

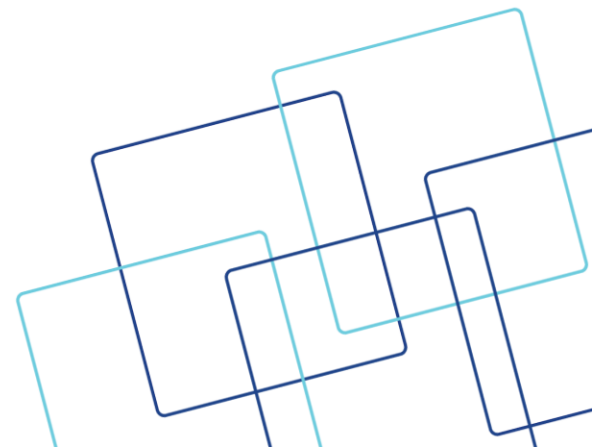


The California Voting Rights Act

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Natomas Unified School District

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The California Voting Rights Act

**Substance: Prevent Racially
Polarized Voting**

**Process: Transition to
District-Based Method of Elections**

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
- “Racially Polarized Voting”
- Proof of intent to discriminate not required

CVRA Litigation

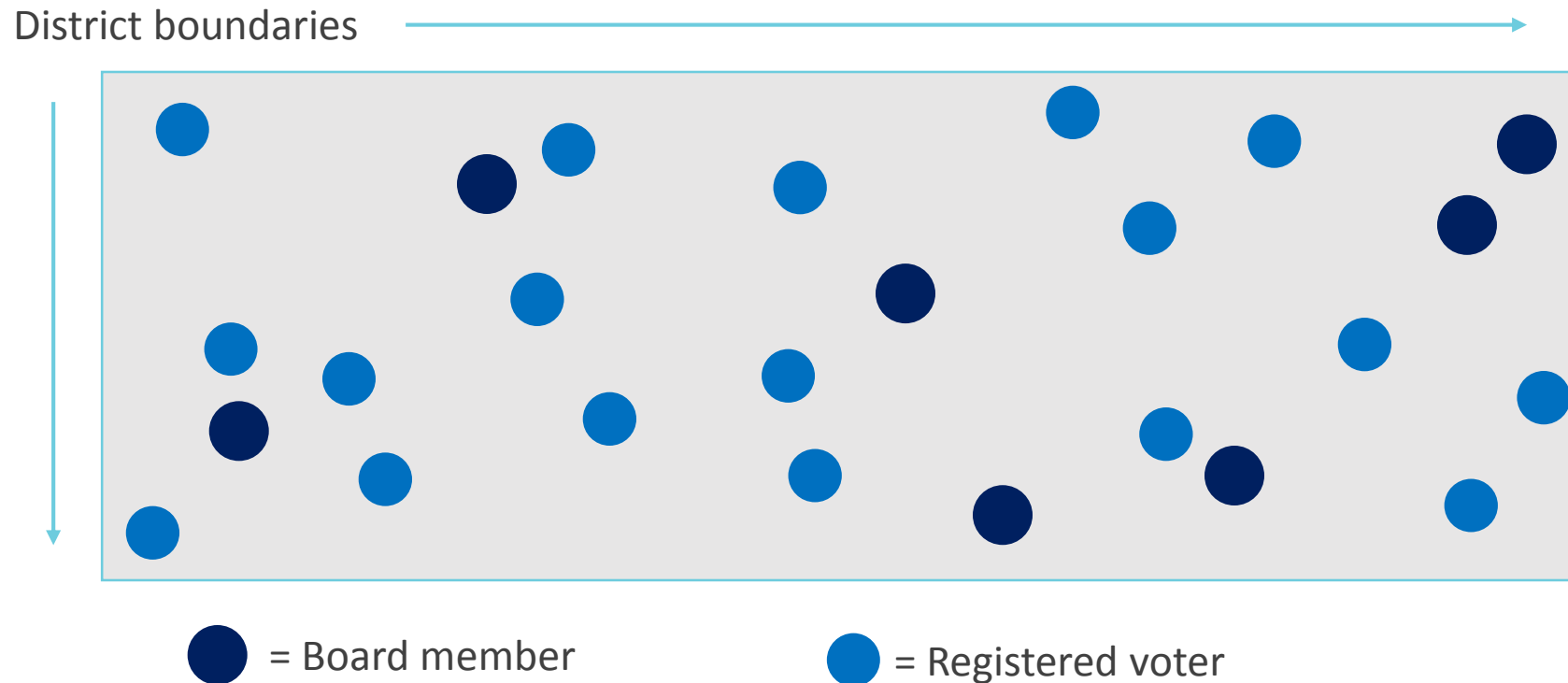
- Public agencies lack of success in CVRA litigation
- High cost of litigation to public agencies- attorneys' fees
- Estimated fees and costs paid *to plaintiff's counsel*:
 - City of Modesto (\$3 million- settlement)
 - Tulare Regional Medical Center (\$500,000- settlement)
 - Madera Unified School District (\$162,500- court ordered)
 - ABC Unified (\$140,000- settlement)



