

LEADERSHIP Insider

PRACTICAL PERSPECTIVES ON SCHOOL LAW & POLICY

A Membership Benefit of NSBA National Affiliates

A question of representation: Diversity and 21st century school boards

A combination of demographic trends, an upcoming U.S. Supreme Court case, and research into school governance may focus renewed attention on an issue that has come to the fore now and again over the years: racial and ethnic diversity among the nation's school board members.

This issue of *Leadership Insider* walks through this broad topic step by step, in seven parts. First, it reviews the demographic trends and related educational challenges that form the backdrop for the discussion. Next, it reviews data on the diversity on the nation's school boards and then reviews research on whether board member diversity affects educational outcomes.

The focus then shifts in part 4 to the structure of school board elections and the impact this has on both board diversity and educational outcomes. Much research—and litigation—has centered on this aspect of the topic, especially the concern that at-large elections dilute minority votes. At the same time, at-large elections can have some advantages, and these are set forth in part 5.

The subject of the pending Supreme Court case is the federal Voting Rights Act, the legal lever that has been used to dislodge some school board election systems. The past impact of the act and the new court case are discussed in part 6.

The last part explores some of the options for school boards confronting these issues. It concludes with a few parting words on some of the implications of this subject for the future.

1. The change and the challenge

That America's demographic tomorrow is here today is not news in public schools. Still, a quick overview provides some necessary context for the discussion of diversity on school boards.

Demographic shifts

As of 2005, members of racial minorities comprised 33 percent of the U.S. population. According to Census Bureau projections released in August, non-Hispanic whites will become a minority by 2042.

By 2050:

- The United States will be 54 percent "minority."
- The Hispanic population will double, from 15 percent to 30 percent of the total.
- The black population will grow from 14 to 15 percent.
- The Asian population will grow from 5.1 to 9.2 percent.
- American Indians and Alaska Natives will increase from 1.6 to 2 percent.
- The number of Native Hawaiians and other Pacific Islanders will more than double, from 1.1 million to 2.6 million.
- And the number of people who identify themselves as being of two or more races will more than triple, from 5.2 million to 16.2 million.

The Pew Research Center also projects that by 2050, nearly one in five Americans (19 percent) will be an immigrant, compared with one in eight (12 percent) in 2005.

Meanwhile, 43 percent of public

school students were racial or ethnic minorities as of 2006, according to *The Condition of Education 2008*, the latest report in an annual series by the National Center for Education Statistics (NCES). One in five public school students was Hispanic.

The Census Bureau projects that by 2023, minorities will comprise more than half of all children in the United States. The Pew Research Center also projects that by 2050 the overall proportion of children in the United States who are Hispanic will jump to 35 percent, while 14 percent will be African-American and 10 percent Asian, for a total "minority" child population of 59 percent.

In addition, the Pew Center predicts that 34 percent of children will be immigrants or children of immigrants. Of these children, 94 percent will have been born in the United States.

While the pace of these demographic trends is uneven across different geographic regions, minority enrollment in schools generally is on the rise everywhere.

Achievement gaps

Such dramatic demographic changes pose a variety of challenges for school boards, none more pressing than closing academic achievement gaps among student subgroups. That is one of the key promises of the No Child Left Behind Act, and on that front there's good news and bad.

First, the good. In a June 2008 report on NCLB, the Center on Education Policy found that achievement gaps on state tests have narrowed overall since 2002, particularly for African-American students. The trend also was favorable for Hispanic students, although that finding was less conclusive because of the significant increase in this student population in recent years. Trends for Native American children were

more mixed, but this finding was based on the most limited data.

With the exception of eighth-grade math, this overall narrowing of gaps was true not only for state exams but also, to a lesser extent, for National Assessment of Educational Progress (NAEP) scores, the "Nation's Report Card." Significantly, the progress was consistent in those states with the largest minority enrollments, meaning that it does not appear to be an anomaly based simply on good results in states with small minority populations.

