

BEFORE THE GOVERNING BOARD OF THE
FOWLER UNIFIED SCHOOL DISTRICT

OF FRESNO COUNTY, STATE OF CALIFORNIA

A Resolution of the Governing Board of the Fowler Unified School District Recommending a Trustee Area Plan to the Fresno County Committee on School District Organization In Connection With the Committee's Consideration of the District's Petition to Adopt By-Trustee Area Elections for the November 2011 and Subsequent Elections.

RESOLUTION NO: 21-2010/2011

WHEREAS, the Fowler Unified School District ("FUSD" or "District") currently uses a multi-member "from-trustee area" system of electing its governing board members, in which two members of the Board of Trustees ("Board") must reside in Trustee Area #1, and three members of the Board of Trustees must in Trustee Area #2, but in which all five trustees are elected by all the voters of the District; and

WHEREAS, at-large electoral systems, including "from-trustee area" systems like those used by the FUSD are subject to potential challenge under the California Voting Rights Act (Cal. Elec. Code §§ 14025-14032); and

WHEREAS, on January 21, 2009, the Board adopted Resolution No. 14-2008-2009, which resolved to review its existing trustee area system for compliance with the California Voting Rights Act; and

WHEREAS, over the course of the following year the Superintendent held a series of informational meetings for the public regarding trustee area elections and the CVRA, including public sessions at the school site council and English Learners Advisory Council meetings at Malaga Elementary School, Fowler High School, Fremont Elementary School, Marshall School and Sutter Middle School; and

WHEREAS, following its review of the current trustee area plan and input received at the informational sessions the Board determined that the public interest would be better served by election of its governing board members in "by-trustee area" elections, *i.e.*, elections in which "members residing in each trustee area [are] elected by the registered voters of that particular trustee area[,]" Cal. Elec. Code § 5030(b); and

WHEREAS, the Board believes that "by-trustee area" elections will provide for an enhanced opportunity for representation of all communities within the District on the Board of Trustees; and

WHEREAS, California Education Code §§ 5019(a) & (c)(1) and 5030 authorize the Fresno County Committee on School District Organization ("FCCSDO" or "County Committee"), upon application of a school district's governing board, to change the method of election in a school district under its jurisdiction; and

WHEREAS, on February 10, 2010, following a duly-noticed public hearing, the Board adopted Resolution No. 17-2009/2010, applying to the FCCSDO pursuant to Education Code § 5019 to have the FCCSDO approve a change of the District's electoral system to by-trustee area elections beginning in November 2011; and

WHEREAS, under Education Code § 5019(a), adoption of an initial trustee area plan must be approved by the FCCSDO; and

WHEREAS, the District appointed a citizens advisory committee to advise the Board on the preparation of a trustee area plan for presentation to the FCCSDO; and

WHEREAS, the District retained an experienced redistricting/demographic consulting firm, National Demographics Corporation ("NDC"), based in Claremont, California, and experienced legal counsel to advise it on the process of preparing a trustee area plan for submission to, and consideration by, the FCCSDO; and

WHEREAS, the Board also adopted the following criteria, in Resolution No. 17-2010/2011, to guide the creation of the trustee areas:

- That the trustee areas be equal in population as defined by law.
- That the trustee areas reflect the historical trustee areas to the extent possible.
- That the trustee areas reflect the demographics as established by the 2010 Census.
- That the boundaries of the trustee areas be drawn so as not to result in a denial or abridgement of the right of any citizen to vote on account of race or color as provided in Section 2 of the Federal Voting Rights Act, and that they comply with the California Voting Rights Act.
- That the boundaries of the trustee areas shall be created to be compact and to contain cohesive, contiguous territory, insofar as practicable.
- That the trustee areas avoid "pairing" two or more incumbent trustees within any one trustee area; and

WHEREAS, if the County Committee approves this request to change the method of electing board members, Education Code § 5020 would typically require the County Committee's resolution of approval to be submitted to the electorate for its approval; and

WHEREAS, an election to approve the change in voting methods would result in a cost to the District and uncertainty as to outcome despite the fact that at-large electoral systems such as the District's are subject to challenge under the California Voting Rights Act at great financial risk to the District; and

WHEREAS, Education Code §§ 33050-33053 authorize the State Board of Education to waive this voter approval requirement that could reduce the costs and risks associated with this proposed change in the manner of electing board members; and

WHEREAS, pursuant to Resolution No. 17-2009/2010, the Board also authorized the Superintendent to seek a waiver from the State Board of Education of the requirement that a change to the District's electoral system be submitted to a vote; and

WHEREAS, the State Board of Education unanimously approved the District's waiver request at its July 2010 meeting; and

WHEREAS, in late 2010 and early 2011 the Advisory Committee met on a number of occasions to consider possible options for a trustee area plan; and

WHEREAS, on May 10, 2011, NDC presented three draft trustee area plans (Plans A, B and C), incorporated herein, which were developed according to the criteria set forth above, to a final meeting of the Advisory Committee; and

