



April 6, 2018

By Email

Dr. Debbie Hamm, Interim Superintendent
The Sumter School District
1345 Wilson Hall Road
Sumter, SC 29150

Members of the Sumter County School District Board of Trustees
1345 Wilson Hall Road
Sumter, SC 29150

**Re: Sumter County's Proposed School Closures and Board of Trustees
Redistricting**

Dear Dr. Hamm and Members of the Sumter County School District Board of Trustees:

The NAACP Legal Defense & Educational Fund, Inc. (LDF),¹ on our own behalf and on behalf of the Family Unit., Inc.,² write this letter to express our sincere concern with (1) the proposal to close schools in rural Sumter County, which serve predominately Black students and their families; and (2) the process that has surrounded this proposal, including but not limited to a change to the electoral structure of the Sumter County School District's Board of Trustees (School Board).

¹ Since its founding in 1940, LDF has been a pioneer in the struggle to remove barriers to educational access and opportunity, and secure and protect the voting rights of Black people. LDF's education docket has involved several seminal U.S. Supreme Court decisions, including *Brown v. Board of Education*, 347 U.S. 483 (1954). Through its present education work, LDF fights to ensure racial equity in education for Black students and secure a safe, inclusive, and high-quality education for all students. With respect to its voting work, LDF has been involved in much of the precedent-setting litigation related to securing voting rights for Black people and other people of color. *See, e.g., Shelby Cnty., Ala. v. Holder*, 133 S. Ct. 2612 (2013) (LDF defending Section 5 of the Voting Rights Act (Section 5) before the U.S. Supreme Court); *South Carolina v. Holder*, 898 F. Supp. 2d 30 (D.D.C. 2012) (LDF defending the federal government's denial of preclearance of South Carolina's photo identification law under Section 5). LDF uses legal, legislative, public education, and advocacy strategies to promote the full, equal, and active participation of Black people in America's democracy. LDF has been a separate entity from the NAACP, and its state branches, since 1957.

² The Family Unit, Inc. is a 501(c)(3) non-profit, charitable organization located in Sumter. The Family Unit's membership consists mostly of people who are indigent and have less than a high school education. Many of the members of this non-profit, charitable organization have been incarcerated at some point in their lives, and are now employed and reside in The Family Unit's rent-free homes. Due to the inordinate amount of time and other resources devoted to investigating and opposing the closure of low-income, rural majority-Black schools in Sumter County, the Family Unit's regular advocacy activities—which involve voter education and registration including for pre-trial detained people, restoring abandoned homes and donating them to working-poor families, helping chronically-unemployed ex-offenders find employment, assisting senior citizens obtain amended and/or delayed birth certificates and state DMV-issued photo IDs so that they can vote, and visiting and volunteering in local schools—have been significantly curtailed and restricted.



The brief summary below reflects our understanding of the key sequence of events and procedural and substantive decisions that have transpired in Sumter County concerning the proposed school closings.

- A December 2016 audit revealed the Sumter County School District (School District) spent more than \$6.2 million dollars beyond its budget, which generated significant media coverage.³ The South Carolina Law Enforcement Division (SLED) initiated an investigation to determine if the substantial deficit occurred due to any improprieties.⁴
- In early January, shortly after the revelation of the School District’s financial crisis, the School Board hired a Financial Consultant, Scott Allan, at \$1,000.00 per day to “explain the reasons for the District’s current condition” and “advise the Board on reduction of expenses [in 2017].”⁵
- In April 2017, based on Mr. Allan’s proposed budget, the School Board’s Finance Committee (Finance Committee) unanimously recommended to the School Board that it close two schools by the end of the 2017 academic year—F.J. DeLaine Elementary School and Mayewood Middle School.⁶ Mr. Allan projected that these two school closures would save the School District \$3.6 million dollars.⁷ Subsequently, to save the School District more money, Mr. Allan identified two other schools that the School Board could close in

³ See, e.g., Bruce Mills, *Sumter School District Flunks Audit*, THE SUMTER ITEM (Dec. 14, 2016), <http://www.theitem.com/stories/sumter-school-district-flunks-audit,281062>.

⁴ Bruce Mills, *SLED to Investigate: Prompted by Allegations Against School Employees in Anonymous Letter*, THE SUMTER ITEM (June 18, 2017), <http://www.theitem.com/stories/prompted-by-allegations-against-school-employees-in-anonymous-letter,290931>; see also Bruce Mills, *Residents Share Concerns in Public Participation session*, THE SUMTER ITEM (Aug. 16, 2017), <http://www.theitem.com/stories/residents-share-concerns-in-public-participation-session,293871>.