Now for the bad news. Despite encouraging overall achievement trends at all grade levels and among all groups, significant gaps persist among racial subgroups of students. The chart below shows the percentages of students who achieved at or above "basic" and at or above "proficient" on the 2007 NAEP tests. There is a debate over whether the "basic" or "proficient" NAEP proficiency level is the more appropriate yardstick—and for what purpose. Either way, though, the achievement gaps are stark.

Another NCES report from 2007, *Status and Trends in Education of Racial and Ethnic Minorities*, also looked at a wide variety of other kinds of gaps. Among other things, the report found that black, Hispanic, and American Indian/Alaska Natives were significantly less likely than their white and Asian/Pacific Islander peers to: complete more rigorous coursework in math, science, English, and in a foreign language; take Advance Placement exams and to score highly on them; avoid repeating a grade or dropping out of high school; and avoid being suspended or expelled.

In addition, the percentage of foreign-born 16- to 24-year-olds who were high school dropouts was twice that of those born in the United States. Among Hispanics in the same age range, the foreign born were more than twice as likely to be dropouts as the native born. ■

A VOICE FOR MINORITY BOARD MEMBERS

Three caucuses affiliated with NSBA provide opportunities for local school board members concerned with issues affecting minority student populations to work collectively at a national level:

- the National Black Caucus of School Board Members;
- the National Caucus of American Indian/Alaska Native School Board Members; and
- the National Hispanic Caucus of School Board Members.

These caucuses can play a leadership role. In addition to their own meetings and efforts:

- The chairs of the Black and the Hispanic Caucuses serve as *ex officio* members of the NSBA Board of Directors and members of the NSBA Policies and Resolutions Committee, which vets NSBA's policy positions.

- NSBA's bylaws call for the Policies and Resolutions Committee, as well as the National Nominating Committee for NSBA leadership positions, to "reflect the racial, ethnic, and cultural diversity of school boards in America."

- Largely due to the efforts of the caucuses, NSBA's Delegate Assembly has adopted such positions as calling for federal support of native language instruction, the adjustment of status of undocumented immigrant students who are long-term U.S. residents, and state legislation to allow in-state tuition for all students who graduate from American high schools, including undocumented immigrants.

Some state school boards associations have, or are affiliated with, similar organizations at the state level. For example, California has the Asian Pacific Islander School Board Members Association, the California Coalition of Black School Board Members, and the California Latino School Boards Association.

This year the California School Boards Association is creating internal caucuses that will include board members of color, board members from districts that serve a significant number or percentages of each student subgroup, and board members interested in issues that affect these subgroups.

RACIAL ACHIEVEMENT GAPS ON 2007 NAEP

	4th grade				8th grade			
	Math		Reading		Math		Reading	
	% at or above basic	% at or above proficient	% at or above basic	% at or above proficient	% at or above basic	% at or above proficient	% at or above basic	% at or above proficient
White	91	51	77	42	81	41	83	38
Asian/Pacific Islander	91	59	76	45	82	49	79	40
Hispanic	69	22	49	17	54	15	57	14
Black	63	15	46	14	47	11	54	12
American Indian/Alaska Native	72	26	51	20	56	17	58	19

2. Are school boards representative?

With such remarkable diversity already here and even more to come, there's a question whether the nation will have, to paraphrase former President Clinton, "school boards that look like America."

A 2002 report for NSBA based on a large survey of school board members, *School Boards at the Dawn of the 21st Century*, found that:

- School boards are somewhat less racially diverse than the nation as a whole, but more diverse than most state and national elective bodies.

- Respondents reported that the boards on which they served were about 85.5 percent white, 7.8 percent African-American, and 3.8 percent Hispanic.

- In large districts, which tend to be more urban and more racially heterogeneous, more than 20 percent of board members were African-American or His-

panic, while small-district boards were only about 11 percent nonwhite.

- Two-thirds of large-district boards were more than 10 percent nonwhite, and nearly a third of large-district boards were more than 20 percent nonwhite.

- About four in five small-district boards were at least 90 percent white.

- And nearly two-thirds of boards overall were no more than 10 percent African-American and Hispanic.

