

EDUCATION WEEK

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Districts Abandoning At-Large School Board Elections

By **Nora Fleming**

Pasadena, Calif.

Luis Carlos Ayala treks up and down hilly driveways in a local neighborhood on a recent weeknight, going door to door to deliver his short campaign spiel and a flier. The school board candidate touts his titles and duties: parent, husband, lawyer, teacher, and a list of accolades and credentials he hopes will sway voters to select him over a two-term incumbent in the election here March 5.

Even though the 18,650-student Pasadena Unified district serves a locale of more than 202,300 residents, **Mr. Ayala** aims to reach voters in an area of only 28,900 for this race, as a result of the school district's recent switch from at-large elections—in which voters can cast ballots for any candidate—to trustee or "district" elections, in which voters select a candidate on the basis of where they live.

Pasadena's election switch follows an increasing number of others in California school districts, influenced by the **2001 California Voting Rights Act**, which prohibits localities from running at-large elections if they hinder minority groups from electing candidates of their choice.

In the past few years, California has seen a number of lawsuits challenging local at-large election systems, a situation that has pushed school districts throughout the state to consider the racial and ethnic diversity of their boards and whether voting in their communities is racially polarized.

While California alone has such a state law, communities in other states have turned to the federal **Voting Rights Act of 1965** to remedy voting-rights grievances for minority groups, though the federal law sets a higher threshold of proof for plaintiffs. In Texas, for example, lawyer Rolando Rios has used it to bring more than 125 cases challenging at-large school board elections, almost all decided in his favor.

"There's now an awareness on the part of all California school boards of the law and the potential for lawsuits if districts don't make a change [from at-large elections]," said Peter Fagen, a partner in **Fagen, Friedman, & Fulfroft**, a Los Angeles-based law firm that provides legal counsel to more than half the school districts in the state.

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"While not all school districts are rushing to shift, in today's budget climate very few have the desire to fight these lawsuits," he said. "The only safe harbor for districts is to shift to trustee-area elections, whether or not it helps elect minority representation, which is not always the case."

To date, no school system has won a case, resulting in districts' paying a king's ransom in settlement costs and legal fees.

Waiver Option

Voters' responses to Mr. Ayala are mixed as he campaigns this evening. Some barely open the door and quickly shoo him away, as dogs bark at their heels. Approached in her driveway, one woman rolls her car window up after hearing Mr. Ayala's views, and another says she leaves voting decisions to her husband.

But others are more welcoming, eager to talk about education and listen to the first-time candidate's ideas, which he delivers to one resident in French after learning of the man's native language.

Pasadena district voters, who come from an area that includes **Pasadena**, **Altadena**, and **Sierra Madre**—a 76 square-mile region north of downtown Los Angeles that borders the San Gabriel Mountains—approved a voter measure last June to abandon at-large elections.

Although more than 60 percent of the district's students are Latino, and close to 70 percent qualify for free and reduced-price meal plans, the residential area is much more racially and socioeconomically diverse. Many residents here are middle class or well-to-do and choose to send their children to private schools, including some school board candidates and members.

Voter approval of the change followed the work of a school-board-commissioned task force of nine residents that met publicly for nearly a year to examine the issue of redistricting and develop a map that created seven voter subdistricts, each corresponding to a seat on the school board.

For next week's election, 10 candidates—three white, three black, and four Latino—are running for four open seats on a school board that has always been predominantly white. Seven are newcomers.

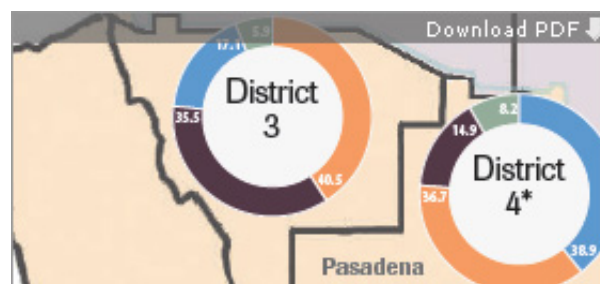
To change board elections in California, districts can put a measure before voters, be forced by the courts, or **apply for a waiver** from the state board of education. Since 2005, the boards of 79 districts, out of about 960 statewide, applied for such waivers—53 in the past 12 months alone, according to the California education department. All those waiver requests have been granted.

