

February 17, 2022

Re: San Dieguito Union High School District Trustee Voting Plan

Dear Dr. Ward:

I am writing concerning the San Dieguito Union High School District (SDUHSD) re-districting process required by California Education Code section 5019.5. Specifically, the San Diego County Office of Education (SDCOE) has been informed that SDUHSD may be considering plans and maps that are not compliant with, and potentially violative of, the California Voters Rights Act (CVRA).

1. Failure to Adopt a Proper Re-Districting Plan

The county committee establishes boundaries and trustee area of a school district under Cal. Education Code section 5019. Specifically, it provides:

5019. (a) (1) In any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas.

Clearly the legislature intended for school district boundaries to be adjusted by the County Committee on School District Organization. However, under Cal. Education Code section 5019.5, each school district has an independent obligation to approve maps that are consistent with the intent and purpose of the CVRA. This section envisions that there will be adjustments to trustee areas by a district and not the wholesale re-writing of boundaries.

The CVRA, Elections Code Sections 14025-14032, is designed to operate within the California constitutional guarantees of the right to vote and the federal Civil Rights Act of 1964. Consequently, the Act creates a private right of action for members of the community where a redistricting plan “impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.”

As indicated above, although we support a district’s obligation to make changes to trustee areas consistent with the CVRA under Cal. Education Code section 5019.5, we do not support the creation of trustee areas that serve to disenfranchise voters, are contrary to the basic provisions and purpose of the CVRA or undermine the authority of the county committee to establish boundaries pursuant to Cal. Education Code section 5019.

We are informed that SDUHSD is considering a plan or plans that may violate the above-referenced statutes and invite litigation based on claims of diluting or interfering with CVRA- and Civil Rights Act-protected and guaranteed interests. Should such a map attract litigation, SDUHSD could be liable for attorney’s fees should it fail to justify its redistricting plan. More likely, a proposed plan facing challenges

under the CVRA would face a temporary restraining order or other injunctive relief preventing such a plan from emerging from the district within the statutorily required time frame.

In the event that a SDUHSD-approved plan encounters injunctive relief or is otherwise delayed in being provided to the county office on or before the mandated deadline, the County Committee shall fulfill its statutorily imposed obligations and approve a CVRA-compliant plan of its own accord and shall seek reimbursement from SDUHSD for all costs incurred in the process. In addition, SDCOE would explore all available options under the law to further support its obligations under the CVRA and law.

2. Should the District Fail to Provide a Redistricting Map, the County Committee Will Impose a Map Complaint with the Requirements of the CRVA.

As you may know, the CVRA is designed to promote political representation of diverse communities. Compliance with the CVRA often requires a district to reform “at-large” elections in favor of “by-trustee-area” elections to subdivide municipalities, school districts, or counties into “trustee areas,” giving minority voters a better chance of electing candidates of their choice. The requirements of the CVRA are stringent, and non-compliance renders a district subject to lawsuits with the possibility of the imposition of penalties and attorney’s fees.

Required decennial redistricting is governed by California Education Code section 5019.5. This section requires the use of census data, demographers, considerations of the population, proportionality of the total population, and a consideration of the diversity of the population and resulting representation. Cal. Education Code section 5019(b) directs:

(b) The boundaries of the trustee areas shall be adjusted by the governing board of each school district. . . in accordance with subdivision (a), *before the first day of March of the year following the year in which the results of each decennial census are released.* . .

(Emphasis added).

Therefore, should SDCOE not receive a qualified plan within the statutorily imposed time period, the County Committee will proceed to fashion and adopt a redistricting plan and map compliant with the parameters of the CVRA prior to April 30, 2022. In that event, SDUHSD will be required to “reimburse all reasonable costs incurred by a county committee in adjusting the boundaries. . .”

Please be advised that in such an eventuality, SDCOE will seek all costs, including demographers, attorney’s fees, as well as costs for special sessions or other services required to timely produce a redistricting plan and map that complies with state law.

SDCOE stands ready and willing to support your district in establishing and approving maps that are consistent with the intent and purpose of the CVRA. Please let me know if we can be of further assistance.

Sincerely,



Dr. Paul Gothold
County Superintendent of Schools