

April 16, 2024

Sunnyside School District
Sunnyside School District Director Linda Roberts
Sunnyside School District Director Jillian Patterson
Sunnyside School District Director Jory Anderson
Sunnyside School District Director Stephen Berg
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RE: Violation of Washington Voting Rights Act

Dear Sunnyside School District Directors Linda Roberts, Jillian Patterson, Jory Anderson, and Stephen Berg:

This letter is notice that Empowering Latina Leadership & Action (ELLA), and its members, Jeryka Nava and Raquel Lopez, each of whom are voters in the Sunnyside School District, intend to challenge the School District's election system under the Washington Voting Rights Act (WVRA). The above-mentioned organization and voters can be contacted through counsel. As outlined below, the current at-large voting system in the Sunnyside School District dilutes the votes of Latinx voters and prevents them from having an equal opportunity to elect candidates of their choice or influence the outcome of elections in violation of RCW 29A.92.020.

This letter is a 90-day notice, as required by RCW 29A.92.060(1), that we intend to sue the Sunnyside School District to change the method by which the Sunnyside School District Directors are elected. The WVRA requires that the School District immediately make this notice public and work in good faith with our clients to remedy the violation during this period.¹ If the School District wishes to avoid a lawsuit, the School District has 90 days—from today—to either develop an election plan that would remedy the WVRA violation or adopt our proposed plan.² If the School District develops such a plan, it must hold a public meeting to receive comment on the proposed remedy and obtain a court order stating that it has adopted a remedy in compliance with RCW 29A.92.020.³ If the School District fails to take such actions, we will file suit in Yakima County Superior Court to protect the rights of Latinx voters on or about July 16, 2024, as allowed by RCW 29A.92.090.

¹ RCW 29A.92.060(1); RCW 29A.92.070(1).

² RCW 29A.92.080.

³ RCW 29A.92.080; RCW 29A.92.050.

I. Introduction

A. Washington Voting Rights Act

A political subdivision violates the WVRA when:

- (a) Elections in the political subdivision exhibit polarized voting; and
- (b) Members of a protected class or classes do not have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of members of that protected class or classes.⁴

Dilution means that given the voting scheme a voting majority can “dilute the ability of particular voters to affect the outcome of elections.”⁵ Election schemes that tend to dilute voting strength include at-large election and the manipulation of district lines, called “packing” (drawing districts to limit voting strength to few districts) or “cracking” (drawing districts to spread voting strength among several districts).⁶

Factors to be considered in determining whether there is a violation of this chapter include: “the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns...”⁷ These are relevant “but not necessary factors, to establish” a WVRA violation.⁸ Two other factors that may be relevant are whether elected officials are responsive to their constituents and whether they can justify their use of electoral systems that dilute votes.⁹

These factors must be considered pragmatically, and no single factor is necessary or dispositive.¹⁰ Proof of intent to discriminate is not required.¹¹ “The essence of a [voting rights violation] is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause

⁴ RCW 29A.92.030(1)(a) and (b).

⁵ *Portugal* 530 P.3d at 1001.

⁶ *Id.*

⁷ RCW 29A.92.030(6).

⁸ *Id.*

⁹ *Gingles*, 478 U.S. at 36–37.

¹⁰ RCW 29A.92.030(4).

¹¹ RCW 29A.92.030(6).

an inequality in the opportunities [for] voters to elect their preferred representatives.”¹² The most important factors are “the extent to which elections are racially polarized” and “the extent to which [voting] minorities have been elected.”¹³

B. Summary of Sunnyside School District’s Violation of the Washington Voting Rights Act

Latinx voters in the Sunnyside School District have not had a fair opportunity to elect candidates of their choice to serve as School District Directors. Elections in the District reflect extremely racially polarized voting. In other words, white voters vote as a bloc against Latinx-preferred candidates and as a result, defeat them. For example, in 2023, two Latinx candidates running for School Board against white candidates received just 8.8% and 16.9% of votes cast by white voters. The Latinx candidates received 91.5% and 87.8% of votes from Latinx voters. Both candidates lost. Similar patterns of racially polarized voting exist in elections of all sorts in the District. This satisfies the WVRA requirement of racially polarized voting.

Combined with the at-large election system, this bloc voting by white voters prevents Latinx voters from having a fair opportunity to elect Latinx-preferred candidates. At-large voting allows every member of the City to vote in every electoral race. This means if a bloc of voters represents 51% of voters, they will win every election. This is currently happening in Sunnyside School District elections.

The City of Sunnyside is 86 percent Latinx. The Sunnyside School District, which includes the City and rural areas around the City, is 82 percent Latinx. The students in the School District are 92 percent Latinx. Despite the large Latinx population in the Sunnyside School District, the voting population of Latinx people in the School District is smaller than the white voting population. Several factors contribute to this dynamic. 42% of the Latinx population are too young to vote and the Latinx population has been disillusioned by a history of racism and discrimination in voting, resulting in low voter turnout. Further, the effects of past discrimination in areas such as education, employment, and health, hinder their ability to participate effectively in the political process.

Whatever the reason, the at-large voting system, and the slight numerical advantage among white voters, who vote as a bloc, allow those voters to overcome Latinx-preferred candidates and issues, resulting in a lack of representation for the Latinx community. As a result, the School Board does not represent and is not accountable to the Latinx community. The result is

¹² *Gingles*, 478 U.S. at 47.

¹³ *Id.*

a disconnect between the needs of Latinx students and families and the actions of the leadership of Sunnyside School District. For example, the School District punishes the Latinx children in their care at much higher rates than other schools with similar demographics in the Yakima Valley but no investigation or plan to remedy this serious issue has been developed. Many Latinx parents and community members report that their complaints are met with hostility by the administration and the School Board.

In short, the current electoral system violates the WVRA. The School District must remedy this violation by switching to a district-based election system and ensuring representative districts.

II. Details of Sunnyside School District's Washington Voting Rights Act Violation

A. Demographics of Sunnyside School District

In 2020, the City of Sunnyside had a population of 16,368 people.¹⁴ 14,190 (86.69%) of these people are Latinx.¹⁵¹⁶ The Sunnyside School District, which includes rural areas outside the City, has a population of 24,696 people.¹⁷ 81.13 percent of the people living within the School District are Latinx.¹⁸ Roughly 42.7 percent of the Latinx population within the Sunnyside School District boundaries are under 18 years of age.¹⁹ Students in the School District are 92.68 percent Latinx.²⁰

B. Elections in Sunnyside School District

Sunnyside School District Board of Director elections are held at-large in compliance with RCW 28A.343.300: "... each member of a board of directors shall be elected by ballot by the registered voters of the school district."²¹ Although the entire population votes for each candidate in both the general and primary, candidates must live in the Director District they represent.²²

There are currently five Director Districts in the Sunnyside School District. Director Districts 1 and 3 are primarily located inside the City of Sunnyside

¹⁴ Exhibit 1, Declaration of William Cooper, at 12.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 9.

¹⁸ *Id.* at 9.

