

# Trustee-Area Elections Under the California Voting Rights Act

Campbell Union High School District

May 16, 2019

Presented by:

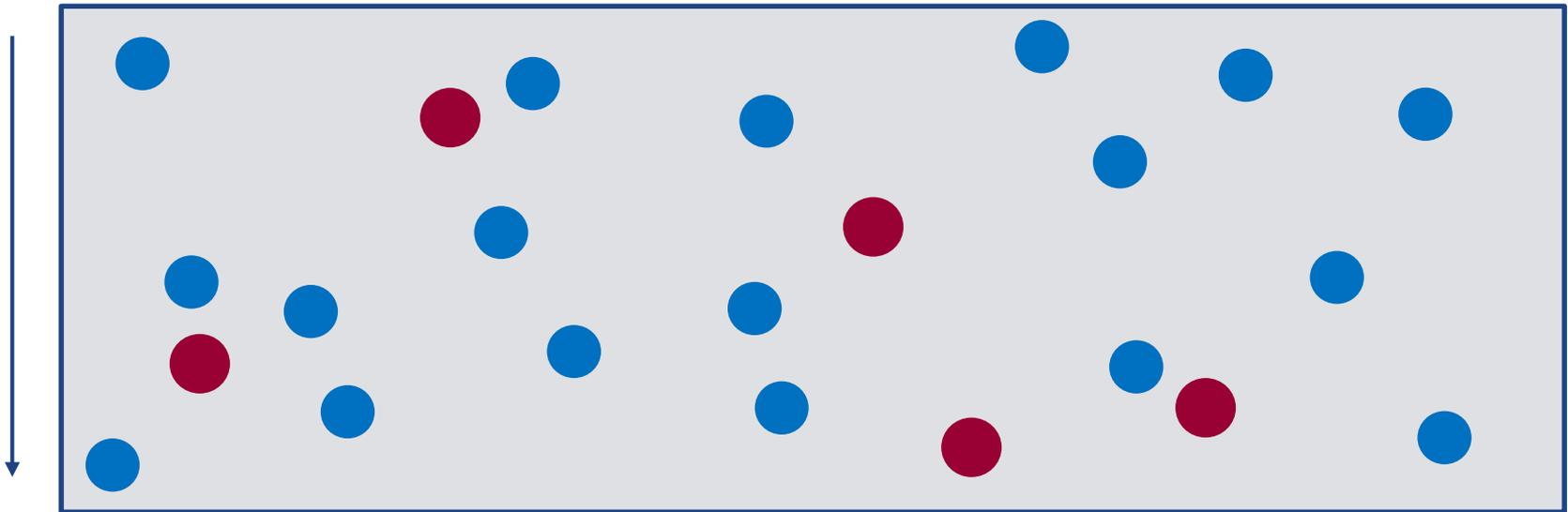
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# At-Large Elections

- Board members may reside anywhere in the District
- Registered voters within the District may vote for all seats on the Board

District boundaries



 = Board member

 = Registered voter

# California Voting Rights Act (“CVRA”)

- Prohibits the use of “at-large” elections that impair the ability of a protected class to:
  - elect candidates of its choice; or
  - to influence the outcome of an election.  
(Elec. Code, § 14027)
  - “Racially Polarized Voting”  
(Elec. Code, § 14028)
- Proof of intent to discriminate not required

# CVRA Litigation



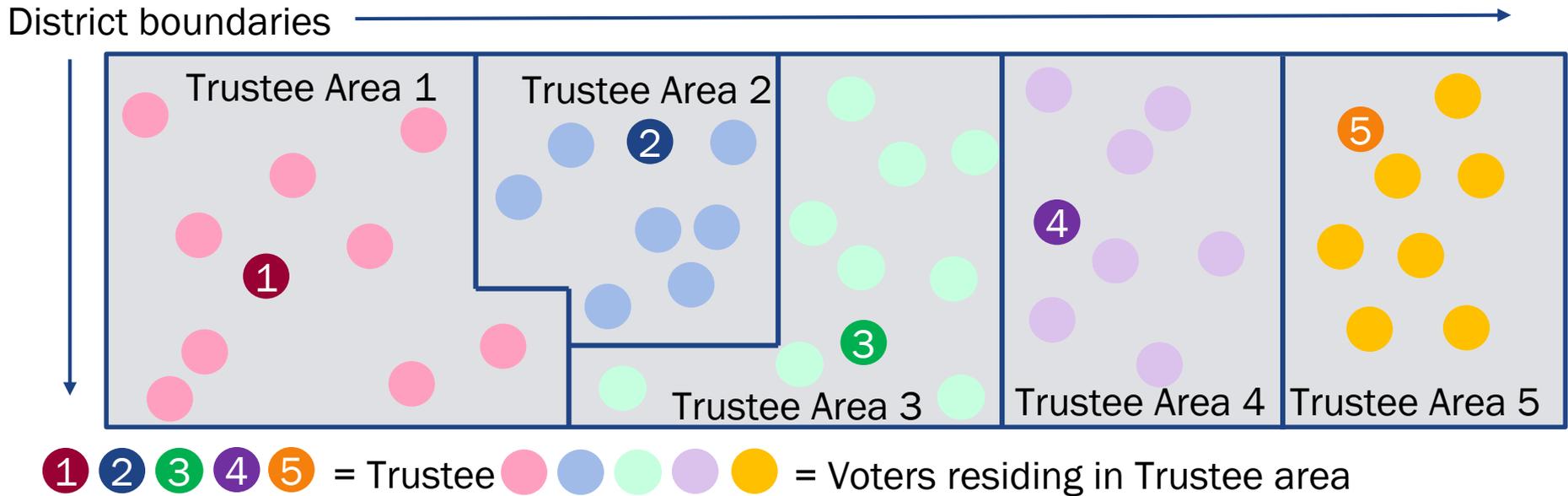
- Public agencies have never successfully defended a CVRA challenge
- CVRA challenges are on the rise
  - City of Campbell
  - City of Santa Clara
  - Morgan Hill Unified School District
  - Dublin Unified School District
  - San Ramon Valley Unified School District
  - West Contra Costa Unified School District

