



September 16, 2021

Sent via email

Committee on House and Governmental Affairs
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Committee on Senate and Governmental Affairs
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Re: Written Testimony to Committees on House Governmental Affairs and Senate Governmental Affairs Regarding Redistricting

Dear Chair Stefanski, Chair Hewitt, and Members of the Committees on House and Governmental Affairs and Senate and Governmental Affairs,

The NAACP Legal Defense & Educational Fund (“LDF”), Anti-Defamation League South Central, Campaign Legal Center, Fair Districts Louisiana, League of Women Voters Louisiana, Louisiana Progress, Urban League of Louisiana, Power Coalition for Equity and Justice, and SPLC Action Fund write to reiterate the obligations of the Committees on House and Governmental Affairs and Senate and Governmental Affairs, and the entire Louisiana Legislature engaged in the redistricting process, to ensure fair representation and non-discrimination in redistricting and an open an accessible process.

I. Satisfy Your Obligation to Ensure that Voters of Color Have an Equal Opportunity to Elect Candidates of Their Choice

To ensure fair and non-discriminatory representation, the cornerstone of our democracy, electoral districts must be drawn to ensure non-dilution of minority voting strength. Maps must comply with the one-person, one vote principle, embodied in the U.S. Constitution. Maps may fail to comply with this principle if legislative bodies do not contain a practicably equal number of people. Maps may also violate Section 2 of the Voting Rights Act if:

- (1) a district can be drawn in which the minority community is sufficiently large and geographically compact to constitute a majority;
- (2) the minority group is politically cohesive;
- (3) in the absence of a majority-minority district, candidates preferred by the minority group would usually be defeated due to the political cohesion of non-minority voters for their preferred candidates; and
- (4) under the totality of the circumstances, the political process is not equally open to minority voters.¹

Because of Louisiana's ongoing, stark patterns of voting along racial lines,² the heart of evidence of minority vote dilution,³ your committees must be strictly attentive to their obligations under Section 2 of the Voting Rights Act to ensure that electoral lines do not dilute the ability of minority voters to elect candidates of their choice.

¹ *Thornburg v. Gingles*, 478 U.S. 30, 47-52, 78 (1986); *Chisom*, 501 U.S. at 403-04.

² See, e.g., *Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395 (M.D. La. 2017), *rev'd sub nom. Fusilier v. Landry*, 963 F.3d 447 (5th Cir. 2020); *Hall v. Louisiana*, 108 F. Supp. 3d 419 (M.D. La. 2015); *Nw. Austin Mun. Util. Dist. No. One v. Mukasey*, 573 F. Supp. 2d 221, 251 (D.D.C. 2008) (As of 2006, "not one redistricting plan for the Louisiana House of Representatives had ever been precleared as originally submitted."); *St. Bernard Citizens For Better Gov't v. St. Bernard Par. Sch. Bd.*, No. 02-2209, 2002 WL 2022589 (E.D. La. Aug. 26, 2002); *Hays v. Louisiana*, 936 F. Supp. 360, 362 (W.D. La. 1996) (challenge to congressional redistricting after 1990 Census); *Major v. Treen*, 574 F. Supp. 325, 325 (E.D. La. 1983) (challenge to congressional redistricting after 1980 Census); *Bussie v. Governor of La.*, 333 F. Supp. 452, 454, 463 (E.D. La. 1971) (challenge to state legislative redistricting after 1970 Census); *Bannister v. Davis*, 263 F. Supp. 202, 202, 205 (E.D. La. 1966) (challenge to state legislative apportionment after *Reynolds v. Sims*, 377 U.S. 533 (1964)).

³ *Citizens for a Better Gretna v. City of Gretna*, 834 F.2d 496, 499 (5th Cir. 1987) ("Racially polarized voting is the linchpin of a § 2 vote dilution claim."); *McMillan v. Escambia County*, 748 F.2d 1037, 1043 (5th Cir. 1984) ("[RPV] will ordinarily be the keystone of a dilution case"); see also *Clark v. Calhoun Cty.*, 88 F.3d 1393, 1397 (5th Cir. 1996); *Gingles*, 478 U.S. at 48 n.15; *Westwego Citizens for Better Gov't v. City of Westwego*, 946 F.2d 1109, 1122 (5th Cir. 1991).