¹⁹ *Id.*, Exhibit B to Exhibit 1 at 8.

²⁰ *Id.* at 10.

²¹ Sunnyside School District, <https://go.boarddocs.com/wa/wassd/Board.nsf/Public#> at *Policies: Board of Directors: 1000: Legal Status and Operations*, (December 20, 2012).

²² Sunnyside School District, <https://go.boarddocs.com/wa/wassd/Board.nsf/Public#> at *Policies: Board of Directors: 1110: Elections*, (December 20, 2012).

but small portions of the City are included in the other three director districts as well.²³

C. Prior Elections

Despite the large Latinx majority in the schools, School District, and City, in the past decade School Board elections have been dominated by white candidates.²⁴ From 2011 to 2021, no Latinx candidates ran for School Board. In 2023, four Latinx candidates ran for School Board seats (with two of these candidates running for the same seat). The two Latinx candidates running against white candidates lost. The race involving two Latinx candidates, received significantly fewer votes than the other two races, despite being elected by precisely the same voters.

There have been more Latinx candidates for the Sunnyside City Council in the last decade but only slightly more success.²⁵ The City Council has four district-based seats and three at-large seats.²⁶ These district-based seats are chosen through district-based voting in the primary but at-large voting in the general election.²⁷ From 2011 to 2021, a Latinx candidate won only one out of nine contested races when running against a white candidate. One other Latinx candidate was eliminated in a primary by two white candidates. The larger percentage of Latinx voters in the City allowed Latinx candidates to overcome the disadvantages of the at-large election system in 2023, when three Latinx candidates ran and won City Council seats.

Contrasting the City Council races with the School Board races, the dilution of Latinx votes becomes clear. The ELLA candidates ran as a slate. Two of the candidates garnered 53% and 55% of the vote in the City, where roughly 86% of the population is Latinx. By contrast, Latinx candidates lost in School District races against white candidates. The School District includes 10,000 people living in the area around Sunnyside. When these voters, who tend to be white, are added to the City's population, the Latinx Citizen Voting Age Population (LCVAP) drops from 69.51% of the Citizen Voting Age Population to 65.36%. This small change, along with low voter turnout, due to historical discrimination discussed below, gives the white voting bloc a numerical advantage. As a result, one Latinx candidate received 45.7% of the vote and the other received 42.3% of the vote. When the outlying areas are added to the population of the City, the dilution of Latinx votes increases such that Latinx preferred candidates lose. This strongly supports the

²³ Exhibit 1 at 17.

²⁴ A list of School Board elections from 2013 to 2023 is included in Exhibit 2B.

²⁵ A list of City Council elections from 2011 to the present is part of Exhibit 2B.

²⁶ Sunnyside Municipal Code Section 1.10.010-.060.

²⁷ Sunnyside Municipal Code Section 1.10.080.

finding of racial polarization in voting and shows the dilutive effect of the additional white votes.

D. Racially Polarized Voting

Races in the Sunnyside School District exhibit extreme racially polarized voting. Racially polarized voting “means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class or a coalition of protected classes, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.”²⁸ The problem with racially polarized voting is “that where [voting] minority and [voting] majority voters consistently prefer different candidates, the majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.”²⁹

It is not necessary for the diluted voting group to be an actual minority in the jurisdiction, just that another group can swamp their electoral choices by forming a voting bloc in an at-large system.³⁰ This is true even where losses are caused in part by low voter turnout, as courts have recognized that low voter turnout may be indicative of political disillusionment and cannot defeat a claim of voting polarization.³¹ The relevant consideration is actual voters.³²

In determining whether there is polarized voting under the WVRA, courts analyze “elections of the governing body of the political subdivision, ballot measure elections, elections in which at least one candidate is a member of a protected class, and other electoral choices that affect the rights and privileges of members of a protected class.”³³ The most relevant elections to analyze are the elections in the challenged system, but exogenous³⁴ elections provide important insight into polarization in a jurisdiction.³⁵

²⁸ RCW 29A.92.010(3).

²⁹ *Thornburg v. Gingles*, 478 U.S. 30, 48, 106 S. Ct. 2752, 2765, 92 L. Ed. 2d 25 (1986)

³⁰ *Portugal v. Franklin Cnty.*, 1 Wn.3d 629, 641, 530 P.3d 994 (Wash. 2023).

³¹ *United States v. Blaine Cnty., Montana*, 363 F.3d 897, 911 (9th Cir. 2004)(“ Thus, if low voter turnout could defeat a section 2 claim, excluded minority voters would find themselves in a vicious cycle: their exclusion from the political process would increase apathy, which in turn would undermine their ability to bring a legal challenge to the discriminatory practices, which would perpetuate low voter turnout, and so on. Thus, the district court did not err by rejecting low voter turnout as evidence of a lack of political cohesion.”).

³² *Id.*

³³ RCW 29A.92.030(3).

³⁴ Outside elections like ballot initiatives and elections for other governing bodies within the jurisdiction are frequently called “exogenous” elections.

³⁵ *Blaine Cnty.*, 363 F.3d 897 at 911.

Elections where candidates of the protected class run against candidates of another race or ethnicity are most relevant.³⁶

To distinguish genuine vote dilution from an isolated, failed campaign, racially polarized voting is more probative if it creates a pattern over time.³⁷ However, “where [the protected class] has begun to sponsor candidates just recently, the fact that statistics from only one or a few elections are available for examination does not foreclose a vote dilution claim.”³⁸ Moreover, the success of a small number of diluted candidates does not mean that a court should ignore a broader pattern of voter polarization.³⁹

In determining whether polarization exists, it is generally not possible to know how any given voter cast their vote, since such information is typically confidential. As a result, courts often rely on expert testimony on a statistical analysis of elections.⁴⁰ Such statistical analysis takes known information regarding the ethnic or racial make-up of voting precincts and performs a regression analysis to determine general voting patterns. Dr. Jared Koffron has done an initial analysis in this case.

Courts have emphasized that there is no bright line rule or fixed standard for when there is cognizable block voting, i.e. no numerical threshold that must be reached.⁴¹ While the analysis must be scientifically rigorous, it must also be flexible given the fact specific nature of the inquiry.⁴² Because it can be hard to detect racially motivated voting, courts have to look at several factors:

In this enlightened day and age, bigots rarely advertise an intention to engage in race-conscious politics. Not surprisingly, therefore, racially polarized voting tends to be a silent, shadowy thief of the minority's rights. Where such activity is detected at all, the process of detection typically involves resort to a multifaceted array of evidence including demographics, election results, voting patterns, campaign conduct, and the like.⁴³

³⁶ *Lewis v. Alamance Cnty.*, N.C., 99 F.3d 600, 605 (4th Cir. 1996).

³⁷ *Gingles*, 478 U.S. 30 at 57.

³⁸ *Id.* at 108, n. 25.

³⁹ *Id.* at 75; *see also* RCW 29A.92.030(3).

⁴⁰ *Gingles*, 478 U.S. at 53; *Old Pers.* 230 F.3d at 1123.

