

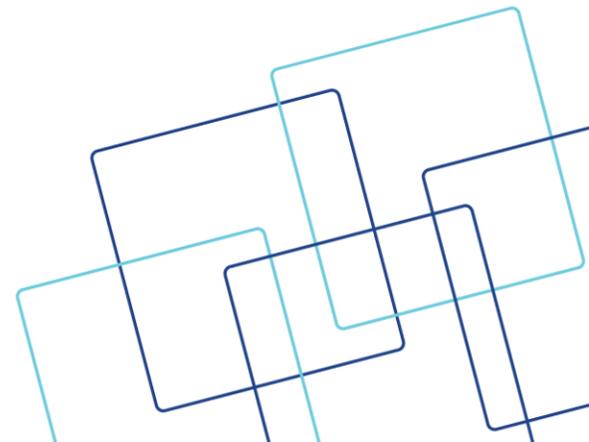


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Trustee Area Elections and the California Voting Rights Act

Presented by: Michelle L. Cannon

Joint Meeting of Plumas Unified School District &
Feather River College Community College District
November 18, 2021



Presenter

Michelle L. Cannon

AT LOZANO SMITH

Michelle L. Cannon is a Partner in Lozano Smith's Sacramento office and co-chairs the firm's Labor and Employment Practice Group. Ms. Cannon works closely with school districts, county offices of education and community colleges in all areas of education law. She is an active member in the Labor & Employment, Students, Community Colleges, Charter Schools and Litigation Practice Groups. Ms. Cannon represents clients in all areas of education law, and has extensive experience in board governance, labor and personnel-related matters, student discipline, and charter school facilities. She was named a Northern California Super Lawyer each year from 2013 to 2018.



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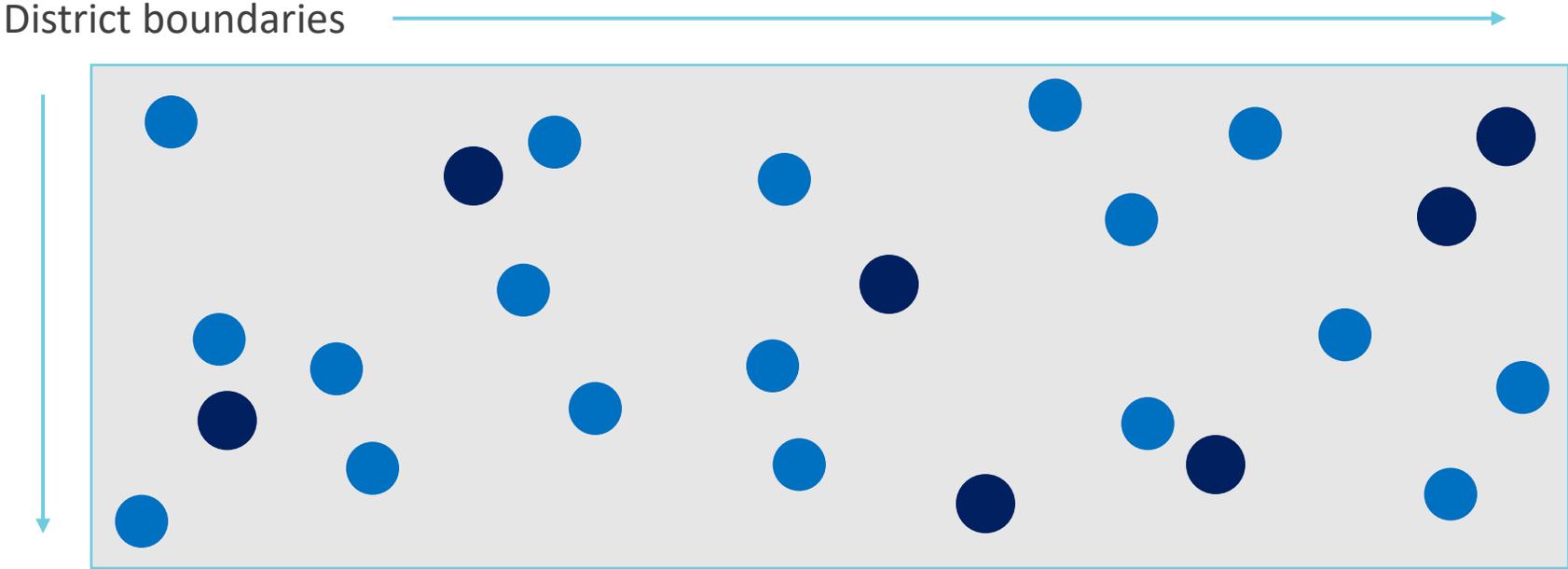
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At-Large Elections