⁵ *Sumter School District Hires Financial Consultant to Tackle \$6.2M Debt*, WISTV.COM (Jan. 12, 2017), <http://www.wistv.com/story/34240518/sumter-school-district-hires-financial-consultant-to-tackle-62m-debt>; see also Bruce Mills, *Public Expresses Disappointment with Board*, THE SUMTER ITEM (May 11, 2017), <http://www.theitem.com/stories/public-expresses-disappointment-with-board,288943>.

⁶ Bruce Mills, *2 Schools Could Close*, THE SUMTER ITEM (Apr. 23, 2017); see also Bruce Mills, *Cash-strapped Sumter District Should Close Two Schools, Finance Officials Say*, THE STATE (Apr. 22, 2017), <http://www.thestate.com/news/local/education/article146157474.html>; Tanita Gaither, *Financial Committee Suggests Sumter Schools Close Amid Financial Shortfall*, WISTV.COM (Apr. 24, 2017), <http://www.wistv.com/story/35230954/financial-committee-suggests-2-sumter-schools-close-amid-financial-shortfall>.

⁷ *Id.*; see also Mills, *supra* note 3.



2018—Rafting Creek Elementary, which upon information and belief is the only public school in the rural community where it is located, and Ebenezer Middle.⁸

- F.J. DeLaine Elementary, Mayewood Middle, Rafting Creek Elementary, and Ebenezer Middle schools are located in rural areas of Sumter County and are considered part of South Carolina’s notorious Corridor of Shame because of the State’s unconstitutional chronic underfunding of these schools.⁹ These four schools have relatively low-enrollment.¹⁰ Each school’s student body is majority-Black and low-income.¹¹ These schools also have a long history of educating Black students when *de jure* and *de facto* segregation sanctioned white-only schools.¹² Based on information and belief, our understanding is that white flight, in part, contributes to today’s low enrollment and over-concentration of low-income Black students in these schools. Specifically, white students with access to private transportation chose to travel to urban areas of Sumter County to enroll in school. Residents also have attributed low-enrollment in these schools to inequitable school zoning and attendance lines; that is, decisions which do not assign students to these schools but other ones.¹³

⁸ Bruce Mills, *Sumter School District Consolidation Proposal to be Aired: Interim Superintendent Expected to Ask for Approval to Present Draft to Community*, THE SUMTER ITEM (Mar. 9, 2018), <http://www.theitem.com/stories/sumter-school-district-consolidation-proposal-to-be-aired,304817>; Bruce Mills, *Rembert Community is Opposed to Sumter School District proposal: Rafting Creek Elementary Would Close Under Current Draft Plan*, THE SUMTER ITEM (Mar. 27, 2018), <http://www.theitem.com/stories/rembert-community-is-opposed-to-sumter-school-district-proposal,305749>.

⁹ Ehime Ohue, *At Duke, I Realized How Badly Many South Carolina Schools are Failing Students Like Me*, WASH. POST (July 7, 2017), https://www.washingtonpost.com/news/grade-point/wp/2017/07/06/at-duke-i-realized-how-badly-many-south-carolina-schools-are-failing-students-like-me/?utm_term=.361289aa15e1; see also Anya Kamenetz, *One Student Tries to Help Others Escape a ‘Corridor of Shame,’* NPR (May 31, 2016), <https://www.npr.org/sections/ed/2016/05/31/473240474/corridor-of-shame>.

¹⁰ See *2015-16 Common Core Survey*, NATIONAL CEN. FOR ED. STATISTICS (2018) https://nces.ed.gov/ccd/schoolsearch/school_list.asp?Search=1&County=Sumter%20County&State=45&SchoolPageNum=1 [hereinafter *Common Core Survey*]; see also Bruce Mills, *Sumter School District Community session No. 2 More Orderly than First Meeting: Meeting Guidelines Set Early for Discussing School Closings*, THE SUMTER ITEM (Mar. 20, 2018), <http://www.theitem.com/stories/sumter-school-district-community-session-no-2-more-orderly-than-first-meeting,305406>; Mills, *supra* note 6; Gaither, *supra* note 6; Bruce Mills, *supra* note 8.

