

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS**

SURESH KUMAR,

Plaintiff,

v.

FRISCO INDEPENDENT SCHOOL DISTRICT,  
and RENE ARCHAMBAULT, JOHN CLASSE,  
DEBBIE GILLESPIE, ANNE MCCAUSLAND,  
STEVEN NOSKIN, and CHAD RUDY, in their  
official capacities

Defendants.

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CIVIL ACTION NO. 4:19-CV-00284

**DEFENDANTS' ORIGINAL ANSWER**

Defendants Frisco Independent School District (“FISD”), and Rene Archambault, John Classe, Debbie Gillespie, Anne McCausland, Steven Noskin and Chad Rudy, in their official capacities, (collectively, “Defendants”), file the following original answer to Complaint For Declaratory and Permanent Injunctive Relief Concerning Violations of Section 2 of the Voting Rights Act (the “Complaint”) [Dkt. 1]:

**I.**

**Preliminary Statement**

1. Defendants admit the allegations in the first sentence of paragraph 1 of the Complaint, but deny the remaining allegations in paragraph 1 of the Complaint.

2. Defendants admit that FISD has an at-large system for electing its seven member board of trustees, but deny the remaining allegations in paragraph 2 of the Complaint.

3. Defendants do not know what Plaintiff means by “students of color” as alleged in the first sentence of paragraph 3 of the Complaint, but admit that “FISD is racially and ethnically diverse” and that white students comprised 41.49% of the total student body as of mid-January 2019. Defendants admit the allegations in the second sentence of paragraph 3 of the Complaint.

Defendants admit the allegations in the third sentence of paragraph 3 of the Complaint, but affirmatively state that FISD's current system is set to meet the needs of all students on all campuses regardless of race, socioeconomic status and location. Defendants deny the allegations in the fourth sentence of paragraph 3 of the Complaint. Defendants admit, as of the date of this Answer, that currently all six trustees are white, that five of the six trustees reside west of Preston Road, and that four of the six trustees reside west of the Dallas North Tollway as alleged in the fifth sentence of paragraph 3 of the Complaint; however, Defendants affirmatively state that as a result of the recent May 2019 FISD school board election, beginning June 10, 2019, four of the seven board members will live east of the Dallas North Tollway and one board member will be non-white (Indian). Defendants admit the allegations in the sixth sentence of paragraph 3 of the Complaint, but affirmatively state that as a result of the recent May 2019 FISD school board election, on June 10, 2019, FISD will have an Indian board member. Defendants admit the allegations in the seventh sentence of paragraph 3 of the Complaint, but affirmatively state (1) the Indian candidate defeated the white candidate for the Place 1 trustee position in the recent May 2019 FISD school board election, and (2) in the May 2016 election the two minority candidates for the Place 2 trustee position received a total of 61% of the overall vote, while the winning white candidate only received 39% of the overall vote. Defendants deny the allegations in the eighth sentence of paragraph 3 of the Complaint.

4. Defendants admit that Plaintiff has asserted violations of the Voting Rights Act of 1965, 52 U.S.C. § 10301 and the Fourteenth and Fifteenth Amendments of the United States Constitution and seeks judicial relief as alleged in paragraph 4 of the Complaint, but deny that the

Voting Rights Act or United States Constitution have been violated or that Plaintiff is entitled to the relief sought. Defendants deny the allegations in the first sentence of paragraph 4 of the Complaint.

5. Defendants admit that Plaintiff has asserted violations of the Voting Rights Act of 1965, 52 U.S.C. § 10301 and the Fourteenth and Fifteenth Amendments of the United States Constitution and seeks declaratory and injunctive relief as alleged in paragraph 5 of the Complaint, but deny that the Voting Rights Act or United States Constitution have been violated or that Plaintiff is entitled to the relief sought.

6. Defendants deny the allegations in paragraph 6 of the Complaint.

## **II. Jurisdiction and Venue**

7. Defendants admit the allegations in paragraph 7 of the Complaint.

8. Defendants admit the allegations in paragraph 8 of the Complaint.

9. Defendants admit the allegations in paragraph 9 of the Complaint.

## **III. Parties**

### **A. Plaintiff**

10. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 10 of the Complaint.

11. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 11 of the Complaint.

12. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 12 of the Complaint.