⁴¹ *Gingles*, 478 at 55-56.

⁴² *Vecinos De Barrio Uno v. City of Holyoke* 72 F.3d 973, 989 (1st Cir. 1995).

⁴³ *Id.*

As a result, Courts can consider some of the factors indicating dilution more generally in analyzing the degree of voter polarization.⁴⁴

1. 2023 School District Races

In Director District 5, Sandra Zesati, a Latina candidate, ran against Stephen Berg, a white candidate. Only 8.8% of white voters voted for Sandra Zesati, meaning that over 90% of white voters voted for Stephen Berg.⁴⁵ On the other hand, 91.5% of Latinx voters voted for Ms. Zesati yet she still lost by 15 points.⁴⁶ District 5 has an active voter population that is 58.88% Latinx and an adult population that is 79.88% Latinx.⁴⁷ With 90% Latinx support and 10% of the white vote, Ms. Zesati would have easily won this race in a district-based election. However, when the other four districts were added in, it diluted this majority so that Ms. Zesati lost. District 5 voters were simply not allowed to pick their representative.

In Director District 4, Anna Saenz, a Latina candidate, ran against Jory Anderson, a white candidate.⁴⁸ 87.8% of Latinx voters voted for Saenz while only 16.9% of white voters voted for her.⁴⁹ Anderson received over 80% of the white vote and just over 10% of the Latinx vote.⁵⁰

In Director District 1 Silvia Ramos ran against Yasmin Barrios.⁵¹ Both candidates were Latina.⁵² Still, voting was heavily racially polarized with Silvia Ramos receiving support from 64.2% of white voters and only 21% of Latinx voters; with Barrios receiving 35% of white votes and close to 80% of Latinx votes.⁵³

2. 2021 School District Races

There were no Latinx candidates in the 2021 School Board races. Without Latinx candidates, much of the polarization disappears,⁵⁴ strongly suggesting that the polarization reflects racial animus, rather than some

⁴⁴ *Flores v. Town of Islip*, 382 F.Supp.3d 197, 232 (E.D.N.Y. 2019) (holding that “While [w]hites in the Town may not be voting as cohesively as in other VRA cases, the particular percentage of bloc voting is significantly less important than whether the [w]hite bloc regularly defeats the minority-preferred candidate.”).

⁴⁵ Exhibit 2A at 14.

⁴⁶ *Id.*

⁴⁷ Exhibit 1 at 14.

⁴⁸ Exhibit 2A at 13.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 12.

⁵² It is important to note that Latinx people can have a preferred candidate in a race between two Latinx candidates. Racially polarized voting requires a clearly preferred candidate by two different racial or ethnic groups, not that any candidate has a specific racial or ethnic identity.

⁵³ *Id.*

⁵⁴ *Id.* at 8.

other political choice.

3. 2012 State Supreme Court

In 2012, the Chief Justice of the Washington Supreme Court Justice drew a challenge from a candidate, Bruce Danielson, who was woefully unqualified and did not bother to campaign.⁵⁵ Danielson refused to participate in Bar association ratings and did not participate in any candidate forums.⁵⁶ He lost badly in Kitsap County, the county where he practiced.⁵⁷ Nonetheless, white people in Central Washington voted for him in overwhelming numbers.⁵⁸ In the Sunnyside School District 88% of white voters voted for Danielson. Gonzalez received only 21.1% of white voter support.⁵⁹

4. City Council Races

Every analyzed City Council race with a Latinx candidate shows extreme racial polarization in voting. In 2019, Betty Lynn Garza ran against a white candidate, receiving only 17.6% of white votes but 74.3% of Latinx votes.⁶⁰ In 2021, Edward Magana ran against a white candidate, receiving only 19.1% of white votes but 78.2% of Latinx votes.⁶¹ In 2023, Keren Vazquez ran against a white candidate and received only 24.8% of white votes but 86.2% of Latinx votes.⁶² Jason Raines, a candidate described below, who exhibited openly racist tendencies, still received 61% of white votes, while running against a Latino candidate, Jorge Galvan.⁶³ Other races exhibit similar patterns.⁶⁴

5. Comparison with *Montes v. Yakima*

It is helpful in analyzing these numbers to compare Sunnyside's level of racially polarized voting to the bloc voting found to violate the FVRA in *Montes v. Yakima*. There the Court found that the “degree of majority bloc voting routinely result[ed] in the Latino candidate being defeated—even when he or she has the overwhelming support of Latino voters.” This was a key part of the Court's finding in granting summary judgment for the plaintiffs, finding that “[t]he existing record, undisputed in all material

⁵⁵ Gabriel Galanda, *Race: one problem with electing judges*, Cascade PBS (October 7, 2012) <https://crosscut.com/2012/10/voting-and-race-one-problem-electing-judges>.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Exhibit 2A at 2.

⁶⁰ *Id.* at 5.

⁶¹ *Id.* at 6.

⁶² *Id.* at 10.

⁶³ *Id.* at 12.

⁶⁴ *Id.* at 10-11.

respects, supports only one rational conclusion: that under the totality of the circumstances, City Council elections are not ‘equally open to participation’ by Latino voters.”

But there, white support for Latinx candidates was significantly higher than in the Sunnyside School District, ranging from “30.5% ...to 42.6%.” That is twice to three times as much white voter support as Latinx candidates received in Sunnyside. Compared to the lowest level of white support for a Latinx candidate in Yakima (30.5%), Sandra Zesati received only 8.8%. Anna Saenz received only 16.9%. In fact, all but one Latinx candidate received below 30% of white votes if they ran against a white candidate in any election.

In short, the racially polarized voting in the Sunnyside School District is extreme and would likely justify summary judgment if this case were to proceed to litigation.

E. History of Discrimination and Current Effects of that Discrimination

The history of discrimination and how its long-term effects prevent political participation, are important factors in determining whether an election system violates the WVRA.⁶⁵ Sunnyside has a long history of racial discrimination, and its Latinx residents still bear the long-term effects of that discrimination.

1. Expert reports and court orders show long standing discrimination in the Yakima Valley. The effects of that discrimination interfere with participation in the political process.

In a 2013 report prepared for *Montes v. City of Yakima*, which challenged at-large voting for Yakima City Council Elections, Dr. Luis Fraga, an expert in the history of the Latinx community in Washington, outlined the history of racial tension in the Yakima Valley, which includes Sunnyside. Dr. Fraga concluded that: “[r]elations between [w]hites and Hispanics/Latinos in the City of Yakima and the Yakima Valley have a long history of being contentious and combative, and continue to be so today.”⁶⁶

Dr. Fraga details the history of Latinx migration to the Yakima Valley during World War II.⁶⁷ He details the white community’s anxiety about the

⁶⁵ RCW 29A.92.030(6).

⁶⁶ Exhibit 3, Luis Fraga, *Expert Report Submitted on Behalf of Plaintiffs in Montes v. City of Yakima* (February 22, 2023) at 5.