¹¹ Indeed, based on National Center for Education Statistics data, the student bodies of F.J. DeLaine Elementary, Mayewood Middle, Rafting Creek Elementary, and Ebenezer Middle are 81%, 84%, 92%, and 67% Black, respectively, and 100% of the students in these schools receive free lunch, an indicator of poverty. See generally *Common Core Survey*, *supra* note 10.

¹² See *Randal v. Sumter Sch. Dist. No. 2*, No. 3:63-CV-1240, 2013 WL 3786344 (D.S.C. July 18, 2013); *Randall v. Sumter School Dist. No. 2*, 232 F.Supp. 786 (1964).

¹³ Bruce Mills, *Residents Say Sumter school Zoning is Unequal: NAACP Holds Third Meeting about Potential School Closures*, THE SUMTER ITEM (Mar. 4, 2018), <http://www.theitem.com/stories/residents-say-school-zoning-is-unequal,304537>; Mills, *supra* note 10.



- Based on information and belief, when its members recommended these school closures, the Finance Committee comprised seven members, who either were School Board members who volunteered for that committee or were appointed by School Board members.¹⁴
- Based on information and belief, our understanding is that, before making their respective recommendation to the School Board, neither Mr. Allan nor the Finance Committee: (1) communicated with any school administrators; (2) sought meaningful input from the impacted students, their parents, and neighboring community residents; or (3) conducted any study of the demographics or school facilities to potentially justify these proposed closures.¹⁵
- On March 16, 2017, the two State Senators from the Sumter County Legislative Delegation, which is composed of two State Senators and five House Representatives, introduced legislation, S. 562, in the State Senate. On March 28, 2017, they introduced the same bill as R-86 in the House. This bill proposed adding two at-large elected members to the then single-district-based elected members of the School Board.¹⁶ Further, under the bill, these two at-large members would initially be appointed by the Sumter County Legislative Delegation, and then, as incumbents, stand for at-large election in 2018.¹⁷ The bill further provides that the two new at-large seats will be converted to two new single-member seats upon reapportionment after the 2020 Census.¹⁸

¹⁴ Unfortunately, we could not find any publicly available information about the Finance Committee’s membership, duties, and responsibilities on the Sumter School District’s website. Equally concerning, the Finance Committee does not appear to publish meeting minutes so that the public has access to its work.

¹⁵ See, e.g., *Sumter School District Board of Trustees Work Session*, SUMTER SCHOOL DISTRICT 1, 5 (Apr. 24, 2017), https://drive.google.com/file/d/0B_ywiK136Jw4eTE1MDIfQjdiVTA/view (reflecting that School Board Member Karen D. Michalik “asked that the Board consider establishing a Development Assistance Committee to study all the aspects and provide for input from the community before a decision is made to close schools.”); see also *id.* at 6 (reflecting that School Board Member Dr. Barbara R. Jackson, “asked that the travel for students affected by schools closings be given serious consideration as well as give more time to make an informed decision opposed to discussion in April and closings in August.”) [*hereinafter* April 24 School Board Meeting].

¹⁶ R-86 and S. 562, 122nd Gen. Assemb. Reg. Sess. (S.C. 2017), http://www.scstatehouse.gov/query.php?search=DOC&searchtext=Act%20321%20of%202010&category=LEGISLATION&session=122&conid=9160825&result_pos=0&keyval=1220562&numrows=10 [*hereinafter* Act. No. 321]

¹⁷ *Id.*

¹⁸ *Id.*



- While this legislation was pending, on April 24 2017, the School Board voted to *reject* the Finance Committee’s recommendation to close DeLaine Elementary and Mayewood Middle school by a vote of 3 to 2, with one abstention and one trustee absent.¹⁹ At that time, School Board members reportedly requested that Mr. Allan consider other cost-saving measures for the School District, and expressed their unwillingness at that point to close any schools.²⁰
- During this vote, the School Board still was comprised of seven members elected from seven single-member districts; these districts corresponded to the districts for the Sumter County Council. On information and belief, of those seven members, four were elected in majority-Black districts. On information and belief, all three Board members who voted to keep the school open were elected from majority-Black single-member districts.
- By May 15, 2017, R-86, S. 562 relating to the electoral structure for the School Board had passed in both chambers of the South Carolina Legislature.²¹
- Notwithstanding, on May 19, 2017, the Governor of South Carolina, Henry McMaster, vetoed this legislation, citing several reasons: “First, such a method of selection deprives the Sumter County electorate of its opportunity to duly elect representatives to fill these seats and gives undue influence on state representatives. Further, the manner in which S. 562 attempts to initiate and implement structural changes to the School Board, particularly following reapportionment, is unclear if not internally inconsistent. S. 562 requires that board members reside in both the school district and election district from which they are elected, but fails to explain how these districts -- which would differ in number following reapportionment -- be reconciled.”²²