13. Defendants lack sufficient knowledge or information to form a belief about the truth

of the allegations in the first sentence of paragraph 13 of the Complaint. Defendants admit that Plaintiff applied to serve on FISSD's Long Range Planning Committee, but lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in the second sentence of paragraph 13 of the Complaint. Defendants admit that Plaintiff was not selected to serve on either FISSD's Priorities Based Budget Stakeholder Committee or Long Range Planning Committee, but lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in the third sentence of paragraph 13 of the Complaint. Defendants deny the allegations in the fourth sentence of paragraph 13 of the Complaint as stated, but admit that the original Priorities Based Budget Stakeholder Committee was selected solely by the FISSD board while the Long Range Planning Committee was selected by FISSD administration with input from the board. Defendants deny the allegations in the fifth and sixth sentences of paragraph 13 of the Complaint.

14. Defendants deny the allegations in the first sentence of paragraph 14 of the Complaint. Defendants admit the allegations in the third sentence of paragraph 14 of the Complaint. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in second and fourth sentences of paragraph 14 of the Complaint. Defendants admit, as of the date of this Answer, the allegations in the fifth sentence of paragraph 14 of the Complaint; however, Defendants affirmatively state that, as a result of the recent May 2019 FISSD school board election, as of June 10, 2019, one board member will live in a home zoned for Centennial High School.

15. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 15 of the Complaint.

16. Defendants lack sufficient knowledge or information to form a belief about the truth

of the allegations in paragraph 16 of the Complaint.

**B. Defendants**

17. Defendants admit the allegations in paragraph 17 of the Complaint.

18. Defendants admit the allegations in paragraph 18 of the Complaint. However, Defendants affirmatively state that Mr. Noskin lost his race for re-election as the Place 2 trustee in FISD's recent May 2019 election. The winner of the election, Natalie Hebert, will be sworn into her trustee position on June 10, 2019.

19. Defendants admit the allegations in paragraph 19 of the Complaint.

20. Defendants admit the allegations in paragraph 20 of the Complaint.

21. Defendants admit the allegations in paragraph 21 of the Complaint.

22. Defendants admit the allegations in paragraph 22 of the Complaint.

23. Defendants admit the allegations in paragraph 23 of the Complaint.

24. Defendants do not know what Plaintiff means by the "western portion of FISD's attendance boundaries" as alleged in the first sentence of paragraph 24 of the Complaint, but admit that as of the date of this Answer five of the six current trustees reside west of Preston Road and four of the six current trustees reside west of the Dallas North Tollway; however, Defendants affirmatively state that as a result of the recent May 2019 FISD school board election, beginning June 10, 2019, four of the seven trustees will live east of the Dallas North Tollway. Defendants admit the allegations in the second sentence of paragraph 24 of the Complaint. Defendants deny the allegations in the third sentence of paragraph 24 of the Complaint.

25. Defendants do not know what Plaintiff means by "students of color" as alleged in the

first sentence of paragraph 25 of the Complaint, but admit that non-white students comprised a majority of FISD's student enrollment in 2017-18. Defendants deny the remaining allegations in paragraph 25 of the Complaint.

26. Defendants deny the allegations in the first and fourth sentences of paragraph 26 of the Complaint. Defendants admit that two of the six trustees as of the date of this Answer live within the attendance zone for Wakeland High School, but deny the remaining allegations in the second sentence of paragraph 26 of the Complaint. Defendants admit the allegations in the third sentence of paragraph 26 of the Complaint.

#### **IV. Facts**

##### **A. The Frisco Independent School District**

27. Defendants admit FISD is located in a “‘coveted’ suburb[ ]” as alleged in the first sentence of paragraph 27 of the Complaint, but deny the remaining allegations in this sentence. Defendants admit that “FISD grew rapidly in recent years” as alleged in the third sentence of paragraph 27 of the Complaint, but lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence. Defendants admit the allegations in the fourth and fifth sentences of paragraph 27 of the Complaint. Defendants admit the allegations in the second sentence of paragraph 27 of the Complaint, but affirmatively state that the remainder of the portion of the website quoted in this sentence states “Many families choose to call Frisco ISD home due to our outstanding reputation for academic excellence, innovative programs and wealth of extracurricular opportunities and experiences. At the heart of our success is a student-opportunities model that has guided the District through three decades of explosive enrollment growth. With the support of parents and the community, leaders remain committed to creating small, personalized

learning environments, as evidenced by our mission to know every student by name and need. This philosophy drives our day-to-day efforts to understand each child's unique circumstances, his or her strengths and weaknesses and the role we must play to ensure each student reaches his or her full potential.”

28. Defendants admit the allegations in the first, second and fourth sentences of paragraph 28 of the Complaint. Defendant's deny the allegations in the third sentence of paragraph 28 of the Complaint.