Board members may reside anywhere in the District

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



● = Board member

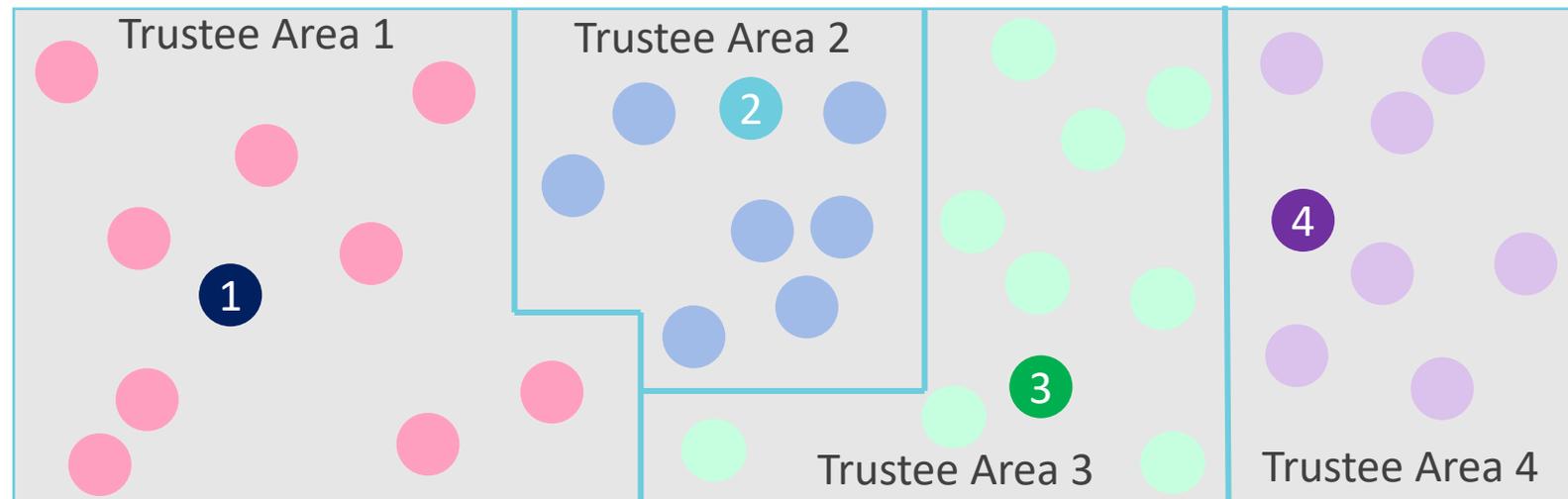
● = Registered voter

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

● ● ● ● = Voters residing in Trustee area

Plumas Unified School District: Current Trustee Election System

- Board: 5 Trustees
- Election System: Hybrid
- Current Election Cycle:
 - 2022: Elect 3 Trustees (areas 2, 3, and 5)
 - 2024: Elect 2 Trustees (areas 1 and 4)



Feather River College: Current Trustee Election System

- Board: 5 Trustees
- Election System: Hybrid
- Current Election Cycle:
 - 2022: Elect 3 Trustees (Areas I, II and IV)
 - 2024: Elect 2 Trustees (Areas III and V)



Hybrid Elections

- ❖ Under hybrid election system all voters vote for all trustees but the trustees must reside within the trustee area.
- ❖ Hybrid election systems are considered at-large elections and are subject to challenge under the CVRA.

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)



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

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 for Plumas USD: County Committee Review

- The County Committee on School District Organization 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.



Step 3 for FRC: Board of Governors Review

- Request approval of transition by Board of Governors per Education Code section 72036
 - The streamlined process is advantageous because it avoids the costs of conducting an election to approve the transition, expedites the transition process, and prevents an election that could serve as evidence of racially polarized voting.
 - In this step, once the Board of Governors receives the District's request for approval, the Board of Governors will likely hold a public hearing on the matter, and vote to either approve or deny the District's proposed transition to by-trustee area elections.



Step 4: Election or Waiver from State Board of Education Not Required After January 1, 2022

- Beginning January 1, 2022, Senate Bill (SB) 442 amends Education Code section 5020 to allow school districts and community college districts to transition to by-trustee area elections upon approval by the county committee, without the need to seek voter approval.
- School districts and community college districts will still be required to undergo the extensive public hearing process provided in Elections Code section 10010, but will now have one less step in the process to adopting by-trustee area elections because they no longer will need to seek voter approval.
- This saves the time and effort previously required to seek a waiver of the election requirement from the SBE or submit the matter to the electorate for a vote.

Sample Timeline If Demand Letter Received

- December 1: Demand letter received
- January 5: Adopt Resolution of Intent
- January 19: Pre-map public hearing No. 1
- January 26: Pre-map public hearing No. 2



Sample Timeline (Con't)

Jan 27-Feb 10: Demographer prepares multiple trustee area map options. Maps and “staggering schedules” must be published at least 7 days before public hearing

February 24: Map review public hearing No. 1

March 9: Map review Public Hearing No. 2

Sample Timeline (Con't)

March 23: Final public hearing prior to map adoption & map adoption.

March 24-April 1: County Committee Hearing on proposal, and potential acceptance; Board of Governors Hearing on proposal and potential acceptance,

April 1: 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.



Other Considerations: Mapping Criteria

- Districts will work with demographers to prepare demographic information necessary to draw draft and final maps.
- Districts can determine map line drawing criteria to be used
- **Required items:** balanced populations; no gerrymandering of boundaries; boundaries shall not result in a denial or abridgement of the right of any citizen to vote on account of race or color.
- **Optional items:** Compactness; contiguity; observe communities of interest such as high school attendance areas, rural or urban populations, municipalities, social interests and more; visible features such as topography and geography, and major highways, waterways, etc.
- Community input and participation is key at all stages



Questions



*For more information, questions and
comments about the presentation,
please feel free to contact:*

Michelle L. Cannon

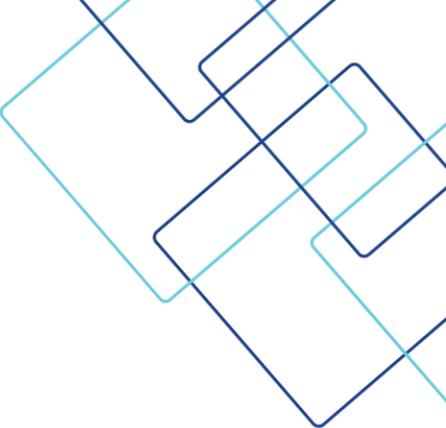
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