

# Law Office of Michael Berger

Michael Berger

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January 28, 2019

Dr. Judy C. Miner, Chancellor  
Foothill-De Anza Community College District  
12345 El Monte Road  
Los Altos Hills, CA 94022

By certified mail

Re: Notice of Violation of California Voting Rights Act

Dear Chancellor Miner:

First, we would like to acknowledge and thank you for your work--and the work of the Foothill-De Anza Community College District Board of Trustees, faculty and staff--on behalf of the students and communities the Foothill-De Anza Community College District serves.

On behalf of Sebastian Aguilar, a member of a protected class and a registered voter residing in the Foothill-De Anza Community College District, this letter and the enclosed report prepared by the California Voting Rights Project are to assert that the Foothill-De Anza Community College District's method of conducting elections may violate the California Voting Rights Act. Mr. Aguilar, as well as the undersigned, are supported and work in conjunction with the California Voting Rights Project. The Project is a non-profit, public interest corporation whose non-partisan aim is to expand voting rights.

Pursuant to California law, the Board of Trustees of the Foothill-De Anza Community College District now has 45 days from the receipt of this letter to adopt a resolution outlining its intention to transition from at-large to district elections, specifying specific steps it will take to facilitate this transition, and estimating the time-frame for this transition. If the Board of Trustees does not adopt a resolution to this effect within 45 days from the receipt of this letter, then a legal action will be commenced in Santa Clara County Superior Court to require the Foothill-De Anza Community College District to institute district elections pursuant to the California Voting Rights Act.

District elections are sweeping California. As far as this office is aware, no government agency in California has successfully defended a complaint alleging violation of the California Voting Rights Act. For this reason, we recommend a collaborative settlement that would cap costs to the Foothill-De Anza Community College District and enable more participation by the Board of Trustees in the transition to district elections than would be the case through a court action.

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Foothill-De Anza Community College District

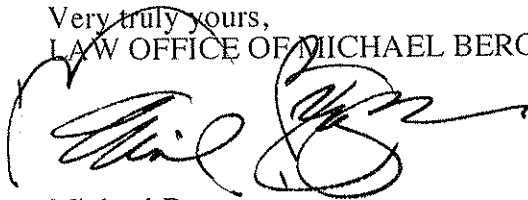
As described in Chapter 5 of the enclosed report, advantages of a settlement would include that implementation of district elections in the Foothill-De Anza Community College District could be deferred until November 2022. This approach has proved successful in a number of other government jurisdictions in California.

Essentially, a difficulty of requiring district elections in November 2020 is that this would necessitate the time and expense of two districting processes within two years--one for November 2020, and a new process for November 2022 after the decennial 2020 census. Government jurisdictions elsewhere have asked for a process whereby these costs could be incurred only once through commencement of district elections in November 2022. A settlement agreement can accomplish this goal. In either case--whether the Foothill-De Anza Community College District would seek implementation of district elections in November 2020 or reach a settlement for implementation in November 2022--costs are capped at \$30,000, so there would be no difference to the District in this respect.

Please also see the conditional settlement agreement and release reached in the Goleta Union School District included as Exhibit E in the enclosed report. An additional benefit of a pre-litigation settlement is that current Board of Trustee members who were elected in 2016 could run for re-election in 2020 under existing electoral arrangements through a settlement agreement to institute district elections starting in 2022.

Thank you for your consideration.

Very truly yours,  
LAW OFFICE OF MICHAEL BERGER

A handwritten signature in black ink, appearing to read 'Michael Berger', is written over the typed name and the text 'LAW OFFICE OF MICHAEL BERGER'.

Michael Berger

cc: Jacqueline Inda, California Voting Rights Project