⁶⁷ Exhibit 3 at 5-13.

growth of the Latinx population and the intense pushback the Latinx community received when they asserted political rights.⁶⁸

This anxiety and discrimination, resulting from a desire to maintain old power structures, has continued in the recent decades. In the early 2000s, the Yakima Herald-Republic surveyed Yakima Valley residents about race relations in the area.⁶⁹ In that survey, 48 percent of Latinx people said that they had experienced racial discrimination.⁷⁰ When asked about the impact that immigrants had on Yakima County since 1986, 63 percent of non-Latinx respondents said that they had “caused problems.”⁷¹ Many respondents expressed sentiments such as: “The government has let [Mexicans] take over.”⁷² In his report, Dr. Fraga provides many examples like this, which led him to conclude that “[c]ombative and contentious race relations between Whites and Hispanics continue in the Yakima Valley and the City of Yakima[.]”⁷³

This racial tension has resulted in significant oppression that continues to the present. In a 2022 report prepared for *Soto Palmer v. Hobbs*, a case challenging the redistricting plan for Washington’s 15th Legislative District (which includes Sunnyside), Dr. Josué Estrada, an expert in the history of the Latinx community in Washington, found that experiences of Latinx people in the 15th District “have been marked by racial discrimination in the areas of politics, labor, education, and health care, among other areas.”⁷⁴ Latinx people in the Yakima Valley are far more likely to be illegally stopped and searched by police and are far more likely to become the victims of police violence.⁷⁵ Latinx students have historically faced discrimination in education, including segregation and a failure to consider or meet their educational needs.⁷⁶ Further, various historical factors have made housing a constant concern for the Latinx community in the Yakima Valley.⁷⁷ This shortage is especially acute among migrant farm workers, with the Washington State Human Rights Commission (WSHRC) noting in 2007 that the agency was “increasingly concerned about race and national origin discrimination against farmworkers in the area of housing.”⁷⁸

⁶⁸ *Id.*

⁶⁹ *Id.* at 10-14.

⁷⁰ *Id.* at 15.

⁷¹ *Id.* at 16.

⁷² *Id.* at 18.

⁷³ *Id.* at 21.

⁷⁴ Exhibit 4, Josué Estrada, Totality of the Circumstances Analysis Under Section 2 of the Voting Rights Act (July 27, 2022) at p. 7.

⁷⁵ *Id.* at 61.

⁷⁶ *Id.* at 48.

⁷⁷ *Id.* at 54.

⁷⁸ *Id.* at 53.

Both reports link this history of racial tension and oppression to drastic disparities in virtually every socio-economic category, including education, employment, and health.⁷⁹ Dr. Estrada concludes that “lingering effects of discrimination in the Yakima Valley ... are reflected in significant present-day disparities with regard to income, unemployment, poverty, education, housing, health, and criminal justice [involvement].”⁸⁰ All of this is compounded by other barriers in the community, such as lack of translation.⁸¹

Each report outlines the ways that these socio-economic factors have interfered with Latinx voters’ ability to meaningfully participate in the political process. Dr. Fraga explains that “[t]he relationship between lower socio-economic status and education and lower rates of participation in voting is a well-accepted conclusion in political science research.”⁸² Dr. Estrada similarly concluded that “[t]hese socioeconomic disparities bear directly on the ability of minorities to participate in the electoral process.”⁸³ These socio-economic disadvantages have been compounded by the fact that Latinx candidates ran but rarely won, further discouraging Latinx voters from participating in the political process.⁸⁴

The Federal District Court for the Eastern District of Washington has already determined that these factors establish a history of discrimination in the Yakima Valley. Relying on Dr. Estrada’s report and other evidence presented by the plaintiffs in *Soto Palmer v. Hobbs*, the Court found that “[t]here is ample evidence to support the conclusion that Latino voters in the Yakima Valley region faced official discrimination that impacted and continues to impact their rights to participate in the democratic process.”⁸⁵ Further, the Court found that “there is evidence that the unequal power structure between [w]hite land owners and Latino agricultural workers suppresses the Latino community’s participation in the electoral process out of a concern that they could jeopardize their jobs and, in some cases, their homes if they get involved in politics or vote against their employers’ wishes.”⁸⁶

2. Sunnyside residents’ experiences confirm that this racial discrimination occurred in Sunnyside as well.

Guadalupe Gamboa, a retired civil rights attorney, and current commissioner on the Washington State Human Rights Commission, grew

⁷⁹ Exhibit 3 at 43; Exhibit 4 at 7-8.

⁸⁰ Exhibit 4 at 7-8 and 46.

⁸¹ *Id.* at 43.

⁸² Exhibit 3 at 43, fn. 178.

⁸³ Exhibit 4 at 8.

⁸⁴ *Id.* at 5.

⁸⁵ 3:22-CV-05035-RSL, 2023 WL 5125390, at *7 (W.D. Wash. Aug. 10, 2023).

⁸⁶ *Id.* at 8.

up in Sunnyside as a child of farmworkers in the 50s and 60s. He moved from Texas to Washington when he was in first grade.⁸⁷ He links dire labor conditions to federal laws that explicitly excluded farm workers and domestic workers from protections such as minimum wage laws, unemployment laws, and child labor laws.⁸⁸ This had real impacts on his family. Because his parents' wages were not enough to meet his family's needs, two of his sisters had to drop out of school and work in the fields to support his family.⁸⁹ He experienced stratification and segregation in society, meaning his family did not have access to adequate housing, health care, or other basic needs.⁹⁰ Later in life, when he worked as an attorney to fix these issues, he faced arrest, slurs, and threats of violence from white farm owners wishing to maintain the status quo.⁹¹ This has persisted into the present. For example, Mr. Gamboa testified in front of the Washington State Legislature that during the pandemic, because farm workers experienced poor working conditions, a lack of healthcare, and no COVID protections, the Latinx community got sick and died at far higher rates than white people in Yakima County.⁹² Yakima County had the highest COVID rate per capita of any county on the West Coast.⁹³

Vicky Frausto, a Sunnyside City Council member who won her seat in 2023, described similar issues. Her parents came to the United States in the mid-1980s to work as farm laborers.⁹⁴ Consistent with the reports of both Dr. Estrada and Dr. Fraga, she explained that her parents faced harassment, employers who refused to pay them, and abysmal working conditions.⁹⁵ The community felt very divided to Vicky when she was growing up.⁹⁶ The white community largely kept to themselves and refused to engage with the Latinx community, mostly avoiding Latinx cultural celebrations such as Cinco de Mayo.⁹⁷ Vicky heard many white residents stereotype these celebrations as involving gangs and violence.⁹⁸

Vicky faced similar issues in school. As a child in Sunnyside School District schools, Vicky had to translate for her parents at parent-teacher conferences because no Spanish translation was provided.⁹⁹ Vicky's mom frequently wondered if she was supposed to be at the meetings because the teachers

⁸⁷ Exhibit 5, Declaration of Guadalupe Gamboa at 2.

⁸⁸ *Id.* at 3.

