



WALSH GALLEGOS
KYLE ROBINSON & ROALSON P.C.

March 29, 2024

Via email transmission

William A. Brewer III
Brewer Store Front PLLC
1717 Main Street, Suite 5900
Dallas, Texas 75201

Re: Arlington Independent School District Voting Rights Act Complaint

COMMUNICATION PURSUANT TO RULE 408

Dear Bill:

The Arlington Independent School District (Arlington ISD or the District) is in receipt of your correspondence dated March 6, 2024, regarding alleged violations of the Voting Rights Act. We represent Arlington ISD in connection with your correspondence and the concerns you raise therein. Please direct further correspondence on this matter to me.

Given our previous interactions, we know you are aware of the requirements to maintain a successful lawsuit under the Voting Rights Act (VRA). Your correspondence, however, does not provide the District with any information that leads it to believe that the District's current voting system runs afoul of the VRA or that you can otherwise meet your burden under *Thornburg v. Gingles*. Instead, you contend that "four out of the seven" Board members "should be minorities" based on Arlington ISD's citizens of voting age population (CVAP), coupled with the District's diverse student enrollment.

The VRA, however, specifically states that it does not "establish[] a right to have members of a protected class elected in numbers equal to their proportion in the population." *See* 52 U.S.C. § 10301(b). Nevertheless, this seems to be the tenor of your letter and basis of your request for Arlington ISD to change how its citizens elect members of the Board of Trustees. The District is fully invested in the democratic process and encourages all of its eligible voters to participate in electing Board members, but Arlington ISD cannot make a change to how Trustees are elected solely based on the points raised in your correspondence.

The current electoral system ensures that all students in Arlington ISD are represented by all Trustees and that all Board members are accountable to everyone residing in the District. In other words, Trustees are responsible for the needs and desires of the Arlington ISD community as a whole. In a single-member district system, Board members answer to only a portion of the community. At the end of the day, each member of the Arlington ISD Board of Trustees remains committed to ensuring a quality education for each and every student in the District.

The community as a whole has been able to use their vote to hold the Board accountable

for meeting that commitment. As your letter noted, the Arlington ISD is a majority-minority district. Even so, several non-minority members of the Board have been elected to office, including in the elections discussed in your letter, with broad support across the District. The District has a history of qualified minority candidates successfully running for office and serving for multiple terms, also with widespread support. In just a few weeks, the Board will gain another minority Board member, as the election for the open seat in Place 3 features only minority candidates. In addition, beyond electing trustees, super-majorities of the District's electorate passed Bond programs in 2014 and 2019 that collectively allocated over \$1.5 billion in funding to all parts of the District.

With that said, the Arlington ISD Board of Trustees makes decisions based on data, and the proposal you have made in your correspondence is no different. As such, the District is committed to reviewing its current electoral system. To that end, we ask that you provide any data you have that shows the District's electoral system violates the VRA and that you withhold on filing litigation, so that the Board has adequate time to conduct its review. If Brewer Storefront PLLC insists on pursuing a lawsuit against the District at this time, however, please know that we will move to stay the litigation given the current split in Circuit Courts on whether the VRA confers a private right of action.¹

Finally, we want to address your contention regarding the District's May elections. The current May election cycle for Arlington ISD not only complies with section 11.0581(a) of the Texas Education Code, but also coincides with the elections held by the City of Arlington, the Tarrant County College District, and the Tarrant County Appraisal District Board. More importantly, we are not aware of any authority reflecting that the VRA offers an avenue of relief for a plaintiff to require that any governmental entity change its election date that otherwise complies with state law.

The Arlington ISD Board of Trustees remains committed to every student in the District regardless of the student's race or ethnicity.

Very truly yours,



Meredith Prykryl Walker

cc (via email transmission):

Matt Smith
Arlington ISD Board of Trustees

¹ Our understanding is that you represent the plaintiff in *Shafer v. Pearland Indep. Sch. Dist.*, which the United States District Court for the Southern District of Texas recently stayed. In addition, *Elizondo v. Spring Branch Indep. Sch. Dist.*, Case No. 4:21-cv-01997, is currently stayed pending the resolution of the Circuit Court split.