WHEREAS, at a meeting of the Board of Trustees on May 11, 2011, NDC again presented Plans A, B and C, for the consideration of the Board members and the public; and

WHEREAS, at the May 11, 2011 Board meeting, following the presentation by NDC, the Board held a duly-noticed public hearing to receive testimony from the public regarding the draft trustee area plans; and

WHEREAS, the Board held a second duly-noticed public hearing at a meeting of the Board on May 25, 2011; and

WHEREAS, the Board has considered all public comment on the Plans; and

WHEREAS, the population in the proposed trustee areas of all three draft trustee area plans are reasonably equal in compliance with legal requirements; and

WHEREAS, Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 prohibits the use of any voting qualification, or prerequisite to voting, or standard, practice, or procedure in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color; and

WHEREAS, all three draft trustee area plans (Plans A, B and C) comply with section 2 of the Voting Rights Act; and

WHEREAS, all three draft trustee area plans anticipate the use of a single-member, by-trustee area electoral system, and thereby comply with the California Voting Rights Act; and

WHEREAS, each of the plans is drawn to reflect the historical trustee areas to the extent possible while still complying with equal population requirements and federal and state law; and

WHEREAS, each of the plans is drawn to be compact and to contain cohesive, contiguous territory to the extent possible; and

WHEREAS, each of the three draft trustee area plans is drawn to avoid the "pairing" of incumbent trustees; and

WHEREAS, the Board prefers the trustee area boundaries in proposed Plan 3 as presented to the Board at its meeting on May 11, 2011 and incorporated herein,

NOW, THEREFORE, BE IT RESOLVED that:

1. The above recitals are true and correct.
2. The undersigned, constituting at least a majority of the members of the Fowler Unified School District Governing Board, do hereby adopt Plan 3, attached hereto as Exhibit "A" and incorporated herein by this reference, as the trustee area plan to be submitted to the Fresno County Committee on School District Organization for its consideration and adoption pursuant to Education Code § 5019.
3. The District Superintendent and/or his designee shall take all actions necessary to notify the Committee of the Board's determination forthwith and provide whatever assistance may be required by the Committee, or by the Fresno County Elections Department, to complete the process in a timely fashion to permit implementation of these trustee areas in connection with the election to be held on November 8, 2011.

The foregoing RESOLUTION was adopted this 25th day of May, 2011, at a regular meeting of the Government Board of the Fowler Unified School District by the following vote:


AYES: 5

NOES: 0

ABSTAIN: 0

ABSENT: 0

Dated: May 25, 2011


Henry Murrieta, President
Board of Trustees
Fowler Unified School District

CERTIFICATION

I, Darlene Martin, Clerk of the Board of Trustees of the Fowler Unified School District, do hereby certify that the foregoing Resolution was proposed by Board member Cholakian, seconded by Board member Turner and was duly passed and adopted by a majority of the members of said Board, at an official and public meeting thereof held on May 25, 2011.

Dated: May 25, 2011

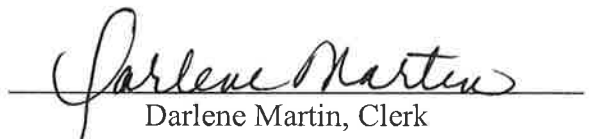

Darlene Martin, Clerk

EXHIBIT "A"

DRAFT TRUSTEE AREA PLAN ADOPTED BY THE GOVERNING BOARD OF THE
FOWLER UNIFIED SCHOOL DISTRICT
FOR PRESENTATION TO, AND CONSIDERATION BY, THE
FRESNO COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

[illegible]

NDC

Fowler Plan 3 Demographics

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Plan	Tot. Pop.	Dev.	% Dev.	Hisp	NH Wht	NH Blk	NH DOJ	NH Asn	NH DOJ	NH Hwn	NH DOJ	NH Oth	NH DOJ	NH OthMR
3	1,960	-17	-0.88%	1,520	303	19	18	91	2	2	6	1	1	1
1	1,946	-31	-1.59%	1,211	485	44	17	175	0	12	2	2	2	2
2	1,987	10	0.49%	1,532	295	27	19	93	4	6	11	11	11	11
3	2,007	30	1.50%	1,009	571	22	15	382	2	3	3	3	3	3
4	1,987	10	0.49%	1,181	561	12	4	211	5	3	10	10	10	10
5	9,887	61	3.08%	6,453	2,215	124	73	952	13	30	27	27	27	27
Total	1,977													
Ideal														

Abbreviations:
Dev. = Deviation
Hisp = Hispanic
NH = "Non-Hispanic"
Wht = White
Blk = Black / African American
Ind = Native American
Asn = Asian American
Haw or Hwn = Hawaiian and Pacific Islander
Oth = Other
OthMR or MR = Multi-Race
"DOJ" = Aggregated according to U.S. Department of Justice guidance
CVAP = Citizen Voting Age Population