29. Defendants admit the allegations in paragraph 29 of the Complaint.

30. Defendants deny the allegations in paragraph 30 of the Complaint.

**B. FISD's Current At-Large Election System Discourages Minority Participation in the Electoral Process**

31. Defendants admit the allegations in the first three sentences of paragraph 31 of the Complaint, but deny the allegations in the fourth sentence.

32. Defendants deny the allegations in paragraph 32 of the Complaint.

**C. FISD's White Trustees do Not Represent a Significant Portion of This Diverse Multiethnic, Multiracial, And Multilingual Community**

33. Defendants admit that the FISD board is responsible for overseeing a system of more than 70 campuses, with a budget of about \$538 million and more than 60,000 students and that the composition of the FISD student body is significantly diverse as alleged in paragraph 33 of the Complaint. Defendants deny the remaining allegations in paragraph 33 of the Complaint.

34. Defendants admit, as of the date of this Answer, the allegations in the first sentence of paragraph 34 of the Complaint; however, Defendants affirmatively state that, as a result of the recent May 2019 FISD school board election, as of June 10, 2019 the FISD board will be comprised

of six white trustees and one Indian/Asian trustee. Defendants deny the remaining allegations in paragraph 34 of the Complaint as stated, but affirmatively state that as of the date of this Answer four of the six current trustees reside in neighborhoods west of the Dallas North Tollway.

35. Defendants deny the allegations in paragraph 35 of the Complaint.

**D. FISD's At-Large System Fails Voters of Color- And Students**

36. Defendants deny the allegations in the first and second sentences of paragraph 36 of the Complaint. Defendants admit the allegations in the third sentence of paragraph 36 of the Complaint, but affirmatively state that the percentage of white FISD teachers has decreased in recent years. Defendants admit the allegations in the fourth sentence of paragraph 36 of the Complaint, but affirmatively state that in 2017-18 only 1.6% of all Texas teachers were Asian.

37. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 37 of the Complaint.

38. Defendants deny the allegations in paragraph 38 of the Complaint.

39. Defendants admit that Bright Academy and Christie Elementary School were classified as "economically disadvantaged" campuses in 2017-2018, but deny that "FISD has [ ] concentrated poverty" at these two campuses as alleged in the first sentence of paragraph 39 of the Complaint. Defendants deny the allegations in the second and fourth sentences of paragraph 39 of the Complaint. Defendants admit the allegations in the third sentence of paragraph 39 of the Complaint.

**E. The Discriminatory Effects of FISD's Electoral System Upon Minority Voters**

40. Defendants deny the allegations in paragraph 40 of the Complaint.

41. Defendants deny the allegations in paragraph 41 of the Complaint.



42. Defendants deny the allegations in the first sentence of paragraph 42 of the Complaint. Defendants deny the allegations in the second sentence of paragraph 42 of the Complaint as stated since available records reflect that no minority candidate ran for the FISSD school board until 2015 and, therefore, no “persons of color” unsuccessfully ran for the FISSD school board prior to 2015 as alleged/implied in the second sentence of paragraph 42 of the Complaint. Defendants admit the allegations in the third sentence of paragraph 42 of the Complaint, but affirmatively state that Gopal Ponangi (an Indian, non-white candidate) successfully ran for FISSD’s Place 1 trustee position against a white opponent in FISSD’s recent May 2019 election, obtaining 52.0% of the overall vote. Mr. Ponangi will be sworn into his trustee position on June 10, 2019.

43. Defendants admit the allegations in paragraph 43 of the Complaint. However, Defendants affirmatively state that Gopal Ponangi (an Indian, non-white candidate) successfully ran for FISSD’s Place 1 trustee position against a white opponent in FISSD’s recent May 2019 election, obtaining 52.0% of the overall vote. Mr. Ponangi will be sworn into his trustee position on June 10, 2019.

44. Defendants lack of sufficient knowledge or information to form a belief about the truth of the allegations in first, third and fourth sentences of paragraph 44 of the Complaint. Defendants admit the allegations in the second sentence of paragraph 44 of the Complaint, but affirmatively state that minority candidate Anjali Shirvaikar received 36% of the overall vote while another minority candidate for the same trustee position, Phil Ramirez, received 25% of the overall vote. The election winner, incumbent Steven Noskin, only received 39% of the overall vote; in other words, the two minority candidates combined received 61% of the overall vote in the May 2016 election.

45. Defendants admit that in 2017 Grace Wang ran for the Place 5 trustee position and came in third place, but deny that she only received 16% of the vote as alleged in the first sentence of paragraph 45 of the Complaint. Defendants admit Ms. Wang apparently made the statements alleged in the second and third sentences of paragraph 45 of the Complaint; however, she also apparently stated “I would love to see Frisco ISD continue to be as robust as it is now.”