# CVRA Litigation

- High cost of litigation to public agencies: attorneys' fees for both sides
- Estimated fees and costs paid *to plaintiff's counsel*:
  - City of Santa Clara (Approximately \$3 million – court ordered)
  - West Contra Costa Unified School District (\$310,000 settlement)
  - City of Modesto (\$3 million settlement)
  - Tulare Regional Medical Center (\$500,000 settlement)
  - Madera Unified School District (\$162,500 - court ordered)
  - ABC Unified (\$140,000 settlement)

# By-Trustee Area Elections: The Only Method of Election Guaranteed NOT to Violate the CVRA

- Trustees must reside within specific trustee areas
- Only voters residing within the specified trustee area may vote for that particular trustee



# Demands Under the CVRA

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## If a demand is made:

- Governing body must adopt an intent resolution within 45 days of receipt of the demand letter to prevent plaintiffs from filing CVRA lawsuit.
- If the public entity takes all necessary steps, attorney's fee exposure is limited to approximately \$30,000. (Elec. Code, § 10010(f)(3))
- If the public entity does not do so and litigation ensues, no limit on fees.

# Demands Under the CVRA

- If no demand is made and the public entity moves to by-trustee area elections:
  - No CVRA suit may be filed.
  - No attorney's fees.



# Process to Establish By-Trustee Area Elections



# Step 1: Adopt Intent Resolution

- District board adopts intent resolution. (Elec. Code, § 10010(e)(3)(A))
- Once the intent resolution is adopted, the District has 90 days of “safe harbor” to complete the transition to by-trustee area elections before a lawsuit can be filed. (Elec. Code, § 10010(e)(3)(B))

*If District board adopts the intent resolution on May 16, 2019, the 90 day safe harbor period to finalize transition expires on August 14, 2019.*

## Step 2: District Development and Adoption of Map

- “Pre-Map” Hearings: 2 public hearings prior to preparing proposed by-trustee area maps. (Elec. Code, § 10010(a)(1))
  - *(Proposed for May 23 and May 30, 2019)*
- “Map Consideration” Hearings: 2 public hearings to consider proposed by-trustee area maps. (Elec. Code, § 10010(a)(2))
  - *(Proposed for June 13 and July 11, 2019)*
- Maps must be publicly available 7 days in advance of hearings.

## Step 2: District Development and Adoption of Map (Cont.)

- Map Adoption Hearing: Public hearing before adopting final by-trustee area map.
  - *(Proposed for July 25, 2019)*



## Step 3: County Committee Review

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- The County Committee on School District Organization has the authority to change the method of election in a school district under its jurisdiction. (Ed. Code, § § 5019 and 5030)
- County Committee must hold at least one hearing in the District to consider the proposal. (Ed. Code § 5019)
- The County Committee shall vote to approve or deny the District's proposal to establish trustee-areas and adopt trustee-area elections. (Ed. Code § 5019)

## Step 4: Election or Waiver from State Board of Education

- If County Committee approves the proposal, an election is called seeking voter approval.  
(Ed. Code, § 5020 subd. (a))
- This voter approval requirement can be waived by the State Board of Education, upon an application from the District. (Ed. Code § § 33050-33053)
  - These waivers are typically sought and routinely granted.

*To be heard and approved at SBE's September meeting, the SBE waiver application must be submitted by the week of June 3, 2019*

## Other Considerations

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- Terms of current board members not changed by transition to by-trustee areas; all incumbents retain their seat for their elected term.
- Trustee area maps must be revisited and, as needed, adjusted after each federal census (approximately 2021/2022).
- The exterior boundary of the District does not change.

# Team Approach

- Establish your team and who is doing what:
  - **Legal counsel** –advise regarding compliance with all requirements
  - **Demographer** – responsible for maps
  - **Logistics person** – public notices, board agendas, resolutions, applications, etc.
  - **Scheduler** – all meetings (board meetings, closed session, community forums, COE etc.)
  - **Communication director** –messaging, social media, website content, etc.

# Public Participation



- Intent of CVRA
- Helpful when preparing and considering maps
- Avoids challenges
- County Committees generally want to see public participation
- Obtaining public input can be difficult

# Tips for Soliciting Public Participation

- **Use simple terms** – Make the verbiage digestible. Don't use acronyms and legalese.
- **How does this affect me?** – Stay focused on what this means to the public.
- **Layer information** – Create layers of information online.
- **Make everything accessible and transparent** – the public is more likely to trust the process if every meeting and step is laid out in advance and documented online
- **Diversify your communication methods** – social media, print, postings, etc.

# Engaging the Community

- Social Media
- Direct Messaging – text message and email
- Radio
- Local Newspaper – press releases and public notices
- Meetings – Community forums, public hearings, staff meetings



# Best Practices for Outreach



- Track your efforts (web traffic, social media reach, etc.). People who do not have strong concerns may not care to participate, but they still need to be well-informed.
- Consider all feedback.
- Create one place for information to which social media, etc. can refer.

# Best Practices for Outreach



- Feature the entire history of the process so that people can get up to speed regardless of when they become involved.
- Connect with your stakeholder groups early on (unions, oversight committees, parent groups, etc.).
- Consider on-line polls.
- Document all outreach efforts.

**Thank you.  
Questions?**





# Lozano Smith

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