¹⁹ See April 24 School Board Meeting, *supra* note 15; see also Kayla Binette, *Sumter School Board Discusses School Budget: The Sumter School District Board Discussed Its Proposed Budget for the Next Fiscal Year*, WLTX19 (May 8, 2017), <http://www.wltx.com/article/news/local/sumter-school-board-discusses-school-budget/437986216>; see also Mills, *supra* notes 4 & 5; Bruce Mills, *Sumter NAACP, Community Air Concerns over Possible School Closures*, THE SUMTER ITEM (Feb. 15, 2018), <http://www.theitem.com/stories/sumter-naacp-community-air-concerns,303535>; Mills, *supra* note 8.

²⁰ Mills, *supra* note 5.

²¹ Act No. 321, *supra* note 16.

²² *Id.*; see also Message from the Governor, State of South Carolina, Office of the Governor, to The Honorable Kevin L. Bryant, President of the Senate (May 19, 2017), https://www.scstatehouse.gov/sess122_2017-2018/sj17/20170523.htm [*hereinafter* Governor’s Veto].



- On notice of these concerns, however, on May 23, 2017, the South Carolina Legislature overrode the Governor’s veto.²³ This bill became law on July 12, 2017.²⁴
- Following the bill’s enactment, the Sumter County Delegation appointed two new at-large School Board members—William Byrd and Bonnie Disney—to the School Board in July 2017.²⁵ Twenty people applied for these two appointed seats.²⁶ On information and belief, at the time of their appointments, Mr. Byrd was a member on the Finance Committee. Based on the above-mentioned 2017 recommendation then, at least one of the new appointees, Mr. Byrd, had already publicly endorsed closing (at minimum) F.J. DeLaine Elementary and Mayewood Middle schools.²⁷
- Also, by July 2017, the South Carolina Department of Education had placed the School District under a “fiscal watch” because of SLED’s ongoing investigation relating to the \$6.2 million-dollar deficit and any financial improprieties related to it.²⁸
- On August 1, 2017, Dr. Debbie Hamm became the Interim Superintendent of the School District.²⁹
- By this time, there was well-documented public opposition to the proposed closure of schools in rural Sumter County, which has remained unabated, including, but not limited to because: (1) the closures being proposed are to make up for a deficit that parents and students of those schools did not cause; (2) the closures initially were proposed without

²³ *House Roll Call Vote Number 706*, 122nd Gen. Assemb. Reg. Sess. (S.C. 2017), <https://www.scstatehouse.gov/votehistory.php?KEY=13665>; *Senate Roll Call Vote Number 451*, 122nd Gen. Assemb. Reg. Sess. (S.C. 2017), <https://www.scstatehouse.gov/votehistory.php?KEY=13638>.

²⁴ Act 321, *supra* note 16.

²⁵ *Board of Trustees*, SUMTER SCHOOL DIST. (2018), <http://sumterschools.net/board-of-trustees/> [*hereinafter* Board of Trustees].

With the addition of these two appointees, there are now six Black School Board members. *Id.* And though there will be at-large elections for these two initially appointed seats beginning in 2018, the number of majority-Black districts for this body, remains four, just as was the case under a seven single-member electoral structure. *See* Act 321, *supra* note 16.

Under the provisions of the aforementioned legislation, these appointees are up for election in 2018. *See* Act 321, *supra* note 16.

²⁶ Bruce Mills, *Putting their names in the ring: 20 apply for two board seats*, THE SUMTER ITEM (July 7, 2017), <http://theitem.com/stories/20-apply-for-2-board-seats,291881>.

²⁷ *See infra* and *supra* note 6.

²⁸ Bruce Mills, *DOE Declares ‘Fiscal Watch’*, THE SUMTER ITEM (July 12, 2017), <http://www.theitem.com/stories/doe-declares-fiscal-watch,292120>.

