

Plaintiffs have brought this action on the theory that the present arrangement for electing school directors not only violates the Pennsylvania School Code, but also violates the constitutional rights of the plaintiffs and other residents in the over-populated districts. Plaintiffs have sought a preliminary injunction, and seek immediate relief in various alternative forms. Their first choice would be an injunction requiring all incumbent school directors to resign their positions immediately, and to have all nine members of the school board elected, at-large, at the November 1997 election. The deadline for achieving that result is only a few days away, September 15, 1997.

In addition to the immediate at-large election proposed, plaintiffs have also sought an order nullifying many of the official actions taken by the incumbent school board, on the theory that they all hold office illegally.

At one point, it appeared that plaintiffs would reluctantly accept a three-region arrangement, as provided in the state court settlement, but they are understandably unwilling to wait until 1999 to begin the process of achieving voting equality among the various regions.

The evidence produced to date clearly establishes that the present arrangement is a violation of state law and infringes rights guaranteed by the federal constitution. The proposed three-region plan would probably pass muster, at least on the basis of the 1990 census figures. However, those figures are now almost eight years old, significant population shifts have occurred in the

interim, and additional development will undoubtedly occur in the populous districts between now and 1999. In short, it is at least arguable that the arrangement approved by the state court will no longer be valid by the time it is proposed to be implemented.

The real problem is to devise an acceptable solution to this dilemma. I have concluded that the situation simply cannot be remedied at the November 1997 election. More accurately, perhaps, I have concluded that the harm which will result from some additional delay in alleviating the constitutional violations being suffered by plaintiffs and those whom they represent is, while unfortunate, substantially outweighed by the confusion, disruption, and unfairness which would result from attempting to rectify the situation immediately.

While politically active persons interested in seeking election to the school board, or interested in supporting particular persons for election to the school board, might find it possible to achieve a place on the ballot before the November 1997 election, this would be most unfair to the countless others who might wish to seek election if they had had a reasonable opportunity to reach an informed decision. Moreover, achieving some degree of balance among the various geographical areas within the school district is a legitimate goal (so long as each vote is of approximately equal weight). In the present circumstances, however, where the impetus for both the state court litigation and this lawsuit arises in the more populous end of the district, suddenly declaring an at-large election might well unfairly

advantage the residents of those populous regions. In short, the three-region plan adopted by the state court seems decidedly preferable to an at-large system; and a three-region election would be even more difficult to arrange between now and September 15/November 1997.

On the other hand, I see no reason why the citizens of the Chichester School District should be forced to wait until 1999 before beginning a corrective process. Nor do I see any reason why incumbent directors whose elections are violative of the United States Constitution should necessarily be permitted to serve out their full terms.

The parties will therefore be directed to confer with each other (and, if they deem it appropriate, with the state court and the parties to that litigation) to achieve a plan under which all nine members of the school board would be elected, from three regions of approximately equal population, at either a primary, or special election to be held in early 1998.

Counsel will be directed to report back to this Court, not later than December 1, 1997, the results of their efforts.

In all other respects, Plaintiffs' Motion for a Preliminary Injunction will be denied, without prejudice to further applications for interim relief if necessary.

An Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GEORGE W. JAMES, et al. : CIVIL ACTION
v. :
PATRICIA KOCH, et al. : NO. 96-7683

ORDER

AND NOW, this day of September, 1997, IT IS ORDERED:

(1) Counsel are directed to confer with each other, with such state court officials and parties to the state court litigation as they deem appropriate, and shall achieve a plan under which all nine members of the Chichester School District would be elected, three from each of three regions of approximately equal population, at the primary election or a special election to be held in early 1998. If the parties are unable to agree upon a single plan, they may submit alternate plans for this Court's review. Counsel shall report to this Court the results of their efforts (and shall submit the required plan or plans) not later than December 1, 1997.

(2) In all other respects, Plaintiffs' Motion for Preliminary Injunction is DENIED, WITHOUT PREJUDICE to further applications for interim relief if necessary.

John P. Fullam, Sr. J.