⁸⁹ *Id.*

⁹⁰ *Id.* at 2.

⁹¹ *Id.* at 4.

⁹² *Id.* at 5; Exhibit 5 at Exhibit 3 to Guadalupe Gamboa Declaration.

⁹³ *Id.*

⁹⁴ Exhibit 6, Declaration of Vicky Frausto at 1.

⁹⁵ *Id.* at 2.

⁹⁶ *Id.* at 2-3.

⁹⁷ *Id.* at 2.

⁹⁸ *Id.*

⁹⁹ *Id.* at 3.

made her feel so unwelcome.¹⁰⁰ Vicky had primarily white teachers, who themselves showed racial animus.¹⁰¹ Vicky was an outgoing student, who sometimes received the ire of teachers for being too social at the wrong time.¹⁰² Vicky remembers one instance where a white teacher, who was mad at her for being disruptive in class, told her that she would just become a statistic, get pregnant, and drop out like other Latinas.¹⁰³

Chelsea Dimas, a former Sunnyside City Council candidate and current candidate for State Representative, described a similarly divided community.¹⁰⁴ Her parents were regularly referred to as “illegals” or “aliens.”¹⁰⁵ Her parents faced horrible and discriminatory working conditions.¹⁰⁶ When they protested or otherwise stood up for themselves, white people attempted to intimidate them by bringing up their non-citizen status.¹⁰⁷ The City of Sunnyside and Sunnyside School District schools lacked translation services, so Chelsea had to interpret for her parents from a young age at parent-teacher conferences or when her parents tried to engage with city services, such as paying electric bills.¹⁰⁸ Additionally, her family faced significant housing instability, mirroring the housing issues described by Dr. Estrada.¹⁰⁹ This further discouraged political participation since many of the establishment candidates in Sunnyside ran affordable housing.¹¹⁰ As Dr. Fraga noted, this made retaliation in already scarce housing stock a tangible possibility if a member of the Latinx community participated in local politics.¹¹¹

In school, Chelsea described harassment and physical assaults because she is a queer Latina.¹¹² She repeatedly brought these issues to the attention of Sunnyside School administrators but was largely ignored.¹¹³

In short, virtually every form of discrimination outlined in the historical record and in recent successful voting rights cases in the Yakima Valley occurred in Sunnyside, significantly reducing the ability of the Latinx community to participate in the political and electoral system. We have retained a historical expert who will write an updated report specifically

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Exhibit 7, declaration of Chelsea Dimas, at 2.

¹⁰⁵ *Id.* at 2.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.* at 4.

¹¹³ *Id.*

outlining the history of race relations in Sunnyside if a Complaint is filed in this case.

F. History of Discrimination in Voting

The history of discrimination in voting is an important factor in determining whether an election system violates the WVRA.¹¹⁴ Sunnyside has a long history of racial discrimination in voting.

1. Expert reports and court orders show long standing discrimination in voting in the Yakima Valley.

In his report for *Soto-Palmer v. Hobbs*, Dr. Estrada found that “Latinos in Washington, especially in the Yakima Valley . . . area[], have been and continue to be burdened by a long history of official racial discrimination in voting.”¹¹⁵ “Washington State and the political subdivisions in the Yakima Valley ... areas have historically used voting practices and procedures, including off-year elections, signature matching, at-large elections, and English literacy tests, that tend to enhance the opportunity for discrimination against Latinos.”¹¹⁶

The saga of literacy tests in the Yakima Valley is indicative of the history of discrimination in voting in the area. Sunnyside administered literacy tests throughout the 50s and 60s.¹¹⁷ Even after the Yakima County Auditor, Eugene Naff, became aware of the Federal Voting Rights Act (FVRA), which required Yakima County to stop using literacy tests, Naff persisted in using them, stating “I still don’t see, however, how anyone who can’t read English can figure out how to vote on a ballot...I believe it is privilege to register to vote.”¹¹⁸ He persisted in using literacy tests even after the Washington Attorney General ordered Yakima County to stop in the 1970s.¹¹⁹ The Mexican-American Federation sued and initially lost in the Eastern District of Washington, allowing literacy tests to remain in place.¹²⁰ It was not until the United States Supreme Court vacated this decision and remanded the case in 1971¹²¹ that the use of literacy test in the Yakima Valley ended.

Similarly, in 1976, pursuant to Section 203 of the Federal Voting Rights Act (FVRA), Yakima County, which encompasses Sunnyside, was

¹¹⁴ RCW 29A.92.030(6).

¹¹⁵ Exhibit 4 at 7.

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 24.

¹¹⁸ *Id.* at 29-30.

¹¹⁹ *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1409 (E.D. Wash. 2014).

¹²⁰ *Mexican-Am. Fed'n-Washington State v. Naff*, 299 F. Supp. 587 (E.D. Wash. 1969), vacated sub nom. *Jimenez v. Naff*, 400 U.S. 986, 91 S. Ct. 448, 27 L. Ed. 2d 434 (1971).

¹²¹ *Jimenez v. Naff*, 400 U.S. 986, 91 S. Ct. 448, 27 L. Ed. 2d 434 (1971).

designated as an election system that had a Latinx population sufficient to require translation of election materials.¹²² After a short stint of initial compliance with its obligation to provide Spanish language election materials, Yakima County stopped providing any materials in Spanish and did not even attempt to comply with its Section 203 obligations until 2002, when the Department of Justice sent them a letter indicating that their failure to translate voting materials violated the Voting Rights Act.¹²³ At that point, Yakima County partially complied but “hostility to bilingual election workers and Spanish-speaking voters continue[d] to be an issue in Yakima County,” so the Department of Justice sued Yakima County to ensure that Latinx voters were provided a meaningful opportunity to vote with Spanish language election materials.¹²⁴

These are two of the many voting rights violations in or around Sunnyside. In 2014, the Federal District Court for the Eastern District of Washington found the at-large election system for the City Council of Yakima, the largest city near Sunnyside, violated the FVRA because it diluted Latinx votes.¹²⁵ In 2017, the City of Pasco, which is roughly 50 miles from Sunnyside in the opposite direction from Yakima, was found in violation of the FVRA because its electoral system diluted Latinx votes.¹²⁶ In 2020, Franklin County, where Pasco is located, was found to be in violation of the Washington Voting Rights Act (WVRA) because its at-large election system diluted the Latinx vote.¹²⁷

In *Soto Palmer v. Hobbs*, the Western District of Washington used this evidence, plus additional testimony at trial, to find the 15th Legislative District, which includes Sunnyside, had a history of discrimination against Latinx community members in voting. The Court relied on this evidence to find that the boundaries of the 15th Legislative District diluted Latinx votes and required the state to redraw the boundaries of the 15th Legislative District.¹²⁸

2. Voters in the Sunnyside School District experience several other voting methods that prevent participation by Latinx voters.

¹²² *United States of America v. Yakima County, Corky Mattingly, Yakima County Auditor, et al.*, CV-04-3072-LRS, Eastern District of Washington, Yakima Division, 2004.