²⁹ Mills, *supra* note 4.



community input and, months after the proposal, officials only began seeking community input; (3) the officials have only considered the closure of rural predominately Black schools and have not considered alternative cost-saving measures; (4) officials have not analyzed and thus publicly identified the various negative impacts of the school closures on the students and the surrounding communities; (5) many students benefit academically in the smaller schools; (6) closing neighborhood schools will have a deleterious effect on the culture and vitality of the surrounding community; and (7) predominately Black students will bear the burden of having to wake up even earlier in the morning and endure longer bus routes and commute times to the schools that those students that would be newly assigned to.³⁰

- Notwithstanding, in February 2018—approximately eight months after Mr. Allan and the Finance Committee initially recommended the school closures to address the School District’s deficit—the School Board hired two consultant groups to conduct demographic and facilities studies to provide a ten-year forecast of enrollment projections for each of the School District’s 26 schools.³¹ These consultant groups were expected to have completed their studies by the end March 2018.
- Moreover, upon information and belief, for the first time since the recommendation to close the schools in rural Sumter, the School District began hosting, over a 10-day period in mid-March 2018, “community listening sessions.”³² Surrounding one such meeting, the School District’s Interim Superintendent, Dr. Hamm, introduced a proposal for the closure of three (rather than four) of the aforementioned schools—F.J. DeLaine Elementary, Mayewood Middle, and Rafting Creek Elementary school—by the end of the 2018 school year and *before* the results of the consultant groups’ studies were released.³³ The Interim Superintendent proposed that the schools that the students would be moved to have magnet programs, and proposed combining an alternative school, Brewington Academy, which serves students in grades six through twelve, with Hillcrest Middle school.³⁴

³⁰ See, e.g., Bruce Mills, *supra* notes 4, 5 & 8; Councilman Chris Sumpter, II, *Rural Communities Should Not be Invisible to Decision Makers*, THE SUMTER ITEM (Mar. 16, 2018), <http://www.theitem.com/stories/rural-communities-should-not-be-invisible-to-decision-makers,305270>; Mills, *supra*, note 8.

³¹ Mills, *supra* note 8; Bruce Mills, *CFO: Studies Will Help Sumter School District’s Planning*, THE SUMTER ITEM (Mar. 1, 2018), <http://www.theitem.com/stories/cfo-consultants-studies-will-help-districts-planning,304309>.

³² Mills, *supra* notes 8 & 10.

³³ Bruce Mills, *Hamm Wants Public’s Comments on Sumter Schools Proposals*, THE SUMTER ITEM (Mar. 15, 2018), <http://www.theitem.com/stories/hamm-wants-publics-comments-on-sumter-schools-proposal,305136>.

³⁴ Bruce Mills, *Hamm Strikes One Merger from Sumter School District Consolidation Proposal*, THE SUMTER ITEM (Mar. 28, 2018), <http://www.theitem.com/stories/hamm-strikes-merger-from-sumter-school-district-draft-proposal,305796>.



- On information and belief, although discourse around the basis for the school closures previously focused on low enrollment and fiscal concerns, the School Board, by letter dated March 20, 2018, publicly identified another reason to close the schools: “safety.”³⁵
- By the end of March 2018, the Interim Superintendent has proposed the closure of two predominately-Black schools in rural Sumter—F.J. DeLaine Elementary and Mayewood Middle schools.³⁶
- The next meeting of the School Board is on April 10, 2018.³⁷

We have several concerns related to the foregoing events and procedural and substantive decisions.

First, we are concerned that the School District’s focus on closing rural schools in Sumter County that have majority-Black, low-income student bodies will have damaging effects on the students, their families, and the surrounding communities in which those students and families reside and the schools are located. Upon information and belief, Sumter officials have never publicly floated a proposal to close any non-majority Black schools.³⁸ Moreover, upon information and belief, it was not until (1) early in 2018—many months after Mr. Allan and the Finance Committee initially recommended the school closures—that the School District hired consultants to begin to attempt to analyze the impact of these closures, or (2) mid-March 2018—again many months after those initial recommendations to close majority-Black schools in rural Sumter—that the School District began to conduct outreach to the impacted communities to gauge their opinions on the proposals. And the overwhelming response of the community to these proposals has been opposition.³⁹

It is particularly troubling that these majority-Black schools appear to have been targeted for closure after the School District only recently satisfied its desegregation obligations, achieving

³⁵ Ltr. Daryl F. McGhaney, Chairman, Sumter Board of Trustees from to Dr. Joseph C. Williams, Mar. 10, 2018.