Information on Asian/Pacific Islander or Native American/Alaska Native school board members is scarce, owing to low numbers. A 2005 state-by-state "National Database of Non-white Elected Officials" on the website of the Gender and Multi-Cultural Leadership Project shows a national total of 133 school board members of Asian/Pacific Islander ancestry, but the researchers were unable to provide information on Native American/Alaska Native school board members.

As for African-Americans, the Joint Center for Political and Economic Studies calculated that the number of African-Americans elected to school boards increased from 1,840 in 1995 to 1,960 in 2002. In a chapter about minority representation on school boards that was included in a 2005 book edited by William G. Howell, *Besieged: School Boards and the Future of Education Politics*, Melissa J. Marschall notes that in 2000, the percentage of black school board members ranged regionally from less than 3 percent in the West to more than 20

percent in the South.

According to more recent data from the National Association of Latino Elected and Appointed Officials, as of June 2007, there were 1,847 Hispanic elected school board members and education officials nationally, up 49 percent from 1996. School board members comprise 36 percent of all Hispanic officials elected nationwide.

Although neither of these sources includes school board members who are appointed rather than elected, the fact that there are approximately 95,000 school board members nationwide helps put these numbers into perspective. Underrepresentation on school boards has been a matter of concern, especially among activists from these communities.

A 2006 report by the Latino Issues Forum (LIF) in California noted that Hispanics account for nearly half of the state's public school students but only 15 percent of its school board members. "[W]hile the Latino student population has increased by 200 percent, the number of Latino school board members has increased by 150 percent," the report warned. "This means that Latinos continue to be underrepresented on school boards and, at the current rate of growth, may never achieve full representation. This gap in representation raises serious questions about voting, democracy, and equitable representation."

Statistics can be misleading, however. Jo Ann Yee, senior director for strategy development, achievement, diversity, and urban affairs for the California School Boards Association, offers some caveats

to concerns like those raised by LIF. "Total numbers and averages cannot paint an accurate picture of the structure of school districts and the birth rates, distribution, and concentration of populations," she argues, "nor the implications of these factors on the makeup of school boards."

Yee points out that 60 percent of the state's school districts have enrollments of 2,500 or fewer. Their combined enrollments represent less than 10 percent of California's nearly 6.3 million students and about 5 percent of all Hispanic students.

The flip side of this, Yee observes, is that some 80 percent of Hispanic students are concentrated in about 170 districts, or less than 20 percent of California's school districts and county offices of education—with 18 percent of the total concentrated in the Los Angeles Unified School District alone.

"If every one of these 170 or so districts elected *only* Latinos to their respective school boards," she says, "these members would only represent about 20 percent of the 6,000 school board members." These realities raise legitimate questions about why the gap exists, what a reasonable expectation of parity is, and how "full representation" on school boards should be defined and achieved, she concludes.

At a minimum, though, demographic trends make this an issue worth watching. As the nation continues to diversify, and as this diversity characterizes more and more communities, in what ways will this be reflected in both the composition and the roles of boards of education? ■

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Leadership Insider is published by NSBA's National Education Policy Network and the NSBA Council of School Attorneys in cooperation with the National Affiliate Program.

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Leadership Insider is printed and assembled
by the NSBA Office Services Printshop

About NSBA

The National School Boards Association is the nationwide advocacy organization for public school governance. NSBA's mission is to foster excellence and equity in public elementary and secondary education in the United States through local school board leadership. Founded in 1940, NSBA is a not-for-profit federation of state associations of school boards and the school boards of the District of Columbia, Hawai'i, and the U.S. Virgin Islands.

About the National Affiliate Program

The National Affiliate Program extends NSBA's services directly to local school districts. School districts are eligible to join provided they are members in good standing of their state school boards associations.

About the Council of School Attorneys

The Council of School Attorneys provides information and practical assistance to attorneys who represent public school districts. It offers legal education, specialized publications, and a forum for exchange of information, and it supports the legal advocacy efforts of the National School Boards Association.

3. Does board diversity matter?

The critical follow-up to the question of what our school boards should look like is this: Even if minority populations are statistically underrepresented on school boards, does this really make any difference for children?