Plan	H18+ Pop	NH18+ Wht	NH18+ Blk	NH18+ DOJ	NH18+ Ind	NH18+ Asn	NH18+ Hwn	NH18+ Oth	NH18+ DOJ	NH18+ OthMR
3	1,361	1,004	254	13	14	70	1	5	0	0
1	1,382	790	407	35	10	130	0	9	1	1
2	1,454	1,063	255	23	19	74	4	6	10	10
3	1,426	655	467	15	14	269	2	2	2	2
4	1,402	763	450	12	4	160	2	3	8	8
5	7,025	4,275	1,833	98	61	703	9	25	21	21
Total										

Special Tabulation										American Community Survey (ACS)																								
Plan	Total		Hisp		NH Wht		NH Blk		NH Asn		NH Ind		NH Hwn		NH MR		Total		Hisp		NH Wht		NH Blk		NH Asn		NH Ind		NH Hwn		NH MR		NH Oth	
	CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP		CVAP			
1	787	404	322	7	52	1	0	3	885	402	397	13	63	5	0	37	153																	
2	951	469	366	21	85	7	0	4	995	543	341	35	78	13	0	21	267																	
3	1,208	821	293	19	66	8	0	0	1,113	680	313	50	84	15	0	16	351																	
4	840	222	464	20	126	8	0	0	960	356	453	14	98	13	2	45	153																	
5	1,125	741	297	17	55	7	0	2	1,100	703	283	53	81	15	0	14	366																	
Total	4,911	2,658	1,741	84	385	31	0	9	5,054	2,683	1,787	164	404	62	2	134	1,291																	

NDC

Fowler Plan 3 Demographics

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Plan	% Hisp.	% NH Wht	% NH DOJ Blk	% NH DOJ Ind	% NH DOJ Asn	% NH DOJ Hwn	% NH DOJ Oth	% NH DOJ OthMR
3								
1	77.6%	15.5%	1.0%	0.9%	4.6%	0.1%	0.3%	0.1%
2	62.2%	24.9%	2.3%	0.9%	9.0%	0.0%	0.6%	0.1%
3	77.1%	14.8%	1.4%	1.0%	4.7%	0.2%	0.3%	0.6%
4	50.3%	28.5%	1.1%	0.7%	19.0%	0.1%	0.1%	0.1%
5	59.4%	28.2%	0.6%	0.2%	10.6%	0.3%	0.2%	0.5%
Total	65.3%	22.4%	1.3%	0.7%	9.6%	0.1%	0.3%	0.3%

Plan	% H18+ Pop	% NH Wht	% NH DOJ Blk	% NH DOJ Ind	% NH DOJ Asn	% NH DOJ Hwn	% NH DOJ Oth	% NH DOJ OthMR
3								
1	73.8%	18.7%	1.0%	1.0%	5.1%	0.1%	0.4%	0.0%
2	57.2%	29.5%	2.5%	0.7%	9.4%	0.0%	0.7%	0.1%
3	73.1%	17.5%	1.6%	1.3%	5.1%	0.3%	0.4%	0.7%
4	45.9%	32.7%	1.1%	1.0%	18.9%	0.1%	0.1%	0.1%
5	54.4%	32.1%	0.9%	0.3%	11.4%	0.1%	0.2%	0.6%
Total	60.9%	26.1%	1.4%	0.9%	10.0%	0.1%	0.4%	0.3%

Abbreviations:
Dev. = Deviation
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NH = "Non-Hispanic"
Wht = White
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Oth = Other
OthMR or MR = Multi-Race
"DOJ" = Aggregated according to U.S. Department of Justice guidance
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		Special Tabulation										American Community Survey (ACS)											
Plan		% Total		% Hisp	% Wht	% NH	Blk	% NH	Asn	% NH	Ind	% NH	Hwn	% NH	MR	% NH	Oth						
		CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP	CVAP						
3																							
1		57.8%	51.3%	40.9%	0.8%	6.6%	0.1%	0.0%	0.4%	0.4%				65.0%	45.4%	44.8%	1.5%	7.1%	0.6%	0.0%	4.2%	17.3%	
2		68.8%	49.3%	38.4%	2.2%	9.0%	0.7%	0.0%	0.5%	0.5%				72.0%	54.6%	34.3%	3.5%	7.8%	1.3%	0.0%	2.1%	26.8%	
3		83.1%	68.0%	24.3%	1.6%	5.5%	0.6%	0.0%	0.0%	0.0%				76.6%	61.1%	28.1%	4.4%	7.6%	1.4%	0.0%	1.5%	31.5%	
4		58.9%	26.4%	55.3%	2.3%	15.0%	1.0%	0.0%	0.0%	0.0%				67.3%	37.1%	47.2%	1.4%	10.2%	1.4%	0.2%	4.7%	16.0%	
5		80.3%	65.9%	26.4%	1.5%	4.9%	0.6%	0.0%	0.2%	0.2%				78.5%	63.8%	25.7%	4.8%	7.3%	1.4%	0.0%	1.3%	33.3%	
Total		69.9%	54.1%	35.5%	1.7%	7.8%	0.6%	0.0%	0.2%	0.2%				71.9%	53.1%	35.4%	3.2%	8.0%	1.2%	0.0%	2.6%	25.5%	