³⁶ Bruce Mills, *Rafting Creek-Hillcrest Consolidation Withdrawn from Proposal: Extensive Facility Upgrades Would be Needed at Sumter School*, THE SUMTER ITEM (Mar. 27, 2018), <http://www.theitem.com/stories/rafting-creek-hillcrest-consolidation-withdrawn-from-proposal,305768>; *see also* Mills, *supra* note 34.

³⁷ *Calendar (Monthly)*, SUMTER COUNTY SCH. BOARD (Apr. 2018), <http://sumterschools.net/about-us/calendar/>.

³⁸ *See* April 24 School Board Meeting, *supra* note 15 at 7 (reflecting that the School Board Chair Rev. McGhaney “expressed concern that it is always rural schools that seem to be identified when discussing school closings.”).

³⁹ *Supra* note 31.



unitary status in July 2013. Federal law still requires the School District to ensure that it is not discriminating against Black students.⁴⁰

Second, the appointment of two additional at-large School Board members—at least one of whom publicly recommended closing schools in rural Sumter—appears to be an attempt to circumvent the (1) April 24 decision by the seven-member single-member elected School Board that previously voted to keep the schools at issue open, as well as the (2) fierce and overwhelming public opposition against the closures.

In his veto, Governor Henry McMaster identified several concerns about how this legislation changed the School Board’s composition and electoral structure, including that: (1) this appointment scheme deprives Sumter’s electorate of the opportunity to elect representatives to the School Board⁴¹ and “gives undue influence to state representatives” who appointed them, and (2) there are procedural flaws with implementing the subsequent at-large elections of these seats.⁴²

We are concerned that the provisions of this legislation may run afoul of federal anti-discrimination laws, including the Fourteenth and Fifteenth Amendments to the U.S. Constitution and Voting Rights Act of 1965, by in purpose and/or effect denying Black voters in Sumter of the equal opportunity to elect their preferred candidates to the School Board.⁴³ Our concerns are amplified by the history Sumter County and that its legislative delegation has repeatedly attempted to implement racially discriminatory voting schemes, including increasing the size of governmental bodies and imposing at-large voting schemes—attempts that federal laws have blocked.⁴⁴ These are the precise practices that the South Carolina Legislature, over the Governor’s veto, have implemented for the School Board.

⁴⁰ *Randal v. Sumter Sch. Dist. No. 2*, No. 3:63-CV-1240, 2013 WL 3786344 (D.S.C. July 18, 2013); Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; U.S. CONST. AMEND. XIV § 1.

⁴¹ Based on 2010 U.S. Census, Sumter County’s total population is 107,456. *Sumter County, South Carolina*, U.S. CENSUS BUREAU (2018), <https://www.census.gov/quickfacts/fact/table/sumtercountysouthcarolina,SC/PST045217>. Based on information and belief, as of the 2010 Census, the county-wide any-part Black voting age population (VAP) is 46.17% and the non-Hispanic white VAP is 49.04%.

⁴² See Governor’s Veto, *supra* note 22.

⁴³ The Fourteenth and Fifteenth Amendments of the U.S. Constitution provide for the fundamental right to vote and prohibit voting practices adopted with a discriminatory purpose. U.S. CONST. AMEND. XIV & XV.

Section 2 prohibits voting standards, practices, or procedures, including at-large electoral methods, that either have a racially discriminatory intent or have racially discriminatory results. 52 U.S.C. § 10301(a) (West 2016). One of the chief purposes of Section 2 is to prohibit minority vote dilution, which can occur when an at-large electoral system denies Black voters of the opportunity to participate equally in the political process and elect their preferred candidates because their votes are canceled out by the white majority who vote as a bloc.

⁴⁴ Ralph F. Boyd, Asst. Attorney Gen., U.S. Civ. Rights Div., to Charles T. Edens, Chairperson, City Council of Sumter, S.C. (June 27, 2002), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-2130.pdf> (objecting to a proposed redistricting plan for Sumter County because such a change would violate Section 5 of the



Accordingly, we urge all relevant elected officials, including the School Board, to take the necessary time to consider the impact of the school closures before making any final decisions. We also request that the School Board disclose to the public, if it has not done so already, the (1) findings of the two consultant groups related to their demographic and facilities studies for each of the School District's schools that were due to have been conducted by the end of March, as discussed *infra*, and (2) costs that these groups have billed to date. Finally, please know that we, in the interim, will continue to review the electoral changes that have taken place in Sumter to ensure that they comply with federal laws.