Some research has purported to make connections—or at least correlations, even if causal connections were less clear—between minority representation on school boards and certain educational outcomes. The Latino Issues Forum (LIF) report highlighted some of this research in arguing that Hispanic school board representation is "vital to the aspirations and student achievement of the larger community."

One study that LIF cited, a 1991 analysis by Kenneth Meier and Joseph Stewart, found that Hispanic students in districts with no Hispanic school board members were suspended and expelled more frequently, were underrepresented in gifted and talented classes, and were overrepresented in special education. In contrast, they found that Hispanic students in districts with Hispanic board members experienced better educational conditions and less of what they referred to as this "second-generation" discrimination.

Melissa J. Marschall focuses on the correlation between minority school board representation and public confidence in schools among minority populations in her chapter of *Besieged*. Noting that "evidence suggests Americans are remarkably knowledgeable when it comes to evaluating the performance and quality of local services," she emphasizes the importance of "symbolic representation," or the ability of local officials to build constituency trust and broad support.

Given the well-established link between parent and community confidence and engagement and high-achieving schools,

this is anything but a symbolic matter for school boards.

Marschall found that minority representation on the school board—whether just one member or a majority of the board—correlated to a significantly greater likelihood that minority residents will rate their local schools as good or excellent. This was true even after controlling for other variables like income, education level, and the type of school district. The result applied to Hispanics but was especially true for African-Americans.

Other researchers have decided to "follow the money." LIF cites one study, for example, that found that having a higher percentage of school board members who are Hispanic is associated with more funding for bilingual education, even after controlling for the need for bilingual education in the district.

In recent work on this topic presented at a January 2008 conference but not yet published, William Ellis and Alisa Hicklin analyzed spending at over 800 elementary schools from 1995 to 1999. They focused on intra-district equity, controlled for factors like overall district resources and demographic variables, and examined white-black and white-Hispanic spending gaps separately.

The results were mixed. The only situation in which they found that minority representation on the school board had a significant impact on the fiscal bottom line for minority children was where Hispanic school board members were elected to school boards in at-large elections, in which all voters choose from among all candidates. This question of how boards are elected is discussed in more detail in the next section.

One of the more frequent hypotheses, tested by Meier and Stewart and other researchers cited by LIF, is a causal chain

in which more minority representation on the school board results in the hiring of more minority administrators, leading in turn to the hiring of more minority teachers, and ending in positive academic results for minority students.

In one 1997 article focusing on the teacher-student link of this chain, Frederick Hess and David Leal found "systematic evidence that the percentage of minority faculty has a significant positive relationship with overall college matriculation rates in urban school districts across the nation." The matriculation rates were those of all students together, not minority students in particular.

This conclusion about minority teachers held up, Hess and Leal found, even after controlling for other variables, such as family income and whether the district had been under a court-ordered desegregation plan. Still, the researchers raised an important caution—one the LIF report did not address.

The evidence, they pointed out, also was consistent with a different hypothesis: More systemic school district practices may in fact have been the overriding cause of both more minority hiring and greater college matriculation. A district aggressively implementing other reforms, for instance, might also be relatively more likely to be working to provide a diverse faculty. The other reforms might have a greater effect on matriculation rates than diversity does.

This caution about the link between teacher diversity and student outcomes also illustrates the challenges when it comes to the link between school board diversity and student outcomes. By analogy, when the evidence seems to support a correlation between minority representation on the board and district goals, it may be more indicative of the board's overall effectiveness at governance, independent of the board's composition. ■

4. The impact of the board's election structure

How a community chooses its school board members can have implications for the board's diversity and, some argue, for the children in the board's care. In particular, research and legal disputes about elected school boards (which comprise the overwhelming majority of boards) have centered on the choice between at-large elections and "ward-based" elections, also called district-based elections, in which members are elected from sub-districts.

School Boards at the Dawn of the 21st Century reported that of the school boards on which responding members served:

- More than 56 percent were elected at large, and 41 percent by sub-district.
- In districts with enrollments under 5,000, 50.4 percent were elected at large, and 45.6 percent were elected by sub-district.
- In districts with enrollments of 5,000 to 24,999, 64.5 percent of boards were elected at large and only 35.3 percent by sub-district.
- And in larger districts, 56.5 percent were elected at large and 42.6 by sub-district.

