

August 16, 2021

Sent via email

Tangipahoa Parish School Board
59656 Puleston Road
Amite, LA 70422

**Re: Tangipahoa Parish School Board Compliance with Section 2 of
the Voting Rights Act**

Dear President Abrams, Vice President Westmoreland, and Other Members of the Tangipahoa Parish School Board:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) and the Greater Tangipahoa Parish NAACP Branch (“Tangipahoa NAACP”) write to express our concern that the district map currently used to elect members of the Tangipahoa Parish School Board (“School Board”) may violate Section 2 of the Voting Rights Act (“Section 2”).¹ We urge the School Board to take seriously its affirmative obligation to comply with Section 2, particularly by considering whether Section 2 requires this body to enact a map this upcoming redistricting cycle with three opportunity districts comprised of a majority of Black voters (“majority-minority opportunity districts”).

I. Background

Tangipahoa Parish voters elect nine School Board members from single-member districts. The School Board sets budgetary, curricular, hiring, and resource priorities for all school children in Tangipahoa Parish. Nearly one-third of Tangipahoa’s residents are Black.² Moreover, the Tangipahoa public school student

¹ Since 1957, LDF has been a separate entity from the NAACP and its state and local branches. LDF and the NAACP have won numerous cases challenging discriminatory methods of election in Louisiana and elsewhere. *See, e.g., Thornburg v. Gingles*, 478 U.S. 30 (1986); *Chisom v. Roemer*, 501 U.S. 380 (1991); *Alabama State Conf. of NAACP v. City of Pleasant Grove*, 372 F. Supp. 3d 1333 (N.D. Ala. 2019); *Ga. State Conf. of the NAACP v. Fayette Cty. Bd. of Comm’rs*, 118 F. Supp. 3d 1338 (N.D. Ga. 2015) (LDF and the NAACP successfully challenging a county commission’s and school board’s at-large elections); *Dillard v. Greensboro*, 956 F. Supp. 1576 (M.D. Ala. 1997) (LDF successfully challenging at-large elections).

² According to the Census Bureau’s 2015-2019 American Community Survey five-year estimates, Tangipahoa’s total population is 132,055, its Black population is 38,835, and its non-Hispanic white population is 83,585.

body is nearly 50% Black and over 60% minority.³ Notwithstanding Tangipahoa Parish’s significant minority community, the School Board currently only has two Black members (and seven white members). Based on demographics alone, Tangipahoa’s Black community is severely underrepresented on the School Board.⁴

II. The Tangipahoa School Board Has an Obligation to Comply with Section 2 of the Voting Rights Act in Redistricting.

Louisiana law mandates that the School Board reapportion its districts after each decennial census;⁵ that is, the School Board must balance the population of Tangipahoa residents as equally as possible among the nine school board districts to comply with the “one person, one vote” principle under the U.S. Constitution’s Equal Protection Clause.⁶ The U.S. Census Bureau conducted the decennial census in 2020 and its release of decennial data necessary to fulfill this obligation is imminent.

Another post-census obligation that the School Board has is to ensure that the School Board map complies with the Voting Rights Act in the redistricting process. In particular, Section 2 of the Voting Rights Act requires the redistricting body to ensure that voters of color have an equal opportunity “to participate in the political process and elect candidates of their choice,” taking into consideration the state or locality’s demographics, voting patterns, and other circumstances.⁷ A chief purpose of Section 2 is to prohibit minority vote dilution at all levels of government, including school board elections.⁸

A district map may violate Section 2 when it dilutes the voting power of voters of color, including by “packing” Black voters into districts where they constitute an excessive majority and depriving them of the ability to elect their candidates of choice

³ *Feb 2021 Multi Stats (Total by Site and School System)*, Louisiana Department of Education, <https://www.louisianabelieves.com/resources/library/student-attributes> (last visited Aug. 2, 2021).

⁴ *See St. Bernard Citizens for Better Gov’t v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *4 (E.D. La. Aug. 26, 2002) (considering the percent of Black student population in a Section 2 claim against Saint Bernard Parish School Board); *Perez v. Pasadena Indep. Sch. Dist.*, 958 F. Supp. 1196, 1224 (S.D. Tex. 1997), *aff’d*, 165 F.3d 368 (5th Cir. 1999) (“The Hispanic student population has been consistently underrepresented on the PISD Board.”).

