

§ 51.58

28 CFR Ch. I (7–1–12 Edition)

§ 51.58 Representation.

(a) *Introduction.* This section and the sections that follow set forth factors—in addition to those set forth above—that the Attorney General considers in reviewing redistrictings (see § 51.59), changes in electoral systems (see § 51.60), and annexations (see § 51.61).

(b) *Background factors.* In making determinations with respect to these changes involving voting practices and procedures, the Attorney General will consider as important background information the following factors:

(1) The extent to which minorities have been denied an equal opportunity to participate meaningfully in the political process in the jurisdiction.

(2) The extent to which voting in the jurisdiction is racially polarized and election-related activities are racially segregated.

(3) The extent to which the voter registration and election participation of minority voters have been adversely affected by present or past discrimination.

[52 FR 490, Jan. 6, 1987, as amended by Order 3262–2011, 76 FR 21249, Apr. 15, 2011]

§ 51.59 Redistricting plans.

(a) *Relevant factors.* In determining whether a submitted redistricting plan has a prohibited purpose or effect the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(1) The extent to which malapportioned districts deny or abridge the right to vote of minority citizens;

(2) The extent to which minority voting strength is reduced by the proposed redistricting;

(3) The extent to which minority concentrations are fragmented among different districts;

(4) The extent to which minorities are over concentrated in one or more districts;

(5) The extent to which available alternative plans satisfying the jurisdiction's legitimate governmental interests were considered;

(6) The extent to which the plan departs from objective redistricting criteria set by the submitting jurisdiction, ignores other relevant factors

such as compactness and contiguity, or displays a configuration that inexplicably disregards available natural or artificial boundaries; and

(7) The extent to which the plan is inconsistent with the jurisdiction's stated redistricting standards.

(b) *Discriminatory purpose.* A jurisdiction's failure to adopt the maximum possible number of majority-minority districts may not be the sole basis for determining that a jurisdiction was motivated by a discriminatory purpose.

[Order 3262–2011, 76 FR 21249, Apr. 15, 2011]

§ 51.60 Changes in electoral systems.

In making determinations with respect to changes in electoral systems (e.g., changes to or from the use of at-large elections, changes in the size of elected bodies) the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(a) The extent to which minority voting strength is reduced by the proposed change.

(b) The extent to which minority concentrations are submerged into larger electoral units.

(c) The extent to which available alternative systems satisfying the jurisdiction's legitimate governmental interests were considered.

§ 51.61 Annexations.

(a) *Coverage.* Annexations and deannexations, even of uninhabited land, are subject to section 5 preclearance to the extent that they alter or are calculated to alter the composition of a jurisdiction's electorate. *See, e.g., City of Pleasant Grove v. United States*, 479 U.S. 462 (1987). In analyzing annexations and deannexations under section 5, the Attorney General considers the purpose and effect of the annexations and deannexations only as they pertain to voting.

(b) *Section 5 review.* It is the practice of the Attorney General to review all of a jurisdiction's unprecleared annexations and deannexations together. *See City of Pleasant Grove v. United States*, C.A. No. 80–2589 (D.D.C. Oct. 7, 1981).

(c) *Relevant factors.* In making determinations with respect to annexations, the Attorney General, in addition to

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the factors described above, will consider the following factors (among others):

(1) The extent to which a jurisdiction's annexations reflect the purpose or have the effect of excluding minorities while including other similarly situated persons.

(2) The extent to which the annexations reduce a jurisdiction's minority population percentage, either at the time of the submission or, in view of the intended use, for the reasonably foreseeable future.

(3) Whether the electoral system to be used in the jurisdiction fails fairly to reflect minority voting strength as it exists in the post-annexation jurisdiction. See *City of Richmond v. United States*, 422 U.S. 358, 367-72 (1975).

[52 FR 490, Jan. 6, 1987; 52 FR 2648, Jan. 23, 1987, as amended by Order 3262-2011, 76 FR 21249, Apr. 15, 2011]

Subpart G—Sanctions

§ 51.62 Enforcement by the Attorney General.

(a) The Attorney General is authorized to bring civil actions for appropriate relief against violations of the Act's provisions, including section 5. See section 12(d).

(b) Certain violations of section 5 may be subject to criminal sanctions. See section 12(a) and (c).

§ 51.63 Enforcement by private parties.

Private parties have standing to enforce section 5.

§ 51.64 Bar to termination of coverage (bailout).

(a) Section 4(a) of the Act sets out the requirements for the termination of coverage (bailout) under section 5. See § 51.5. Among the requirements for bailout is compliance with section 5, as

described in section 4(a), during the ten years preceding the filing of the bailout action and during its pendency.

(b) In defending bailout actions, the Attorney General will not consider as a bar to bailout under section 4(a)(1)(E) a section 5 objection to a submitted voting standard, practice, or procedure if the objection was subsequently withdrawn on the basis of a determination by the Attorney General that it had originally been interposed as a result of the Attorney General's misinterpretation of fact or mistake in the law, or if the unmodified voting standard, practice, or procedure that was the subject of the objection received section 5 preclearance by means of a declaratory judgment from the U.S. District Court for the District of Columbia.

(c) Notice will be given to interested parties registered under § 51.32 when bailout actions are filed or decided.

Subpart H—Petition To Change Procedures

§ 51.65 Who may petition.

Any jurisdiction or interested individual or group may petition to have these procedural guidelines amended.

§ 51.66 Form of petition.

A petition under this subpart may be made by informal letter and shall state the name, address, and telephone number of the petitioner, the change requested, and the reasons for the change.

§ 51.67 Disposition of petition.

The Attorney General shall promptly consider and dispose of a petition under this subpart and give notice of the disposition, accompanied by a simple statement of the reasons, to the petitioner.

APPENDIX TO PART 51—JURISDICTIONS COVERED UNDER SECTION 4(b) OF THE VOTING RIGHTS ACT, AS AMENDED

The requirements of section 5 of the Voting Rights Act, as amended, apply in the following jurisdictions. The applicable date is the date that was used to determine coverage and the date after which changes affecting voting are subject to the preclearance requirement. Some jurisdictions, for example, Yuba County, California, are included more than once because they have been determined on more than one occasion to be covered under section 4(b).