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Handout #2

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May 20, 2019 [corrected]

Mr. Shelton B. Yip
President
County Committee on School District
Reorganization
Yolo County Office of Education
1280 Santa Anita Court
Woodland CA 95776

Dear President Yip:

I represent Maria Grijalva, Edward Castorena, Sandra Miranda, the Latino Information and Resource Network, and the Broderick Area Homeowners' Association, who are petitioners seeking compliance by the Washington Unified School District with the California Voting Rights Act (CVRA). The Committee's approval of trustee areas and of the proposed Green Map will best serve to provide equal voting rights to Latinos and other minorities. It is also the outcome most likely to promote an early resolution of all pending disputes.

There has been almost no opposition to the election of neighborhood trustees, except from the Board members themselves. Because the trustees timely noticed their intent to comply with the CVRA, they gained the right to approve a map and to consider their own political interests when doing so. Had the Board voted down the resolution of intent, a court-drawn map might have disregarded their interests entirely. Since they did not comply with the 90-day deadline, it is still possible for my clients to ask the superior court to approve a different map. At least in our view, that could be a waste of even more resources.

Of the options that the incumbents considered, the Green Map was the clear choice of the minority community. It was favored by non-minority voters who want to elect a trustee from their neighborhood. Unlike the Yellow Map, it eliminates any possibility that a Board majority might live within the attendance boundaries of a single school. The Green Map is adequate to protect Latino voters and should be approved immediately and unconditionally.

I. PETITIONERS PROPOSED THE PROCESS PILOTED BY WOODLAND JOINT USD, WHICH WOULD HAVE COST \$30,000 IN TOTAL.

We proposed the process used by Woodland Joint USD (Woodland) to make the transition expeditious and economical. Woodland appointed Jesse Ortiz, a former trustee, to chair a committee that retained Tom Stanionis of the Yolo County registrar to prepare maps and completed a series of community hearings in a slightly more than two months. Based on that success, petitioners proposed retaining Mr. Stanionis and even agreed to absorb the costs of preparing maps and conducting hearings in their \$30,000 fee cap. We also asked for implementation at the 2018 election, since the petition was filed more than three months in

advance of the deadline to submit boundaries to the registrar. However, the legislation entitled WUSD to take up to 135 days. That entitled WUSD to delay implementation until 2020. We still warned WUSD of the deadline for obtaining the State Board waiver of Section 5020(a) and asked that they initiate that waiver process in time for the May 2018 consent agenda.

II. THE VIOLATION OF THE SAFE HARBOR WASTED DISTRICT RESOURCES AND UNFAIRLY BURDENED PETITIONERS.

The 135-day time limit minimizes costs on both the petitioners and the district, and also avoids uncertainties created by changes in membership. As Woodland demonstrated, a midsize school district can complete the process in half the allotted 135 days. The Legislature reinforced its commitment to expedition when AB 2123 limited extensions, even if petitioners' counsel to agree that additional community input is necessary. The Board did not tape-record the additional "community fora," provide minutes, or even post a single public comment that they produced. Even Coby Pizzotti (then clerk, and now vice president) concedes that the Green Map was the "clear favorite" at every meeting and forum.¹

Since the public provided consistent pre-map input and supported the Green Map, the only effects of delay were to waste district resources and to punish petitioners financially. By September 2018, the district had spent more than \$110,000 on its outside counsel and demographer. Petitioners had to cover all the same meetings and analyze the same maps, even though they had exhausted most of the \$30,000 fee cap demonstrating the violation of the CVRA by analyzing years of election data. The district neither replicated that work nor contested its conclusion that racially polarized voting exists in WUSD (which is true in most jurisdictions).

In April 2018, over trustee Pizzotti's dissent, WUSD resolved to comply in the 2020 elections. WUSD requested no extension but delayed even publishing its first map until July 10, 2018 – one day before the statutory deadline for final action by this committee. A month earlier, WUSD trustee Alicia Cruz had resigned, so the Board would deadlock if any additional member withdrew support for the Board's two commitments - to transition to trustee areas and adopt a map. Pizzotti kept arguing that petitioners should be required to wait for any decision until a full board was empaneled, *i.e.*, after the November 2018 election, and then accept deferral until 2022, after he had run for re-election at large.²

Member Kirby-Gonzales voted for the resolution to proceed under AB 350, which provides for up to \$30,000 in reimbursement. But later, she argued that petitioners should be required to forfeit reimbursement for the analysis of racially polarized voting and circulate a petition (at their own time and expense) to get trustee areas. It was if AB 350, the CVRA, and her own commitment to comply never existed. District counsel endorsed this analysis, claiming that a ballot question would somehow save the district money. He also confirmed her criticism

¹ <https://youtu.be/mzogx-CPKMw?t=6148> (1:42)

² <https://youtu.be/AgYTULtlfmw?t=7228>

that petitioners should not be allowed to hire an attorney who does not live within the district.³ (District counsel is from San Francisco.)