¹²³ Exhibit 4 at 41.

¹²⁴ *Id.*

¹²⁵ *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1409 (E.D. Wash. 2014).

¹²⁶ *Glatt v. City of Pasco*, Case 4:16-CV-05108-LRS, *Memorandum Opinion and Order* (January 27, 2017), <https://www.pasco-wa.gov/DocumentCenter/View/58084/Glatt-v-Pasco---Order---January-27-2017>.

¹²⁷ *Portugal v. Franklin County*, 1 Wn.3d 629, 634, 530 P.3d 994 (2023).

¹²⁸ Washington State Legislature, *District Finder: State District 15*, (last visited February 28, 2024), <https://app.leg.wa.gov/districtfinder/displaydistrict/15>.

The Sunnyside School District uses voting methods which are known to suppress Latinx voter turnout. Sunnyside School District employs an at-large voting scheme.¹²⁹ At-large voting schemes are well known to cause vote dilution.¹³⁰ While at-large elections are required by statute for School Districts like Sunnyside, the WVRA explicitly amends these statutes to avoid voting rights violations.¹³¹ The Wenatchee School District recently used this provision to change its voting system from at-large to district-based because it believed their voting system diluted Latinx votes.¹³²

These violations have real world impacts on voters in Sunnyside. When asked about a 2014 ballot initiative, Vicky Frausto explained that her parents had trouble following the importance of levies because little information was provided, and none was provided in Spanish.¹³³ This confusion led many people to fear voting, lest they make a mistake and face legal consequences for themselves or non-citizen family members.¹³⁴ This all made them less likely to participate in elections and voting.

Latinx voters are subject to at least two other voting practices that interfere with a meaningful opportunity to elect candidates. The Sunnyside School District holds their elections in odd numbered years so they do not coincide with presidential or congressional elections, often called off-year elections.¹³⁵ Off-year elections are known to reduce voter turnout, especially voter turnout among historically oppressed groups.¹³⁶ Additionally, the Yakima County Auditor, which processes votes for Sunnyside, rejects the signatures of Latinx voters at a rate that is 7.5 times the rate of white voters.¹³⁷ In many elections in Sunnyside, that rate of signature rejections could change the results of the election. Yakima County recently agreed to changes in their signature matching protocols because of this disparity.¹³⁸

Further, the election system for the City Council, which shares the bulk of its precincts with the School District, has been repeatedly called into question. In 2005, a student at Whitman College conducted a research

¹²⁹ Sunnyside School District, *Policies: Board of Directors: 1110: Elections*, (December 20, 2012) <https://go.boarddocs.com/wa/wassd/Board.nsf/Public#>.

¹³⁰ *Portugal v. Franklin Cnty.*, 530 P.3d 994, 1001 (Wash. 2023)(At-large elections may minimize or cancel out the voting strength of racial minorities because the majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.).

¹³¹ RCW 29A.92.010.

¹³² Wenatchee School District, *District-Based School Board Elections* (April 12, 2022) available at <https://www.wenatcheeschools.org/board/district-based-school-board-elections>.

¹³³ Exhibit 6 at 2.

¹³⁴ Exhibit 7 at 3.

¹³⁵ Exhibit 4 at 44; Exhibit 2B.

¹³⁶ Exhibit 4 at 44.

¹³⁷ *Id.* at 45.

¹³⁸ *Reyes v Chilton*, 4:21-cv-05075 (E.D. Wash. 2021), EFC. No. 200.

project outlining racially polarized voting in the City of Sunnyside.¹³⁹ He found that Sunnyside City Council elections exhibited racially polarized voting.¹⁴⁰ The voters in Sunnyside make up most voters in School Board elections. The report garnered local media coverage and the Department of Justice took notice and launched an investigation in 2008, which resulted in the City of Sunnyside being divided into four districts for City Council elections with three districts remaining at-large.¹⁴¹ Despite the division, all voting remained at-large in the general election.¹⁴²

In 2016, Francisco Guerrero, the only Latinx councilperson elected since between 2007 and 2023, suggested that the City change its at-large election method to by-district, stating that “[t]here is a small segment of voters determining how city government is operated.”¹⁴³ Other councilmembers did not argue with this conclusion but simply stated, “I don’t see a need to change the current election process.”¹⁴⁴ These concerns apply equally to the School District since the School District shares the majority of its precincts and a voting system with the City Council. Being in the same jurisdiction, the Sunnyside School District should have been aware of these issues. In 2018, the WVRA made it simple for the School District to change their voting system. Yet, they have taken no action.

The dogged maintenance of at-large elections in the Yakima Valley mean that, despite a huge increase in the Latinx population in the Yakima Valley, there has been little electoral success. As outlined above, from 2011 to 2021, eight out of nine Latinx candidates that ran for City Council against white candidates in Sunnyside lost. In 2023, two Latinx candidates ran for School Board against two white candidates and both Latinx candidates lost. “Currently in the state of Washington, there are five legislators with Spanish surnames, only 2 more than in 2012 and only two Latinos have ever been elected to state public offices from the Central Washington region including the Yakima Valley...”¹⁴⁵

G. Racial Appeals in Elections

The use of subtle or racial appeals during elections is an important factor in determining whether an election system violates the WVRA.¹⁴⁶ Elections in the Yakima Valley generally, and Sunnyside’s elections specifically, have been plagued by the use of racial appeals in elections.

¹³⁹ Exhibit 8, Declaration of Evangelina Aguilar at 5.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 6.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 69.

¹⁴⁶ RCW 29A.92.030(6).

1. Expert reports show the prevalent use of racial appeals in elections in the Yakima Valley.

In his report for *Soto-Palmer v. Hobbs*, Dr. Estrada found that “Political campaigns in the Yakima Valley . . . areas have been marked by direct and indirect racial appeals.”¹⁴⁷ Campaigns have used “racist terms like ‘illegals’ and spread[] the disproven allegation that there is widespread voting by non-citizens in American elections.”¹⁴⁸ Doing this “denies Latino voters the presumed legitimacy other citizens enjoy, creates an unwelcoming climate, and discredits their participation in electoral politics.”¹⁴⁹ These issues affect Sunnyside elections since Sunnyside is in the 15th District but similar issues have also plagued local Sunnyside politics.

2. The use of racial appeals plague Sunnyside elections and politics.

In 2023, Empowering Latina Leaders and Action (ELLA), a community organization based in the Yakima Valley, helped organize Latinx candidates. ELLA focused on Sunnyside School District and Sunnyside City Council because of the lack of representation of the Latinx community on both bodies. Six ELLA candidates ran in the 2023 election, three for council and three for the school board.

