



## School District Election Issues

Protecting the Franchise Before and After Election Day:

From the Voting Rights Act and Redistricting to  
Recounts, Election Contests, Removal & Residency Challenges



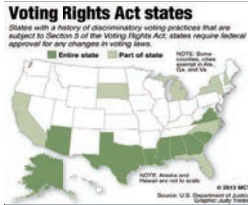
Protecting  
the  
Franchise

---

The Voting Rights Act

---

Redistricting



# The Voting Rights Act of 1965



Signed into law on August 6, 1965, the Voting Rights Act contains three significant sections:

---

**Section 2** forbids any “standard, practice or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color”

---

**Section 4** bans the use of literacy tests and other suppressive tactics in certain states and jurisdictions with a history of racially discriminatory voting

---

**Section 5** provides that no change in voting procedures may take effect unless first approved by federal authorities in Washington, D.C.

## *Shelby County v. Holder*

In 2010, Shelby County, Alabama, challenged the constitutionality of Sections 4 and 5 of the Voting Rights Act, claiming:

it is no longer constitutionally justifiable for Congress to arbitrarily impose on ... covered jurisdictions disfavored treatment by forcing them to justify all voting changes to federal officials in Washington, D.C., for another twenty-five years without a legislative record showing that these covered jurisdictions are still engaged in the type of ‘unremitting and ingenious defiance of the Constitution’ that justified enactment of the VRA in 1965.

## 1982 Voting Rights Act Amendments

Section 2 now provides that a voting process or requirement that results in the abridgement of the right to vote on account of a voter's race, color, or language minority status is unlawful, whether or not an intent to discriminate can be proven.

The revised statute further provides that whether a discriminatory result has occurred requires considering the "totality of the circumstances" to determine whether the challenged voting restriction has abridged protected voters' ability to participate equally in elections and to elect representatives of their choice.

## Senate Judiciary Committee Report Factors

1. extent of history of official discrimination in state or political subdivision that touched the right of members of the minority group to register, vote, or otherwise to participate in the democratic process;
2. extent to which voting in the elections is racially polarized;
3. extent to which the state/political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices that may enhance the opportunity for discrimination against the minority group;

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: School District Election Issues

First appeared as part of the conference materials for the  
37<sup>th</sup> Annual School Law Conference session  
"School District Election Issues"