Impact on diversity

The correlation between electoral structure and board diversity is the aspect of this broad topic on which there seems to have been the most research. In her chapter of *Besieged*, Marschall reviews the results from the 1970s on, observing that "what is of primary ... interest in this body of research is the extent to which the selection of methods structure the nature of minority representation on local school boards."

The more recent studies, she indicates, have found that the impact depends on the size or type of school district, the nature of the jurisdiction, and which minority group is in question. These factors and methodological

and sampling variations among the studies, she suggests, account for some inconsistencies in the results.

For example, a 1987 study of North Carolina districts found that appointed boards were the least representative for African-Americans, while boards elected in ward-based contests were the most representative. For this population, write Kenneth J. Meier and Eric Gonzales Juenke in a separate chapter of *Besieged*, the debate "appears settled in favor of increased representation in single-member district elections."

One 2003 study, however, found that it was the at-large elections that led to greater overall minority representation. And Meier and Juenke's own findings among Texas districts in 1999 were different for Hispanics than for blacks, and also differed depending on whether Hispanics were a majority or a minority in the district. Where Hispanics were in the minority, ward-based elections did make a positive difference in their board representation, although not as much for African-Americans. When Hispanics formed a majority, however, the election structure made no difference.

For her own part, Marschall's research on 190 districts in four metropolitan areas found that ward-based elections had an impact on black representation, but not Hispanic. While her findings typified the inconsistency of results, she nonetheless concludes that "on balance it appears that the evidence points most strongly to greater proportional representation for both blacks and Hispanics under ward-based arrangements."

Impact on education

Some of the researchers have taken the inquiry a step further, concluding that

ward-based elections can lead not only to more diversity on the boards but also to more favorable educational outcomes for minority children.

A 1993 dissertation by Cheryl Lanette Wright found that boards chosen in ward-based elections perceived themselves as more responsive than others, "particularly more so than the at-large board." This self-perception was borne out in the boards' actions and in the communities' perceptions.

In her 2003 dissertation, Barbara K. Wills also found that efforts to address racial issues were increased in single-member districts. Interestingly, she also found ward-based boards more likely to offer more opportunities for board training and to value community survey data on student achievement, although board concern over student performance did not vary by electoral structure.

Meier and Juenke, in their chapter in *Besieged*, review the literature on what they call "substantive" representation, or the impact of representation on district outcomes, as opposed to representation in the sense of someone's presence at the table.

Evaluating the hiring chain, they found that minority-Hispanic districts with ward-based systems were associated with more Hispanic administrator hiring, but that in majority-Hispanic districts Hispanic administrators fared much better in the at-large systems.

The impact of board representation on teacher hiring was small but consistent, although it did not vary much by the electoral structure or by whether Hispanics were a majority or a minority in the community. In part, the authors conjecture, the smaller impact is because the board's influence on teacher hiring is more indirect.

Meier and Juenke went on to test the connection between Hispanic teachers and student outcomes, finding that having more Hispanic teachers was associated with better

results for Hispanic students as measured by attendance, enrollment in advanced and AP coursework, taking college boards, and SAT scores, although there was no relationship to dropout rates, ACT scores, or passing rates on AP courses. They conclude that the district's type of electoral system "reverberates throughout the entire education structure."

Ellis and Hicklin's recent research of school board diversity and funding equity within school districts also zeroed in on the question of electoral structure. They concluded that it is the ward-based electoral system itself—*independent* of whatever minority representation that system might foster—that is associated with better funding equity.

Black representation, they found, had no significant effect of the distribution of funding, regardless of whether the board was elected under a ward-based or an at-large system. For Hispanics, representation on the board helped narrow the gap in at-large systems, but it had no effect in ward systems.

What would account for this? Ellis and Hicklin speculate that this is democracy working. In a ward-based system, they say, each board member is geographically tied to the schools in his or her ward, which gives every school in the district a representative and helps equalize competition for resources.