46. Defendants deny the allegations in paragraph 46 of the Complaint.

**F. Absent Judicial Intervention, The Current Discriminatory Electoral System Will Remain in Place**

47. Defendants deny the allegations in the first sentence of paragraph 47 of the Complaint. The remaining allegations in paragraph 47 of the Complaint state legal conclusions, which do not require an admission or denial. To the extent required, Defendants deny the legal conclusions alleged in paragraph 47 of the Complaint as applied to the facts of this specific case.

48. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 48 of the Complaint.

49. Defendants admit the allegations in the first sentence of paragraph 49 of the Complaint. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence of paragraph 49 of the Complaint, but affirmatively state that FISD’s current system is set to meet the needs of all students on all campuses regardless of race, socioeconomic status and location.

50. The allegations in paragraph 50 of the Complaint state legal conclusions, which do not require an admission or denial. To the extent required, Defendants deny the legal conclusions alleged in paragraph 50 of the Complaint as applied to the facts of this specific case.

51. The allegations in paragraph 51 of the Complaint state legal conclusions, which do not require an admission or denial. To the extent required, Defendants deny the legal conclusions alleged in paragraph 51 of the Complaint as applied to the facts of this specific case.

52. The allegations in paragraph 52 of the Complaint state legal conclusions, which do not require an admission or denial. To the extent required, Defendants deny the legal conclusions alleged in paragraph 52 of the Complaint as applied to the facts of this specific case.

## **V. Claims**

### **A. Count 1: Declaratory Relief For Violations Of Section 2 of The Voting Rights Act**

53. Defendants incorporate their answers to the allegations in paragraphs 1-52 of the Complaint as if fully set forth herein.

54. The allegations in paragraph 54 state legal conclusions, which do not require an admission or denial. To the extent required, Defendants deny the legal conclusions alleged in paragraph 54 of the Complaint as applied to the facts of this specific case.

55. Defendants deny the allegations in paragraph 55 of the Complaint.

56. Defendants deny the allegations in paragraph 56 of the Complaint.

57. Defendants deny the allegations in paragraph 57 of the Complaint.

58. Defendants admit that Plaintiff seeks the relief stated in paragraph 58 of the Complaint, but deny that Plaintiff is entitled to the relief sought.

### **B. Count 2: Violation of The Fourteenth And Fifteenth Amendments of The Constitution**

59. Defendants incorporate their answers to the allegations in paragraphs 1-58 of the Complaint as if fully set forth herein.

60. Defendants deny the allegations in paragraph 60 of the Complaint.

61. Defendants deny the allegations in paragraph 61 of the Complaint.

62. Defendants admit that Plaintiff seeks the relief stated in paragraph 62 of the Complaint, but deny that Plaintiff is entitled to the relief sought.

**C. Count 3: Injunctive Relief For Violations of The Voting Rights Act And Fourteenth And Fifteenth Amendments of The Constitution**

63. Defendants incorporate their answers to the allegations in paragraphs 1-62 of the Complaint as if fully set forth herein.

64. Defendants deny the allegations in paragraph 64 of the Complaint.

65. Defendants deny the allegations in paragraph 65 of the Complaint.

66. Defendants admit that Plaintiff seeks the relief stated in paragraph 66 of the Complaint, but deny that Plaintiff is entitled to the relief sought.

**D. Count 4: Request For Attorneys' Fees**

67. Defendants incorporate their answers to the allegations in paragraphs 1-66 of the Complaint as if fully set forth herein.

68. Defendants deny the allegations in paragraph 68 of the Complaint.

69. Defendants admit that Plaintiff seeks the relief stated in paragraph 69 of the Complaint, but deny that Plaintiff is entitled to the relief sought.

**VI.  
Request for Relief**

70. For these reasons, Defendants ask the Court to enter judgment that Plaintiff take nothing, dismiss Plaintiff's suit with prejudice, assess costs against Plaintiff, and award Defendants all other legal and/or equitable relief the Court deems appropriate.

Respectfully submitted,

**ABERNATHY, ROEDER, BOYD & HULLETT,  
P.C.**

*/s/Charles J. Crawford* \_\_\_\_\_

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**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I certify that on May 8, 2019 a true and correct copy of Defendants' Original Answer was served upon Plaintiff's attorney, by the Court's electronic service system.

*/s/Charles J. Crawford* \_\_\_\_\_

Charles J. Crawford