



# Navigating The California Voting Rights Act

## What Is the California Voting Rights Act (CVRA)?

- Found in Elections Code § 14025 *et seq.* and expressly applies to cities, school districts and community college districts. (Elections Code § 14026(c).)
- The CVRA prohibits the use of an at-large election system if it can be shown that such an election system results in **racially polarized voting**. In other words, it is prohibited to use an at-large election system that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election. (Elections Code § 14027.)
  - Note: There is limited guidance on how a claim of "racially polarized voting" is proven in court. The *Jauregui v. City of Palmdale* case is one of the few California cases that deals with a CVRA claim and discusses what evidence may be considered to prove a CVRA claim. (*Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781.)
- With a CVRA claim, proof of intent on the part of voters or elected officials to discriminate against a protected class is not required. (Elections Code § 14028(d).)

**IMPORTANT:** The CVRA grants a prevailing plaintiff the right to recover reasonable attorneys' fees and expert witness fees. (Elections Code § 14030.)

## Terms Defined

- Racially Polarized Voting: Voting where there is a difference in the choice of candidates, or other electoral issues, preferred by voters in a protected class and the choice of candidates, or other electoral issues, preferred by voters in the rest of the electorate. (Elections Code § 14026(e).)
- At-Large Election System is where voters of the entire jurisdiction elect all members to the governing board.
- From Trustee Area Election System is where each governing board member is elected by voters from the entire jurisdiction, but the district is divided into trustee areas.
- By-Trustee Area Election System is where a district is divided into trustee areas and one governing board member is elected by only the registered voters in that particular trustee area. Under the CVRA, this is the only "safe harbor" from a CVRA lawsuit.

## Summary of Steps to Transition to By-Trustee Area Election System

**Practice Pointer:** A transition to a by-trustee area election system requires a well-thought-out communications plan to provide information to the district's governing board and the public about the reason for the change in the election system (usually to ensure compliance with the CVRA) and sharing and receiving public comments on the draft voting map plans that will be developed as part of the process.

1. Present CVRA as informational item at a regularly scheduled governing board meeting.  
(Note: This step is not required by law, but is advisable if time permits to present the issue before the governing board and the public in a presentation style format.)
2. Pass a resolution to initiate transition to a by-trustee area election system by majority vote of the governing board.
3. Prepare draft voting trustee area plans for consideration and comment by the governing board and the public.

## Summary of Steps to Transition to By-Trustee Area Election System con't.

**Practice Pointer:** A district should work with a demographer and legal counsel to prepare the draft maps and present them to the governing board and the district's constituents for review and comment. Outreach should include district stakeholders such as site councils, bargaining units and parent advisory committees (particularly if the district plans to submit a waiver request for approval by the State Board of Education), and potentially preparing materials in other languages as warranted.



Approval of resolution selecting final voting trustee area map and authorizing transition to by-trustee area election system by majority vote of governing board.

### If School District:

Approval by County Committee on School District Organization. (Education Code § 5019.)



Place by-trustee area election proposal on ballot to be approved by electorate.

**OR**

Submit general waiver request from ballot requirement to be approved by the State Board of Education.



Hold elections under new by-trustee area election system.

### If Community College District:

Approval by Board of Governors of the California Community Colleges.



Hold elections under new by-trustee area election system.



### **Practice Pointer:**

Be mindful of deadlines associated with filing an approved voting trustee area map with local registrar of voters for an upcoming election.

## What is the California FAIR MAPS Act of 2023?

The California Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act of 2023 aims to ensure integrity, fairness, transparency, and accessibility of the local redistricting process, and protect people from unrepresentative and dilutive local election systems.

The California FAIR MAPS Act of 2023 applies to cities, counties, and school districts. (Cal Elec. Code § 21120.) Under the FAIR MAPS Act, when a school district initiates the transition to a By-Trustee Election Area System, the district must draw the map options in accordance with California Elections Code section 21130. This requires the district to comply with the California Constitution, the U.S. Constitution, and the Federal Voting Rights Act. The district must also ensure population balance and consider the following criteria (descending order of priority):

- Contiguous Trustee Areas
- Local Neighborhoods/Communities of Interest
- City/Census designated places
- Natural/artificial boundaries
- Geographical compactness
- Other local considerations
- The district must also determine whether it is possible to create one or more trustee area boundaries where a minority group is sufficiently large and geographically compact to constitute a majority in a single-member district, and publish that analysis within seven (7) days.
- The district may not adopt trustee area boundaries for the purpose of favoring or discriminating against an incumbent, political candidate or political party.
- The demographer is required to create the district's draft maps without consideration of the current trustee residences.

THIS IS A GUIDE IS A SUMMARY ONLY AND NOT LEGAL ADVICE. WE RECOMMEND THAT YOU CONSULT WITH LEGAL COUNSEL TO DETERMINE HOW THIS MAY APPLY TO YOUR SPECIFIC FACTS AND CIRCUMSTANCES