



SETTLEMENT OF FEDERAL VOTING RIGHTS LAWSUIT CHALLENGING CITY OF LOWELL'S ELECTORAL SYSTEM

Frequently Asked Questions

What Is This Case About?

In May 2017, a diverse coalition of residents from Lowell's Asian-American and Hispanic/Latino communities filed a federal voting rights lawsuit, challenging Lowell's "at-large" electoral system for electing its 9-member City Council and its 6-member School Committee. The lawsuit alleged that the at-large system impermissibly dilutes the vote of Lowell's communities of color. Although communities of color account for approximately 49 percent of Lowell's population, the City's elected bodies have had virtually no minority representation throughout all of Lowell's history.

The Plaintiffs are represented by Lawyers for Civil Rights and by the law firm of Ropes & Gray, on a *pro bono* basis. The case is *Huot et al. v. City of Lowell et al.*, 17-cv-10895 (D. Mass. 2017).

What Happened In The Case?

The case was originally filed in the federal District Court in Massachusetts in May 2017.

In October 2017, a federal judge ruled that the case could go forward, rejecting the City's claim that Hispanic/Latino and Asian-American plaintiffs could not join together to bring a coalition claim against the City. The case proceeded to "discovery," the process by which both sides can request and receive documents and testimony from the other side relevant to the claims in the case.

Beginning in December 2018, the parties entered into mediation, presided over by a federal mediator. Approximately a dozen confidential mediation sessions were held over the ensuing 5 months.

On May 29, 2019, the Plaintiffs and Defendants announced they had reached a settlement in the form of a Consent Decree. The parties filed a motion, jointly asking the federal District Court to approve the Consent Decree. The Court must approve the Consent Decree for it to take effect.

What Will The City Have To Do Under The Consent Decree, If It Is Approved?

The Consent Decree will require the City to change its electoral system starting with the 2021 municipal elections. The Consent Decree outlines six possible alternative electoral systems that the City may adopt, all of which the parties agree are compliant with the federal Voting Rights Act. The City must choose one of the agreed-upon alternatives.

The City will review and analyze the agreed-upon options over the coming months through a public process that will allow community input and will be accompanied by a public education campaign conducted in multiple languages.

The City Council may then narrow the options to two finalists and place those options on the ballot as non-binding initiatives in November 2019. If the City Council decides to put the matter on the ballot, following the November 2019 election, the City Council will decide which of the two finalist systems the City will adopt.

Alternatively, the City Council may decide to forego placing the matter on the ballot and proceed directly to selecting the new system. In that case, the City Council will select the new system by October 1, 2019.

Regardless of how the new system is chosen, a multi-lingual public education campaign will be conducted to educate voters about the new system.

What Are The Possible Alternative Electoral Systems That The City Can Choose From?

The Consent Decree requires the City to adopt one of the following alternative electoral systems. Under each system, the number of City Councilors (nine) and School Committee members (six) would remain the same unless otherwise noted below.

- **Single Member District System** – Under this system, the City would be divided into nine districts, and each district would elect one of the nine members of the City Council. At least two of the districts would be drawn to be “majority-minority” (defined as a district where Asian-Americans and Hispanics/Latinos comprise a majority of the citizen voting age population). For School Committee elections, the nine districts would be combined to create three larger districts; each of the three combined districts would then elect two of the six School Committee members. At least one of the combined School Committee districts would be majority-minority.
- **Hybrid 8-1 System** – Under this system, there would be eight districts, each of which would elect one of the nine members of the City Council. At least two of the districts would be majority-minority. One City Councilor would be elected at-large. For School Committee elections, there would be four districts, each of which would elect one of the six School Committee members. At least one of these districts would be majority-minority. Two School Committee members would be elected at large.

- **Hybrid 8-3 System** – This system would be the same as the Hybrid 8-1 System, except that the City Council would expand to eleven total members, and three City Councilors would be elected at-large.
- **Hybrid 7-2 System** – Under this system, there would be seven districts, each of which would elect one member of the nine-member City Council. At least two of the districts would be majority-minority. Two City Councilors would be elected at-large. For School Committee, the total number of School Committee members would expand to seven, and one School Committee member would be elected from each of the seven districts.
- **Ranked Choice Voting** – Under this system, all candidates for both City Council and School Committee would be elected at-large (city-wide); however, voters would rank candidates for City Council and School Committee in order of preference (*e.g.*, 1, 2, 3, 4, etc.). Votes would be counted as in other ranked-choice voting jurisdictions such as Cambridge, MA and Minneapolis, MN.
- **Three-District Ranked Choice Voting** – Under this system, three districts would be created, and voters in each district would elect three candidates for City Council and two candidates for School Committee, by ranked choice voting.

Will The City Still Have Preliminary/Primary Elections?

For either of the Ranked Choice Voting options, the City would have the option of eliminating Preliminary Elections. Ranked choice voting is sometimes referred to as “single transferrable vote” or “instant runoff,” which eliminates the need for Preliminary Elections by allowing voters to cast alternative votes for multiple candidates on a single ballot.

For the remaining options, the City would maintain the current Preliminary Election rule (which mandates a Preliminary Election if the number of candidates exceeds twice the number of seats up for election), at least through 2023. After that point, the City could change the Preliminary Election rule, provided that any such change did not diminish the voting opportunities of Hispanic/Latino and Asian-American voters.

How Would District Lines Be Drawn If A District-Based System Is Selected?

If any of the district-based systems is ultimately selected, the City will hire an independent expert, who will decide where district lines should be drawn. The expert must be acceptable to both Plaintiffs and Defendants. Plaintiffs will be provided with all data, analysis, and proposed district maps prepared by the expert and will be able to meet with and provide feedback to the expert during the line-drawing process.

What If The City Does Not Follow The Agreement?

The Consent Decree provides that the Court will maintain ongoing jurisdiction over the case, with the power to order compliance.

What Is The Timeline For Implementation?

- Joint Motion filed in Court – May 29, 2019.
- Joint Motion Acted Upon By Court (*e.g.*, Consent Decree approved) – date to be determined by Court.
- Review Period For City To Study And Analyze The Agreed-Upon Electoral System Alternatives – a period of months, beginning when Consent Decree approved.
- Multilingual Public Education Campaign About The Agreed-Upon Electoral System Alternatives – concurrent with Review Period.

Ballot Initiative

OR

No Ballot Initiative

Date By Which City Council Selects Two Alternatives To Place On November 2019 Ballot, If It Chooses To Place Options On The Ballot – September 2, 2019.

Date By Which City Council Selects New System, If It Decides To Forego Placing Matter On The Ballot – October 1, 2019.

Two Finalist Systems On Ballot (Non-Binding) – November 5, 2019.

City Council Submits Home Rule Petition To Legislature To Implement New Electoral System – by October 16, 2019.

City Council Selects New System To Be Implemented In 2021 – by December 3, 2019.

City Council Submits Home Rule Petition To Legislature To Implement New Electoral System – by December 18, 2019.

- Independent Expert Retained (If District-Based System Selected), And Preliminary District Lines Drawn – late 2019-early 2020.

- Final District Boundaries Drawn (If District-Based System Selected), Based On 2020 Census Data (If Available) – early 2021.
- Multilingual Public Education Campaign About New System – 2020-2021.
- First Elections Under New Electoral System – November 2021.

Where Can I Find More Information About The Case?

Background materials on the case and legal documents, including the proposed Consent Decree, can be found on the Lawyers for Civil Rights website at www.lawyersforcivilrights.org (enter “Lowell” into search bar).