This model also would be consistent with their finding that representation was more important for minorities in at-large systems—at least as to Hispanics. Because an at-large system cannot guarantee each school a particular advocate at the table, they reason, schools serving large Hispanic populations will benefit from some Hispanic representation on the board—from whatever neighborhood—to argue on their behalf.

In other words, in the electoral systems that many argue are less likely to result in racially diverse boards, it turns out race matters more. ■

5. The case for at-large elections

Minority representation on the board is no panacea for meeting a school district's diversity-related challenges. Three hypothetical "tokenism" scenarios illustrate the point:

- Bad: The minority board member automatically is assumed to be the resident expert on anything concerning diversity and minorities.
- Worse: The rest of the board and the community look to the minority board member *only* on such issues, instead of expecting him or her to be well versed in the full range of district issues and board responsibilities.
- Worst: The other board members feel less sense of personal responsibility and urgency to address these issues.

For that matter, minority representation is but one of many competing considerations for an effective school board. One can make a good case for at-large elections as a matter of good governance.

For one thing, the flip side of stronger neighborhood advocacy can be more parochialism in decision-making. Consider a board confronting the need to choose which school to close, as just one poignant example.

In fact, the representation model some researchers cite positively—the causal chain between board representation and hiring decisions—might be criticized as a form of patronage or a racial spoils system.

In theory, a board could be expected to

make better decisions for all children when all of its members are accountable to the entire community's voters, not just those in their own neighborhoods.

More generally, a board composed of members who think of themselves sort of like legislators—as a group of individual advocates for particular constituencies, just as the minority representation models posit—may in the end prove dysfunctional

If anything, the case for at-large elections highlights an area in which more research might prove fruitful.

compared to a board that understands its collective role to be more akin to that of a non-profit's board of directors. The first paradigm leans more democratic, the second more technocratic.

Another venerable argument is as blunt as it is simple: A larger voting base may elect better-qualified candidates. James Madison, writing in *The Federalist No. 10* about voting in a large republic, put it this way:

"As each representative will be chosen by a greater number of citizens ..., it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center on men who possess the most

attractive merit and the most diffusive and established characters."

Like independent school boards themselves, and like non-partisan elections, at-large voting was a Progressive Era reform strategy aimed at undermining corrupt city machine politics. In this case, the goal was eliminating the small electoral districts that were seen as an important enabling factor.

An even more pragmatic concern is raised by Mary Gannon of the Iowa School Boards Association. Given the difficulty some communities have in attracting candidates to pursue the vast rewards of school board service, they might need to consider whether this task would be made harder by the narrower residency requirements of ward-based elections, especially in small school districts.

Perhaps the most serious cautionary note for advocates of increased board diversity is the debate over whether structuring elections to increase the number of minority representatives has the unintended consequence of marginalizing minority voters.

Some critics charge that the creation of a few gerrymandered majority-minority congressional districts had the effect of making African-American voters irrelevant in the many more districts from which they were drawn. Similarly, replacing at-large with ward-based elections could concentrate minority votes in fewer contests, making them less important to the board's overall priorities. In other words, what might be good for the minority candidates themselves might not be such a great deal for minority voters.

Meier and Juenke address this question

as well. They say the evidence for the concern nationally is mixed but point approvingly to the research highlighting the impact of minority representation on school boards on district hiring.

If anything, the case for at-large elections highlights an area in which more research might prove fruitful. If the hypothetical link between at-large elections and sound overall school governance simply is under-researched compared to the connection between ward-based elections and minority representation, then decisions about election structure may be based on the narrower set of considerations simply for want of good information on the broader ones. ■

FOR MORE INFORMATION

The electronic file of this issue of *Leadership Insider*, along with helpful online resources, is available on the National Affiliate website, www.nsba.org/na. Select the *Leadership Insider* link. On the "Additional Resources" page accompanying this issue you can access:

- all of the reports and resources mentioned in these pages;
- information on the NSBA and state caucuses of minority school board members;
- the September 2008 issue of the *American School Board Journal*, which features a special report on "Immigration and Diversity";
- information on the court cases discussed here; and
- other organizations that focus on these issues.