II. Ensure All Louisianians Have the Opportunity to Meaningfully Participate in the Redistricting Process

The maps produced by the Legislature this redistricting cycle will be foundational to all Louisiana residents' access to representation and voters' access to candidates of choice for years to come.⁴ Redistricting by the Legislature also sets the standard and tone for local redistricting in the State. It is therefore critical that all Louisianians have a meaningful opportunity to fully participate in and provide input on the map-drawing process, as well as receive transparent reasoning regarding ultimate decision-making from legislators during the redistricting process. The public is especially well-suited to discern which maps allow (or do not allow) communities of interest to have a voice and choice in the process for electing their representatives. These perspectives must be incorporated into any maps that the legislature proposes or otherwise considers.

Members of the public must therefore be permitted to participate⁵ and provide testimony during each committee hearing, including during the roadshow, remotely over Zoom or another virtual platform.⁶ Remote participation options are especially important given the severe toll of Hurricane Ida, leading to displacement and instability for many Louisianians, and the enduring threats of the spread of COVID-19.⁷ Moreover, all public events should have accessibility features to ensure that Louisianians with disabilities are able to meaningfully engage in person and online.

It is also critical to ensure meaningful opportunities for the public to review and comment on maps and to propose their own community maps. The public must have at least one-week's advance notice, and unrestricted ability to comment on, any maps under consideration by your committees. In addition, the public should be given the tools necessary to propose maps for consideration, including both statewide maps and maps for specific regions that identify community boundaries and communities

⁴ La. Const. Art. III, § 6(A); *Chisom v. Roemer*, 501 U.S. 380 (1991).

⁵ The Legislature should invest money in placing ads in local newspapers, radio, and TV, particularly those that serve communities of color, as well as on the Internet, to ensure Louisianians are given the information they need to get involved.

⁶ Erica Hernandez, *'Let's Talk Texas': State Senate Redistricting Committee Looking for Public Input in Virtual Regional Hearings*, KSAT.Com (Jan. 22, 2021, 2:08PM), <https://www.ksat.com/news/local/2021/01/22/lets-talk-texas-state-senate-redistricting-committee-looking-for-public-input-in-virtual-regional-hearings/>; Mass. Special Joint Committee on Redistricting, *Virtual Public Hearing*, malegislature.gov (Apr. 14, 2021), <https://malegislature.gov/Events/Hearings/Detail/3670>. Press Release, *Rasmey Invites Submission of Senate Redistricting Plans*, KnoxBlog (Sept. 16, 2011), http://knoxblogs.com/humphreyhill/2011/09/16/rasmey_invites_submission_of_sl/.

⁷ Rebecca Klapper, *New Orleans Power Restored 2 Weeks After Hurricane Ida, 220K Still Without Across State*, NEWSWEEK (Sept. 9, 2021), <https://www.msn.com/en-us/weather/topstories/new-orleans-power-restored-2-weeks-after-hurricane-ida-220k-still-without-across-state/ar-AAOi08K?ocid=uxbndlbing>.

of interest. Any maps proposed by the public or other testimony should become part of the public record and be available for anyone to review on the state's website.⁸

We encourage you to review *Power on the Line, Making Redistricting Work for Us*,⁹ a guide for community partners and policymakers who intend to engage in the redistricting process at any level of government. It provides information consistent with our recommendations herein, as well as other relevant information about the redistricting process.

Please feel free to contact LDF Redistricting Counsel Michael Pernick at (917) 790-3597 or by email at mpernick@naacpldf.org with any questions or to discuss these concerns in more detail.

//s/ Michael Pernick

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⁸ We encourage you to review the May 21, 2021 letter submitted to you by a coalition of racial justice and advocacy organizations providing recommendations, best practices, and requirements for transparency, public involvement, and fair representation during the upcoming redistricting process. Letter to La. Comm's on House and Gov't Affairs and Senate and Gov't Affairs (May 21, 2021), <https://www.naacpldf.org/wp-content/uploads/Joint-Louisiana-Redistricting-Transparency-and-Public-Input-Process-Proposal-1.pdf>.

⁹ NAACP LDF, *Civil Rights Organizations Release Redistricting Guide to Support Black, Latino, and AAPI Communities' Participation in Crucial Process*, [naacpldf.org](https://www.naacpldf.org/press-release/civil-rights-organizations-release-redistricting-guide-to-support-black-latino-and-aapi-communities-participation-in-crucial-process/) (May 11, 2021), <https://www.naacpldf.org/press-release/civil-rights-organizations-release-redistricting-guide-to-support-black-latino-and-aapi-communities-participation-in-crucial-process/>.

Fair Districts Louisiana

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SPLC Action Fund

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.