The ELLA candidates were met with virulent opposition. The group has been consistently stereotyped as gang members, compared to drug cartels, and said to be using “third world” campaign tactics, apparently because they are Latinx. When allegations came out that ELLA suggested that a non-ELLA candidate not run for a seat in upcoming School Board elections, residents posting on online forums responded that this was “gangster cartel [poop emoji].”¹⁵⁰ Another online commenter described them as the “ELLA Gang” while complaining about negative campaigning.¹⁵¹ During a dispute over a political sign, a group associated with a different slate of candidates described an ELLA candidates’ actions as “[a]n example of a Third World demonstration and disrespect for The American Way.”¹⁵²

In this vein, the brother of one of the School Board candidates opposing an ELLA candidate wrote an op-ed in the Sunnyside Sun raising concerns about “outside influence” in the election.¹⁵³ The op-ed suggested that the community reject outside influences in favor of their “traditional values:”

¹⁴⁷ Exhibit 4 at 8.

¹⁴⁸ *Id.* at 66.

¹⁴⁹ *Id.*

¹⁵⁰ Exhibit 6 at 6.

¹⁵¹ *Id.* at 5.

¹⁵² *Id.* at 6.

¹⁵³ *Id.* at 5.

Our duty as engaged citizens is to ensure that our local elections are not swayed by external forces but remain true to the genuine aspirations of our community. In doing so, we can continue to nurture and protect the values that define our cherished town.¹⁵⁴

When the post was shared on social media, ELLA defended its role in the election. In response a community member commented: “Your agenda is clear. Mexican/Latino/Hispanic take over.”¹⁵⁵

These racialized attacks are not limited to the 2023 election. Chelsea Dimas ran for City Council in 2021 and dealt with several similar attacks with people telling her to “go back to her country.”¹⁵⁶ She was repeatedly called un-American because she shopped at a Mexican grocery store.¹⁵⁷

Even more troubling, candidates have received threats during elections and while participating in the political process. Evangelina (Bengie) Aguilar was repeatedly threatened while on City Council.¹⁵⁸ Chelsea Dimas was threatened and apparently followed while campaigning.¹⁵⁹ These are not isolated incidents in the Yakima Valley. The court in *Soto Palmer v. Hobbs* found that:

Plaintiff Soto Palmer testified to experiencing blatant and explicit racial animosity while campaigning for a Latino candidate in LD 15. Her testimony suggests not only the existence of white voter antipathy toward Latino candidates, but also that Latino candidates may be at a disadvantage in their efforts to participate in the political process if, as Ms. Soto Palmer did, they fear to campaign in areas that are predominately white because of safety concerns.¹⁶⁰

Chelsea Dimas expressed an identical sentiment when she said that “[a]ny time a Latinx candidate runs for office in the Sunnyside area, they must consider the possibility of retaliation and attacks on their personal safety.”¹⁶¹

Some people engaged in local politics make openly racist statements but still receive support from community members and other candidates. A persistent force in local politics, despite his openly racist rhetoric, is Jason

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Exhibit 7 at 5.

¹⁵⁷ *Id.*

¹⁵⁸ Exhibit 8 at 6.

¹⁵⁹ Exhibit 7 at 5.

¹⁶⁰ *Soto Palmer v. Hobbs*, 3:22-CV-05035-RSL, 2023 WL 5125390, at *9.

¹⁶¹ Exhibit 7 at 7.

Raines.¹⁶² In 2011, he posted a “joke” on his blog about killing a “Mexican” and an “Arab” because there were too many “illegal aliens” in the U.S.¹⁶³ In 2014, while on the City Council, Raines made fun of the Black victim of a police involved shooting.¹⁶⁴ When confronted by a reporter, he responded that his “joke” was in response to an inaccurate news report and said: “Otherwise, I don’t want to respond to an opinion column by a doctoral candidate in hip-hop studies posting at Al Jazeera.”¹⁶⁵

Many Sunnyside voters and candidates still supported Jason Raines. In 2011, only 18 months after the blog post about killing Mexicans, Raines was endorsed by the Sunnyside Police Department.¹⁶⁶ He then defeated Latinx candidate, Pablo Garcia, in the general election for a City Council seat.¹⁶⁷ Many Sunnyside residents displayed yard signs supporting him in his two elections since these comments.¹⁶⁸ In 2023, three candidates ran as a slate with him against the ELLA slate.¹⁶⁹ His slate of candidates sent out flyers maligning the ELLA candidates.¹⁷⁰ One such flyer suggested that the ELLA slate of candidates was funded by “dark money” with a plan to “take over” the City.¹⁷¹ He still received 550 votes out of roughly 1,600 votes in that election.

It is in this context that mostly white candidates have been elected to School Board and City Council.

H. Lack of Responsiveness by Elected Officials

Lack of responsiveness by elected officials can be further evidence of a voting rights violation and may also create significant disillusionment with the political process.¹⁷² Elected officials in the Yakima Valley generally, and Sunnyside’s elections specifically, have largely ignored the needs of the Latinx community.

Because of the lack of political representation for Latinx people in the Yakima Valley, politicians often do not take the Latinx community into account when deciding on policy. This is evident when examining votes by the legislator from the 15th Legislative District, Jim Honeyford. A

¹⁶² Exhibit 6 at 4-5.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 5.

¹⁶⁵ Exhibit 6 at 5.

¹⁶⁶ Exhibit 8 at 6.

¹⁶⁷ Exhibit 6 at 5.

¹⁶⁸ Exhibit 7 at 6.

¹⁶⁹ Exhibit 6 at 4.

¹⁷⁰ *Id.* at 4.

¹⁷¹ *Id.*

¹⁷² *Thornburg v. Gingles*, 478 U.S. 30, 36-37, 106 S. Ct. 2752, 2765, 92 L. Ed. 2d 25 (1986).

community organization called the Latino Civic Alliance put on a Latino Legislative Day in 2022 and created a list of bills that were priorities for leaders in the Latinx community.¹⁷³ Jim Honeyford voted against every Latinx priority bill.¹⁷⁴ He even voted against purely symbolic bills, such as the creation of a Cesar Chavez day, which carried no financial burden on the state.¹⁷⁵

This dynamic extends to politics in Sunnyside as well. Bengie Aguilar heard a Sunnyside City Council member say that since the Latinx population does not participate in politics, they had no value to him.¹⁷⁶ During her time in City Council, other Council members were dismissive when she made proposals that would help the Latinx community, such as creating affordable housing and creating a Spanish language newsletter.¹⁷⁷ The City Council even tried to shut down Latinx businesses because they found them ugly.¹⁷⁸

The Sunnyside School Board has been equally unresponsive to the Latinx community. Community members have brought forward a broad range of concerns to the Board, including “nepotism, racism in the schools, failure to apply policies, inequitable distribution of resources with regards to programming, lack of translation, retaliation, and inequitable discipline.”¹⁷⁹ A Latinx teacher in the School District, Sandra Benitez, noted that Latinx candidates are regularly passed over for white candidates in hiring in the schools.¹⁸⁰ OSPI data shows that discipline for Latinx students in Sunnyside is disproportionate to other school districts in the area with similar demographics, raising concerns about implicit bias playing a role in school discipline.¹⁸¹ These problems have become so severe that parents have organized protests for transparency and accountability.¹⁸²

A particularly frustrating instance of the Sunnyside School Board’s unresponsiveness to the Latinx community was when the most recent Superintendent was hired. Sandra Linde, a Sunnyside School Board member at the time, told Bengie Aguilar that she understood, given the make-up of the School District, that hiring a Latinx superintendent should be a priority.¹⁸³ Other community members made their concerns about representation in the School District clear when asking for a Latinx

¹⁷³ Exhibit 4 at 72.

