district boundaries using any criteria that is prioritized over the criteria in section 21130(c) or that conflicts with one of the requirements in section 21130(a) - d).

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

What is the process for drafting maps of the proposed trustee areas?

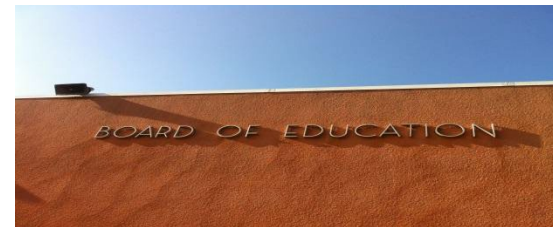
- Following with the second public hearing the board will consider a resolution that identifies criteria for the demographer to use in preparing draft maps of trustee areas. Usually, the demographer will prepare at least two sets of draft trustee area maps and an election plan identifying in which trustee area elections will be held in each future election for review by the board.

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- The demographer will then draft maps and a third and fourth public hearing will be conducted to obtain public input regarding the content of the draft trustee area maps and proposed sequence of elections.
- Following the fourth public hearing, the Board will vote on a Resolution adopting a trustee area map and sequence of elections and authorize submission of the proposal to the Los Angeles County Committee on School District Organization.
- The Board will also vote on submitting a waiver request to the County Committee.

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- The County Committee on School District Organization will then hold a public hearing within the boundaries of the District and consider approval of the proposal to change the District's election system to a district based system and the trustee area maps.
- Following approval by the County Committee on School District Organization, the proposal goes to the Registrar of Voters for implementation.



Footnotes

- ¹ Stats, 2002, ch. 129 (SB 976), Governor's Signing Statement.
- ² Elections Code section 14027.
- ³ Elections Code section 14028(d).
- ⁴ Elections Code section 14026(a).
- ⁵ Elections Code section 14026(b).
- ⁶ Elections Code section 14026(e).
- ⁷ Elections Code section 14027.
- ⁸ Elections Code section 14028(a).
- ⁹ Elections Code section 14029.
- ¹⁰ Elections Code section 14030.
- ¹¹ 145 Cal.App.4th 660 (2006).

QUESTIONS?

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