At the September 13 hearing, the public unanimously supported the Green Map. However, trustee (now President) Wong asked that the Orange Map (which no one supported) be modified to relax the direction that two trustees not be placed in the same area. The predictable consequence of her new “Yellow Map” was to enable her to run against Pizzotti. Wong demanded that the timeline be “extended out” so that the community could consider allowing her proposal to take out her colleague in the 2020 election.⁴

The CVRA is about the rights of voters, not the political ambitions of incumbents. So we continued our support for the Green Map, even though doing so benefited our original opponent (Pizzotti) and risked alienating the incoming president (Wong). Instead of appreciating our integrity, Pizzotti repeated demands that CVRA compliance be delayed until 2022, after he had run at-large.⁵ Then, he and Wong allied to urge “deadlock” so a new board could undo any commitment ever to comply with the CVRA at all.⁶

Despite these provocations, petitioners refrained at that time from initiating litigation, which they had been entitled to do since July 11, 2018. No jurisdiction has ever prevailed in such litigation, and many have paid large fee awards. There was little gratitude. Future president Wong continued to mislead the community, declaring: “I resent the fact that we are doing this because we were sued,” when they had *not* be sued.⁷ She joined member Kirby-Gonzales’ grievance that “there was an opportunity to actually save money,” when it was the district’s filibuster that allowed its counsel to bill over \$110,000 and imposed similar financial hardships on petitioners. Even under the pressure created by delaying their reimbursement, I never abandoned my clients.

The Board finally appeared to accept its constituents’ demand for the Green Map on September 27, 2018. But district counsel made a tantalizing proposal to future president Wong: “To be frank..., the Board reorganizes at the beginning of each year and starts a new session in a sense, so I am not saying you cannot bring it back. The Board president clearly sets the agenda with the Superintendent, and that is where the decision would have to be made.”⁸

³ <https://youtu.be/AgYTULtlfmw?t=7693> (2:08)

⁴ <https://youtu.be/mzogx-CPKMw?t=5666> Ironically, she argued that this aggressive maneuver was necessary to “avoid litigation.”

⁵ <https://youtu.be/mzogx-CPKMw?t=5951>

⁶ <https://youtu.be/AgYTULtlfmw?t=7235> (2:00) (Pizzotti); <https://youtu.be/AgYTULtlfmw?t=7427> (2:03)(Wong)

⁷ <https://youtu.be/AgYTULtlfmw?t=8163> (2:16)

⁸ <https://youtu.be/AgYTULtlfmw?t=7467> (2:04)

III. THE DISTRICT IMPROPERLY FAILED TO SUBMIT THE WAIVER DURING PRESIDENT ALCALA'S TERM OF OFFICE.

In the agendas for the October 25 and November 8, 2018 meetings,⁹ the Board claims that approval by this Committee was the "next step." That, of course, was not the case. This Committee's approval constitutes a call for an election on a ballot question, unless Section 5020(a) has been waived by *prior* action of the State Board. Trustee Wong voted against authorizing the waiver, but trustee Pizotti changed his vote to "yes" at the end of the November 8, 2018 meeting. According to the records of the California Department of Education, the waiver office warned district counsel to submit by November 13, 2018, so it could be agendized for the January meeting of the State Board. That date was, of course, five days *after* the meeting at which the Board voted 3 to 1 to seek the waiver – and four weeks *before* President Alcala left office.

For months, it has appeared that President Wong would not have to "reconsider" anything because the actions taken during her predecessor's session were simply embargoed, denying them any legislative effect. My clients were alarmed when the State Board agendas for January and March 2019 did not include the waiver request duly passed by WUSD months earlier. During this period, they made sure that President Wong continued to receive feedback from her constituents that Board needed to fulfill its two promises: to comply with the CVRA and to propose the Green Map to this Committee.

IV. NEW DATA CONFIRM THAT THE GREEN MAP PROTECTS LATINOS.

The map submitted in the Board packet indicates that its demographics rely upon survey data from the 2011-2015 American Community Survey, conducted by the Census Bureau, which is disaggregated to census blocks by University of California for use by the California Legislature and Citizen's Redistricting Commission. These data are now two years old. I have performed updated analyses of each map using the official 2013-2017 survey data and see no material changes. The Green Map, and only the Green Map, produces a trustee area in which 33 percent of adult citizens are Latino (and a second that is 25% Latino). This is what the Latino community believes is necessary to provide equality of influence. Although it is possible to conduct further error analysis, we stand by our position that the Green Map is the best option to protect equal voting rights for Latinos. The data also suggest that the 2020 census may not require dramatic changes to trustee area boundaries.

⁹ <https://agendaonline.net/public/Meeting.aspx?AgencyID=157&MeetingID=64348&AgencyTypeID=1&IsArchived=False>

CONCLUSION

By working with the petitioners, WUSD's Board could have prepared maps, conducted hearings, and completed this transition with as much efficiency as Woodland Joint USD. This transition could have been achieved for \$30,000, all in. There is no basis for further delay.

Please approve neighborhood trustees now!

Sincerely,

A handwritten signature in black ink that reads "Scott Rafferty". The signature is written in a cursive, slightly slanted style.

Scott J. Rafferty