You also can find back issues of *Leadership Insider* and the online resources accompanying those issues.

6. The Voting Rights Act and the courts

The U.S. Supreme Court soon will hear a case, *Bartlett v. Strickland*, that considers the point at which all of these questions intersect with the law: the federal Voting Rights Act of 1965 (VRA).

The case is not about school board elections, but on one level the issue it raises might affect school boards by setting the standard for when plaintiffs can challenge a district's election system. On another level, however the case is decided, it could have a side effect of bringing greater scrutiny to school board elections.

By way of background, the VRA originally was passed to break down barriers deliberately erected to discourage African-Americans from voting and being elected.

Subsequent amendments and court interpretations have expanded the act's scope, including practices or structures that might have the effect of diluting votes by racial or language minority groups. Over the years, school boards have been one target of VRA litigation, which in many places

has changed the way boards are elected.

To take just a few examples, a spate of VRA suits in the 1980s and 1990s led to the following:

- In Texas, traditional at-large systems in some districts were replaced with "cumulative" voting systems, in which each voter has as many votes as there are open seats to fill and can cast them in any combination for the various candidates.

- Alabama switched to ward-based systems, except in districts with very low minority populations or where cumulative voting already had been adopted in response to earlier VRA litigation.

- And all boards in New Mexico with more than 16,000 pupils, as well as some smaller districts, adopted ward-based voting.

In several more recent examples, vote dilution challenges to at-large elections have been settled by the school district agreeing to adopt a hybrid structure, in which some board members are elected at-large and others by ward. This was the result in Lawrence,

Mass., in 2002 and very recently in Bethlehem, Pa., and Georgetown County, S.C. Other VRA cases are pending in Texas.

The specific issue the Supreme Court will consider in *Bartlett v. Strickland* is whether a minority group that would constitute less than 50 percent of a proposed single-member electoral district can bring a VRA suit to require the creation of such a district.

In a 1986 case, *Thornburg v. Gingles*, the Supreme Court ruled that one precondition to such a claim is that the minority group must be "sufficiently large and geographically compact to constitute a majority in a single-member district." After all, the court reasoned, unless minority voters can show they would have had the potential to elect representatives were it not for the challenged election practice, they cannot claim to have been injured by that practice.

Lower courts have split over whether the standard for fulfilling this precondition is a "50 percent rule," where the minority group constitutes a majority in the proposed district, or simply an "opportunity to elect standard," where the group could elect its preferred can-

didate with the help of other racial groups.

Some argue the "50 percent rule" is clearer and easier for courts to apply—and for potential defendants like school boards to understand so they can know their VRA obligations and avoid lawsuits. Others say the "opportunity to elect standard" is less mechanical and protects voting rights better.

How the court decides *Bartlett v. Strickland* could put school boards with at-large systems on more uncertain legal ground.

State laws also may dictate how school boards are elected. Sometimes these laws are adopted in response to VRA litigation.

For that matter, the state could have a voting rights statute of its own. The Lawyers' Committee for Civil Rights of the San Francisco Bay Area, for example, has just announced it is suing the Madera Unified School District under the California Voting Rights Act, arguing that at-large school board elections dilute the Hispanic vote. The first school district that the group sued on the same ground, the Hanford Joint Union High School District, adopted ward-based voting in 2005. ■

7. The future for school boards

So given these trends and concerns, not to mention the potential for lawsuits, what options does a local school board have for rising to the diversity challenge?

Even for civil rights activists, the prospect of VRA litigation against school districts poses a dilemma—regardless of where people come down on the questions of representation and good governance, and regardless of the legal standard for bringing a VRA claim. Like any lawsuit against a school district, the cost of the litigation ultimately takes money away from educating the very children the lawsuit presumably is meant to help.

Forward-thinking school boards can consider a range of options for addressing the kinds of concerns that can lead to a VRA lawsuit. As some past resolutions of VRA cases have illustrated, completely changing from at-large to ward-based elections is only one route, not the only one.