Voting Rights Act (Section 5)); Wm. Bradford Reynolds, Asst. Attorney Gen., U.S. Civ. Rights Div., to Jack W. Erter, Jr., Partner, Lee, Wilson, Erter & Booth (Apr. 10, 1986), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1690.pdf> (objecting and declining to withdraw a previous objection on a proposal for 45 annexations, increasing city council from four to six members, changing the method of electing city council members from an at-large to four single-member districts and two at-large seats with single-shot voting allowed, and implementing a new districting plan because such changes would violate Section 5); Drew S. Davis III, Ass. Attorney Gen., U.S. Civ. Rights Div., to Howard P. King, County Counsel, Sumter County, S.C., (Sept. 27, 1979), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1280.pdf> (declining to withdraw an objection to the at-large system implemented by Act No. 371 and adopted under the Home Rule Act because it would violate Section 5); J. Stanley Pottinger, Ass. Attorney Gen., U.S. Civ. Rights Div., to Treva G. Ashworth, Attorney General, S.C. (Oct. 1, 1976), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1240.pdf> (objecting to a proposal to change the form of election for the School Board to an at-large system with a residency requirement and one appointed position because such changes would violate Section 5); *see also* John C. Ruoff & Herbert E. Buhl, *Voting Rights in South Carolina: 1982-2006*, 17 USC 643, 655-56 (2008) (“Since 1971, the Department of Justice (DOJ) has objected to preclearance of discriminatory changes in voting or procedures in South Carolina 120 times. . . . Since 1982, the discriminatory practices to which the DOJ objected have covered a wide variety of changes that affected nearly every aspect of African-American citizens’ participation in South Carolina’s electoral processes including discriminatory redistricting . . .”) (footnotes omitted).

While Section 5 no longer applies to South Carolina or its jurisdictions after the *Shelby County, Alabama v. Holder* decision, 570 U.S. 529 (2013), other federal laws, discussed *infra*, continue to apply. Indeed, upon a finding of intentional discrimination, the state and its subdivisions could be exposed to a remedial provision under Section 3(c) of the Voting Rights Act which provides an avenue to “bail in” jurisdictions and require them to preclear voting changes with the federal government. 42 U.S.C. § 1973a(c). Indeed, before *Shelby*, it is unclear whether the Legislature’s 2017 changes to the electoral structure of the Sumter School Board would have been precleared under Section 5 because of the potential retrogressive impact that its restrictions have on voting opportunities, particularly for Black and other people of color in Sumter.



Please feel free to reach out to us directly with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah C. Aden".

Sherrilyn Ifill, President & Director Counsel
Sam Spital, Director of Litigation
Leah C. Aden, Senior Counsel
John S. Cusick, Equal Justice Works Fellow
NAACP LEGAL DEFENSE
& EDUCATIONAL FUND, INC.
(212) 965-7715
laden@naacpldf.org

/s/ Robert J. Butcher

Robert J. Butcher
The Camden Law Firm, PA
P.O. Box 610
Camden, South Carolina 29020
T: (803) 432-7599
F: (803) 432-7466
rbutcher@camdensc-law.com

Cc (by email): Henry McMaster, Governor
State of South Carolina

Sen. Kevin L. Johnson
Sen. J. Thomas McElveen, III
Rep. Wendy C. Brawley
Rep. Robert L. Ridgeway, III
Rep. G. Murrell Smith Jr.
Rep. J. David Weeks
Rep. Williams W. "Will" Wheeler, III
Members of the Sumter County Legislative Delegation

Greg Thompson
William Byrd



Ben Griffith
Bobby Anderson
Rev. Daryl McGhaney
Johnny Hilton
Lucille McQuilla
Members of the School Board's Finance Committee

Molly Spearman, State Superintendent
South Carolina Department of Education

James T. McCain, Jr., Chairman
Sumter County Council

Gary Mixon, Sumter County Administrator
Sumter County Administration Office

Brenda C. Williams, MD, Founder and Chief Executive Officer
Joseph C. Williams, MD, FACP, CMD, Treasurer
Family Unit, Inc.

Susan Dunn, Legal Director
American Civil Liberties of South Carolina

Elizabeth Kilgore, President
Sumter County NAACP