¹⁷⁴ Exhibit 4 at 74-75.

¹⁷⁵ Exhibit 8 at 2.

¹⁷⁶ Exhibit 8 at 4.

¹⁷⁷ *Id.* at 4-5.

¹⁷⁸ *Id.* at 4.

¹⁷⁹ Exhibit 6 at 6.

¹⁸⁰ Exhibit 11, Declaration of Sandra Benitez at 3.

¹⁸¹ Exhibit 9, Declaration of Lindsey Keesling at 2-3.

¹⁸² *Id.* at 6-7.

¹⁸³ Exhibit 8 at 9.

Superintendent.¹⁸⁴ There were two qualified Latinx candidates that held the appropriate certification.¹⁸⁵ Each had years of experience as superintendents and one was from Sunnyside.¹⁸⁶ However, these candidates were passed over for Ryan Maxwell, a white candidate, whose sister and wife work in the school district.¹⁸⁷ He had just received his superintendent's certification.¹⁸⁸ During a meeting to talk about the community's concerns about the hiring of Mr. Maxwell as superintendent, the Board was dismissive of the Latinx parents' concerns about the School District's decision to hire a white person who was less qualified than the two Latinx candidates.¹⁸⁹

This lack of representation in the school results in a failure to address issues facing the Latinx community. Raquel Lopez, a migrant nurse in the School District faced comments from school administrators such as "Why do we need a migrant nurse when we already have a nurse? Those migrant kids already get everything for free."¹⁹⁰ Administrators were also resistant to an event meant to address the mental health of migrant kids because it was not important enough for the migrant students to miss class.¹⁹¹

Parents have also struggled with the administration. Raquel Lopez had an extremely troubling experience when her son and his friend (both highschoolers) were attacked at Sunnyside High School.¹⁹² The school did not call her, an ambulance, or police, despite her son experiencing significant medical issues after the assault.¹⁹³ She found out through a text message from her other son, but was not called by the administrators from the school.¹⁹⁴ Several of the assailants had parents in school administration and, when she arrived, these parents were already there with their children, but school administrators had not allowed her son to call her.¹⁹⁵ When the School Resource Officer finally talked to her, he discouraged her from pursuing criminal charges.¹⁹⁶ This situation raised many concerns for Raquel but when she "talked to the administrators, Superintendent, Ryan Maxwell, and the School Board about these issues, the lack of security, and inequitable discipline[,] [e]ach were dismissive of [her] concerns."¹⁹⁷ Sandra Benitez, the mother of Raquel's son's friend, who also works in the

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ Exhibit 7 at 4-5.

¹⁹⁰ Exhibit 10 at 3.

¹⁹¹ *Id.*

¹⁹² Exhibit 10 at 3.

¹⁹³ *Id.* at 4.

¹⁹⁴ *Id.* at 4.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* at 5.

District, faced identical issues and received an identical response when she raised concerns.¹⁹⁸

I. Conclusion

The clear presence of racially polarized voting, election practices that discriminate against Latinx voters, and a long history of discrimination that discourages these voters from participating, prevent Latinx voters from having a fair opportunity to elect candidates of their choice. This is the very essence of a voting rights violation.

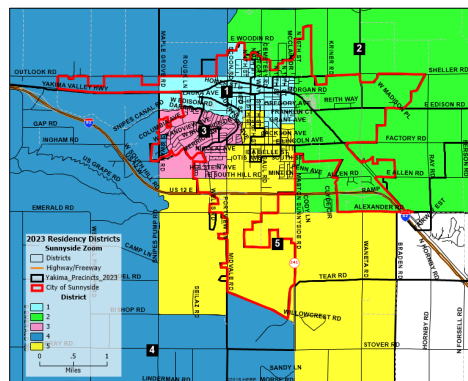
This evidence is similar if not more compelling than the evidence presented in *Montes v. City of Yakima*, where the court granted summary judgment for the plaintiffs. As articulated above, the Sunnyside School District elections show even more racially polarized voting than Yakima City Council elections. Since that case resolved, there have been several more founded voting rights violations effecting the voters of Sunnyside. The same historical record that convinced the court in *Montes* has only become more fleshed out with subsequent voting rights cases and the declarations of Sunnyside residents.

In short, we believe that a court would likely grant summary judgment on the facts present here, were the case to proceed to litigation.

III. Remedy

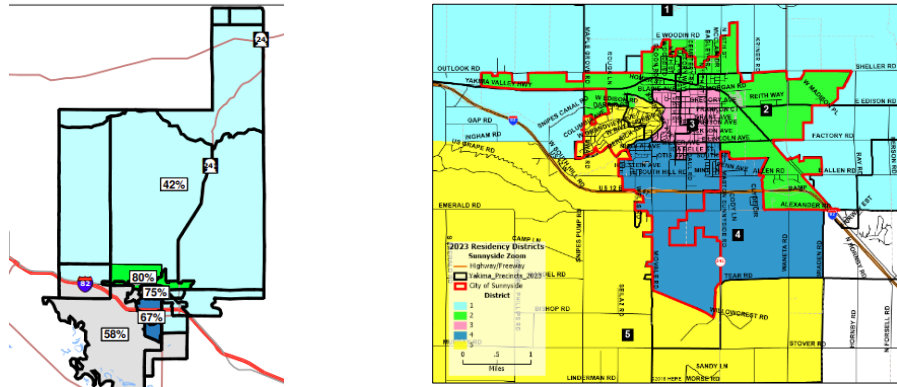
First and foremost, because Sunnyside School District’s at-large election system dilutes the votes of Latinx people in violation of the WVRA, the School District must immediately switch to a district-based voting for elections.

Second, the School District electoral lines must be redrawn to avoid dilution of Latinx votes. Currently, the City of Sunnyside, which is more heavily Latinx than the surrounding area, entirely encompasses Districts 1 and 3:



¹⁹⁸ Exhibit 11 at 2.

Parts of the City are then split into each of the other three districts, effectively diluting the Latinx population into three majority white districts. Bill Cooper, a veteran voting rights demographic expert, who was hired by the Wenatchee City Council to redraw their districts, has proposed an alternative map that cures this issue:



The details of these maps are outlined in his report.¹⁹⁹ To avoid litigation, we ask that the School District adopt this map as a remedy to the voting violation. We believe the districts in this map are consistent with RCW 29A.92.050.

Conclusion

We intend to challenge the election system used to elect the Sunnyside School Board. The School District has 90-days to have a remedy approved by the Yakima County Superior Court or we will file suit.

Thank you,

s/La Rond Baker

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¹⁹⁹ Exhibit 1 at 16.

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