The state does not track the number of districts that could be at risk of lawsuits alleging they are violating the state voting-rights law, but the majority of California districts elect their school boards at-large.

According to Mr. Fagen, more districts are now considering seeking waivers rather than asking voters to change districting policy, because of the length of time it takes to prepare for an election

New Direction

The Pasadena Unified school system has switched from electing school board members districtwide to electing them from within seven subdistricts. The goal is to give minority voters a greater chance of having their voices heard. The first election under the new system takes place next week.



SOURCES: U.S. Census Bureau; local voter redistricting task force

and the risk of voter rejection. In addition, the voting process could provide "exhibit A in the lawsuit" when people vote for or against a change along racial lines, he said.

What's more, some district officials determined that switching to subdistrict elections could actually lead to less diversity, Mr. Fagen added, because there would be insufficient numbers of minority residents within the divided areas to elect minority candidates.

Two years ago, Pasadena received legal advice that it consider redistricting, a process that task-force leader Ken Chawkins said was not easy.

Based on federal and state requirements, the redistricting plan had to include roughly the same number of residents in each subdistrict, avoid gerrymandering, and create strong minority districts that increased the likelihood of electing a more diverse school board, Mr. Chawkins said.

Some board members and residents, such as Mr. Ayala's opponent, incumbent **Scott Phelps**, pushed back, arguing that redistricting provides no guarantee of electing minorities. Other critics maintained that by representing one area or neighborhood, board members can become less accountable to the district population as a whole, and make it more likely that narrowly focused groups can influence a candidate—opinions that echo those of others in California.

But proponents say trustee-area elections provide minority residents more say in local politics and give all voters a chance to feel their interests and issues are understood and represented.

"[Trusteeship] elections will require far more focus on local issues, changing the whole dynamic of school board elections," said Mr. Chawkins, a senior manager with Southern California Edison. "In the end, though, communities will elect who they want, and a board member who simply pounds the table and asks for his or her district to be tended to will get nowhere if he or she doesn't build coalitions with other members to pass votes."

Analyzing the Data

To prove racially polarized voting is occurring, a statistical analysis is performed to show whether minority and majority groups tend to vote as blocs for particular types of candidates. That analysis can, along with consulting fees, cost a district \$10,000 to \$35,000, some estimate.

But the amount is far less than legal fees and settlement costs, which have ranged from \$100,000 to \$600,000, according to Robert Rubin, a San Francisco Bay area-based lawyer who has served as lead counsel on seven state voting-rights cases and consulted on five others.

Mr. Rubin, who notes that he has sent some 60 letters to districts warning of potential lawsuits, says he's finding positive reactions from a majority of districts. But he argues there are still far too many California school boards that are all or predominantly white representing communities with high-minority voter and school populations.

(The state's total population is 40 percent white, 38 percent Latino, 13.6 percent Asian, and 6.6 percent black, while the school population is 52 percent Latino, 26 percent white, 8.6 percent Asian, and 6.5 percent black.)

"I have focused on school boards because those cases involve not only the political empowerment of the minority community, but in a very direct way, the quality of public education," Mr. Rubin said.

"My concern is for the community and whether electoral barriers prevent it from electing candidates of its choice," he said. "Those candidates may not necessarily be of the same race or ethnicity as

the community that elected them so long as they reflect the interests of that community."

Federal Recourse

California's Voting Rights Act is unique, but communities in other states have used the federal Voting Rights Act to force changes in how they elect local bodies, including school boards.

