

California Voter Participation Rights Act: Consolidating the Local Election Date with a Statewide Election Date

Garvey School District

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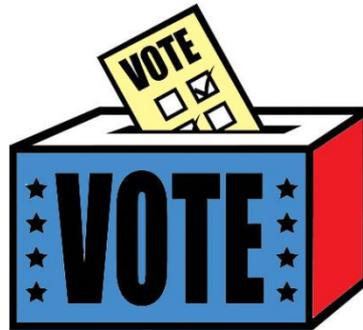
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Purpose

- SB 415 created the California Voter Participation Rights Act (“CVPRA”)
- SB 415 was introduced in an attempt to remedy low voter turnout **at** local elections held in off-cycle election years.
- CVPRA gives individuals the right to challenge political subdivisions for holding costly elections with little voter turnout.



Background

The Assembly Committee on Elections and Redistricting found that:

- Off-cycle elections result in very low voter turnout.
- The voting public often does not look like the general public as a whole and neither does the governing body.
- Holding local elections on the same day as statewide elections can save money.

Example of Cost Savings

The City of San Diego spent **42 cents** per voter on elections in 2012 and saw a **70%** voter turnout **compared to**

The City of L.A. spent **\$39.95** per voter in 2011 and saw a voter turnout of **14.1%**.

(Source: SB 415 Analysis)



Applicability to Garvey School District

- Education Code section 5000 provides that “a governing board member election shall be held biennially on the first Tuesday after the first Monday in November of each succeeding odd-numbered year.”
- Elections Code section 1302(b) provides, in relevant part:

Notwithstanding any other provision of law, . . . after the initial election of governing board members in any school district . . . the election of governing board members for the district . . . may be established, upon the adoption of an appropriate resolution by the governing board, . . . to regularly occur on the same day as the statewide direct primary election, the statewide general election, or the general municipal election. . . [Emphasis added].

Applicability to Garvey School District

- School districts are specifically included in the definition of “political subdivision” in Elections Code section 14051(a).
- The CVPRA became effective on January 1, 2016 and added sections 14050-14057 to the California Elections Code.
- **Beginning January 1, 2018**, a jurisdiction that holds its regular elections on a date other than June or November of even years **can be sued to force a change in its election date if turnout among eligible voters at one of its regular elections was at least 25% lower than the average turnout in the jurisdiction at the prior four statewide general elections.**

Remedies

Remedies that may be imposed, include court ordered:

- Election dates that are concurrent with statewide elections.
- Upgrades to election equipment or systems supporting election equipment.
- Order county boards of supervisors to consolidate district elections with a statewide election.



Attorney's Fees & Costs

- Prevailing plaintiffs may collect attorney's fees and costs (including expert witness fees).
- Prevailing districts, and other political subdivisions, are **NOT** entitled to costs or attorney's fees unless the case was found to be frivolous, unreasonable, or without foundation.



Voter Turnout Analysis Example

- A jurisdiction has 1,000 registered voters, and the average over the last 4 statewide general elections is that 600 of them vote.
- This means that the average voter turnout within that jurisdiction during the last 4 statewide general elections is **60 %**
- **The jurisdiction is in violation of the CVPRA if turnout in a “regularly scheduled election” is at least 25 % less than the 60 % threshold.**

Voter Turnout Analysis Example

- We subtract 25% from 60% to obtain the threshold value
($60\% - 25\% = 35\%$)
- **Based on this method, turnout in the hypothetical jurisdiction's election would need to exceed 35% to be in compliance with the CVPRA.**

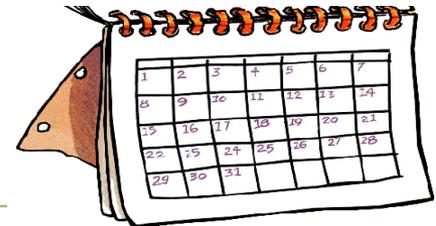
The “Safe Harbor”



- A district may hold an election other than on a statewide election date if, by January 1, 2018, it has adopted a plan to consolidate a future election with a statewide election no later than the November 8, 2022 statewide general election. (Elec. Code § 14052(b).)
- The District may conduct an election in 2019 without risk of liability, if it has adopted a plan by January 1, 2018 to begin the process of moving its elections to June or November of even years starting in either 2020 or 2022. (i.e., statewide election dates.)

Primary or General?

- Beginning in 2020, SB 568 will move the direct primary from June to March of even-numbered years.
- There is no difference in the process for requesting consolidation with the statewide direct primary (June/March of even-numbered years) or the statewide general election (November of even-numbered years).
 - Note: Statutes do not specifically provide for commencement and end dates of terms of office for Board members elected in direct primary, but such dates may be provided for in the Board Resolution.
- Terms of office of incumbent Board members are automatically extended, up to a maximum of 1 year (e.g. if consolidated with statewide general election)



Process

- 1) **Take advantage of the “safe harbor”** by adopting a plan no later than January 1, 2018 setting out the steps to consolidate the District’s governing board elections with the statewide direct primary or general election. The plan must provide that the change will occur no later than the November 8, 2022 statewide general election.
- 2) **The Board should pass a resolution** to consolidate Board elections with a statewide election date.
- 3) **Submit the resolution in Step 2 to the L.A. County Board of Supervisors** and the L.A. County Registrar/Recorder & County Clerk for consideration.

Approval/Denial By L.A. County Board of Supervisors



- 4) The L.A. County Board of Supervisors must render a decision no later than 60 days after the District submits the consolidation request.
- 5) **If approved**, the District's Board elections will be consolidated and terms of office for incumbents will be extended as appropriate.
 - Within 30 days, the elections official will notify all affected voters by mail of the approval. The District pays for the cost of the notice as required by statute.
- 6) **If denied**, counsel and the District will continue to work to obtain approval, but the District will take advantage of the "safe harbor" provision.

Thank You

For questions or comments, please contact:

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