Other alternatives

In terms of the election structure, one obvious alternative is a hybrid system combining at-large and ward-based seats. This affords more opportunity for minority representation but tempers concerns about parochialism by ensuring that a portion of the board still answers to the entire community.

One downside to a hybrid system, however, is that it can be more complicated for voters, who already exhibit even less inclination

to vote in school board elections than they do in others. Depending on the community and on the quality of local news coverage of school board elections, voters might find it more difficult to obtain reliable information on so many candidates and to make their preferences clear in a system calling on them to cast multiple votes in two categories.

Another option is the cumulative voting system, as is used in Amarillo and other districts in Texas and some districts in Alabama. Where the voter can cast all of his or her votes for a single candidate, the intensity of support for that candidate among fewer voters can overcome a rival with broader but more lukewarm appeal. Supporters see this as a way of better reflecting voter preferences, race-related or otherwise.

Similarly, a "proportional representation" system can empower smaller community groups and reflect intensity of support, in this case by requiring voters to rank candidates in order of preference. The school committee in Cambridge, Mass., is elected this way. While the tallying of votes is more complicated in this system, voters reportedly do not seem to have difficulty with the approach.

Efforts to realize more diversity on boards need not be limited to restructuring elections, of course. Members of racial and ethnic minorities are elected to their school boards in at-large races. Communities, perhaps with school board encouragement, can discuss the

issue, urging diverse candidates to run and even actively recruiting and supporting outstanding candidates. Some boards occasionally have the opportunity to consider diversity when making appointments to fill vacancies.

Every citizen has a stake in having a local school board that is responsive to, and supported by, the entire community.

A checklist for the school board

A school board that has not considered the issues discussed here could start with a few basic steps. First, any board should be keenly aware of the demographics of the community it serves and attempt to understand what the future has in store. Then the board might consider how its own membership reflects the current and projected populations.

If there is a representational disparity, the board might want to explore with legal counsel whether the district has potential legal vulnerability under the Voting Rights Act or state law. If so, the board should explore its range of options under federal and state law, as to both election structure and other efforts. Even if there's no legal concern, the board might consider whether it is missing out on some representative potential.

At a minimum, any board might attempt to evaluate how much confidence it is inspiring among all the various populations it serves. As some researchers point out, the whole focus on electoral structure presupposes a significant degree of racial bloc voting. While one might hope this voting pattern is on the wane, especially in this symbolically

important presidential-election year, the key point is that many researchers and advocates assume racial bloc voting is not wholly irrational. The assumption is that a board without minority representation may be less attentive to the needs of minority children.

The requirements of the No Child Left Behind Act for disaggregated data and accountability for student subgroups send the same discomfiting message. Lawmakers were persuaded that states and school boards needed serious prodding to focus on raising the academic bar and, especially, on closing racial and other achievement gaps.

A school board that absolutely owns those two issues, even in the face of some backlash, is one that over time should be able to earn widespread confidence in its community.

Implications for democracy

Finally, all the attention to representation on school boards serves as a reminder of some compelling realities about democracy more generally:

- Local officials comprise sizable majorities of the total numbers of Asians, blacks, and especially Hispanics elected to public office in this country.
- School board seats are at once more numerous than other offices and more representative in their racial composition than other elected positions.
- And school boards are where many elected officials start their public service.

These realities mean that the ongoing marginalization of school boards by other levels and branches of government has repercussions for diversity and representation—not only in education policy but in our democracy writ large.

To be sure, our enthusiasm for democracy has limits, especially when the public perceives many of our civic institutions to be a bit lackluster right now—short on the promise of democracy and long on its messier manifestations. And while some of the motives underlying attempts to wrest authority away from elected school boards are unseemly, one implication of the trend is unmistakable: The body politic has reached a point where concerns over academic achievement, achievement gaps, and effective governance simply trump competing values of democracy and local self-determination.

Nonetheless, those who call our attention to the question of fair representation reassert the importance of these competing values. Advocates for the aspirations of minority groups might usefully devote more effort to considering how the first set of concerns could be pursued with less harm to the second. ■

Thomas Hutton, Editor

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