Section 2 of the federal law prohibits voting practices or procedures that intentionally or unintentionally discriminate on the basis of race, color, or language; Section 5 requires specified states, communities, and jurisdictions with histories of past voting infractions—mostly in the South—to receive U.S. Department of Justice approval before making election changes. A challenge to the constitutionality of Section 5 is now before the U.S. Supreme Court.

Federal cases are harder to bring than California cases, said Nancy Abudu, a senior staff counsel at the national American Civil Liberties Union. Section 2 cases can take years to settle or decide, she said, and plaintiffs have more to prove: Communities have to show that racially polarized voting takes place, and that redistricting would remedy it by drawing subdistricts that are majority-minority.

The California law does not have the second requirement.

Creating more diverse elected bodies does not end at shifting election formats, many say. Minority candidates still need to run, and voters still need to show up at the polls to vote for them, a process that can take time.

Those factors were at play in last November's school board election in Escondido, in Southern California. Worried about the risk of a lawsuit, both school districts in the city applied for waivers to switch from at-large to trustee elections.

The **local ACLU** then helped launch a districtwide civic-engagement and outreach project to get more Latino parents participating in community meetings where new boundaries were drawn, get them registered, and encourage them to vote.

The election resulted in the first Latino member ever on the elementary district board, in a city where 49 percent of residents and 70 percent of the 18,000-student school district are Latino. Board member **Jose Fragozo** had run unsuccessfully at-large in 2006, 2008, and 2010. After the switch to the new election system, Mr. Fragozo moved to run in a new trustee area with a high percentage of Latino voters and won.

"You can't change the way you run elections in a vacuum," said Lori Shellenberger, the civic-engagement lawyer with the ACLU of San Diego. "Most residents do not know the difference between at-large versus [subdistrict] elections, so you have to empower the community with information about what these elections mean, especially in communities that have been marginalized in the past."

Neighborhood Issues

The California law is influencing not just who is elected to school boards, but also the campaign process itself.



Candidates, from left, Guillermo Arce, Ruben Hueso, Stella Murga, and Mr. Ayala take part in a sparsely attended forum.

—Eric Grigorian for Education Week

After a few hours of knocking on doors in Pasadena, Mr. Ayala rushes to a local church to attend an election forum, where he answers questions on district financial accountability and the expulsions of minority students, among other questions. The night before, at a neighborhood-association forum with his opponent, Mr. Phelps, he fielded questions about a shuttered neighborhood school and how he would keep the association updated on board matters if elected.

The creation of electoral districts means board members will have to keep abreast of and accountable for both neighborhood issues that affect their blocs of voters in addition to those that affect voters as a whole. For example, some 600 students from the regular public schools left last year, many moving to private or charter schools.

To new Pasadena board candidate **Stella Murga**, those outlying issues are what influenced her to run against the incumbent, Elizabeth Pomeroy, for a seat in the new District 5. Ms. Murga, a Latina who runs a nonprofit group that helps prepare low-income students for college and careers, said she never would have been able to run under the old system because there were too many voters to reach and too much campaign money to raise.

(Estimates suggest the electoral switch will save candidates \$200,000 total in campaign costs each election.)

Ms. Murga has been walking District 5 on weekends and, with the help of volunteers, phoning voters at home.

On a recent, sunny Saturday, she takes several hours going door to door after a morning at the local farmers' market, where she handed out fliers. Many people aren't home, so she handwrites notes on their fliers—"Sorry I missed you"—and slips them under doormats and inside letter boxes.

If she loses, she doesn't know if she'll try again.

"Last election, my opponent was unopposed, and that would have happened again this time if I hadn't decided to run," Ms. Murga says, smiling about the face-off the local press has predicted will be close. "In the end, I'll know I gave it my best shot, and I'm glad people have heard what I have to say. My candidacy is giving people a choice; that's what democracy is all about."

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