At-Large Elections

Board members may reside anywhere in the District

Registered voters within the District may vote for all seats on the Board

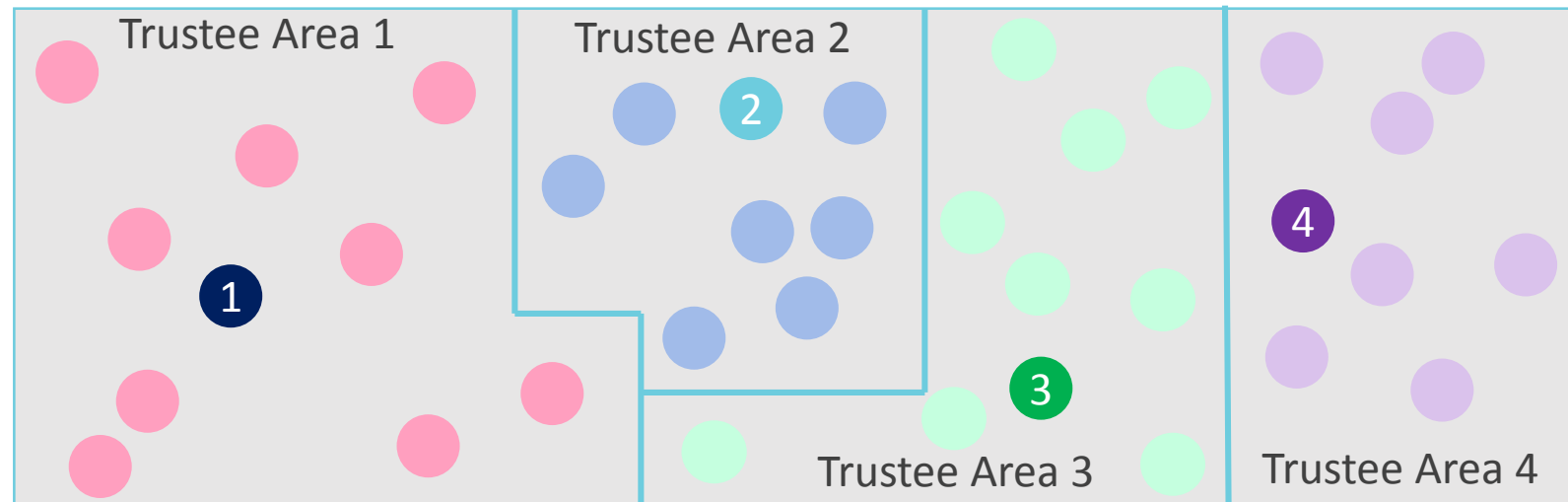


By-Trustee Area Elections

Trustees must reside within specific trustee areas

Only voters residing within the specified trustee area may vote for that particular trustee

District boundaries



1 2 3 4 = Trustee

pink blue light green purple = Voters residing in Trustee area

Transitioning to By-Trustee Area Elections

- Public agencies can avoid CVRA *litigation* entirely, if transition within safe-harbor periods
 - Safe Harbor 1: Adopt resolution signaling intent to begin process to transition to by-trustee area elections within 45 days of receiving “Demand letter”
 - Cap on Plaintiff’s Attorney Fees (\$32,000)
 - Safe Harbor 2: If District adopts resolution of intent within 45 days of receiving demand letter, plaintiff cannot bring CVRA lawsuit for another 90 days from the date the resolution was passed

Process to Establish By-Trustee Area Elections

Local School Districts: Current Trustee Election System

- Board: 5 Trustees
- Election System: At-Large
- Sample Election Cycle:
 - 2020: Elect 3 Trustees
 - 2022: Elect 2 Trustees



Step 1: Adopt Intent Resolution

- District Board adopts intent resolution
- For safe harbor, intent resolution must be adopted within 45 days of receipt of demand letter to prevent plaintiffs from filing CVRA lawsuit for an additional 90 days



Step 2: District Development and Adoption of Map

“Pre-Map” Hearings: 2 public hearings prior to preparing proposed by-trustee area maps

“Map Consideration” Hearings: 2 public hearings to consider proposed by-trustee area maps

Map Adoption Hearing: Public hearing before adopting final by-trustee area map



Step 3: County Committee Review

- The County Committee must hold at least one hearing in the District to change the method of election
- The County Committee must vote to approve or deny the District's proposal.
- District would coordinate with Sacramento COE and the County Committee



Step 4: Election or Waiver from State Board of Education

- If County Committee approves the proposal, an election is called seeking voter approval
- This voter approval requirement can be waived by the State Board of Education
- Overwhelming majority of school districts who make the transition seek and have received this waiver from the SBE
- SBE waiver is requested in advance through the waiver process
 - SBE meeting schedule must be considered

Sample Timeline If Demand Letter Received

February 8: Demand letter received

March 10: Adopt Resolution of Intent &
Public Hearing on SBE Waiver, adopt Resolution
to seek SBE Waiver

March 24: Pre-map public hearing No. 1

March 31: Pre-map public hearing No. 2



Sample Timeline (Con't)

March 31-April 14: Demographer prepares multiple trustee area map options. Maps and “staggering schedules” must be published at least 7 days before public hearing

April 28: Map review public hearing No. 1

May 6: SBE hearing on District waiver request

May 12: Map review Public Hearing No. 2

Sample Timeline (Con't)

May 26: Final public hearing prior to map adoption.

May 28-June 5: County Committee Hearing on proposal, and potential acceptance

June 8: Last Day of 90 day Safe Harbor Period

November 2022: Election for three trustee areas

November 2024: Election for two trustee areas

Other Considerations

- District boundaries do not change.
- Terms of current board members do not change.
- All incumbent trustees complete their terms.
- By-Trustee Area maps must be adjusted after each federal census-every 10 years.



Unique Timing

- New Census data released in 2021 but delays expected
- Action before or after new census data?
- Action before or after demand letter?

What to do now, based on unique timing?

Public agencies may contemplate the following options:

- Proactively adopt a “letter of intent” to begin transition process when 2021 data released, for 2022 election.
- Adopt trustee areas with 2010 census data, and then update with 2020 census data.
- “Wait and see” approach. (Least conservative)

Presenter

Michelle L. Cannon

AT LOZANO SMITH

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