⁵ La. Stat. Ann. § 18:1921; La. Stat. Ann. § 18:1922.

⁶ For local elections, a 10% maximum population deviation is presumptively valid. *See Brown v. Thomson*, 462 U.S. 835, 842 (1983) (“Our decisions have established, as a general matter, that an apportionment plan with a maximum population deviation under 10% falls within this category of minor deviations.”). The state may justify population deviations over 10% if the plan “may reasonably be said to advance [a] rational state policy” and, if so, “whether the population disparities among the districts that have resulted from the pursuit of this plan exceed constitutional limits.” *Id.* at 843.

⁷ *See Thornburg v. Gingles*, 478 U.S. 30, 34 (1986).

⁸ *St. Bernard Citizens for Better Gov’t*, 2002 WL 2022589, at *10; *Fifth Ward Precinct 1A Coal. & Progressive Ass’n v. Jefferson Par. Sch. Bd.*, No. CIV.A. 86-2963, 1989 WL 3801, at *1 (E.D. La. Jan. 18, 1989).

in other districts. Section 2 prohibits minority vote dilution regardless of whether a plan was adopted with a discriminatory purpose.⁹ What matters under Section 2 is the effect of the redistricting plan on the opportunity of voters of color to elect candidates of their choice.

The U.S. Supreme Court has established the following three “*Gingles* preconditions” for evaluating vote dilution under Section 2: whether (1) an illustrative districting plan can be drawn that includes an additional district in which the minority community is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) the minority group is politically cohesive in its support for its preferred candidates; and (3) in the absence of majority-minority districts, candidates preferred by the minority group would usually be defeated due to the political cohesion of white voters in support of different candidates.¹⁰ Together, the second and third *Gingles* preconditions are commonly referred to as racial bloc or racially polarized voting.¹¹

After a plaintiff establishes the three *Gingles* preconditions, a “totality of circumstances” analysis is conducted to determine whether minority voters “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”¹² It will be “only the very unusual case in which the plaintiffs can establish the existence of the three *Gingles* factors but still have failed to establish a violation of § 2 under the totality of circumstances.”¹³

⁹ *Gingles*, 478 U.S. at 35.

¹⁰ *Id.* at 50-51.

¹¹ Racially polarized voting occurs when different racial groups vote for different candidates. In a racially polarized election, Black people vote together for their preferred (usually Black) candidate, and most white voters vote for the opposing (usually white) candidate.

¹² 52 U.S.C. § 10301(b); *see also LULAC v. Perry*, 548 U.S. 399, 425 (2006). Courts examine the “totality of the circumstances” based on the so-called Senate Factors, named for the Senate Report accompanying the 1982 Voting Rights Act amendments in which they were first laid out. *Gingles*, 478 U.S. at 43-45. The Senate Factors are: (1) the extent of any history of discrimination related to voting; (2) the extent to which voting is racially polarized; (3) the extent to which the Parish uses voting practices that may enhance the opportunity for discrimination; (4) whether Black candidates have access to candidate slating processes; (5) the extent to which Black voters bear the effects of discrimination in areas of life like education, housing, and economic opportunity; (6) whether political campaigns have been characterized by overt or subtle racial appeals; (7) the extent to which Black people have been elected to public office; (8) whether elected officials are responsive to the needs of Black residents; and (9) whether the policy underlying the voting plan is tenuous. *Id.* at 36-37. However, “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Id.* at 45.

¹³ *Clark v. Calhoun Cty.*, 21 F.3d 92, 97 (5th Cir. 1994).

III. The Current Tangipahoa School Board Map May Violate Section 2 of the Voting Rights Act.

The current School Board district map may violate Section 2 of the Voting Rights Act. The map packs Black voters into Districts A and G. As shown in Appendix 1, in District A, 64.04% of the citizen voting age population is Black and 69.33% of the registered voters are Black. In District G, 56.36% of the citizen voting age population is Black and 62.01% of the registered voters are Black. The Voting Rights Act does not require or justify this packing.

Moreover, each of the three *Gingles* preconditions are likely present in Tangipahoa Parish, and there is ample evidence to show that under the totality of the circumstances, Black voters have less opportunity than other members of the electorate to participate in the political process and elect candidates of their choice.

a. *Gingles* Precondition One: It Is Possible to Draw a School Board Map with Three Majority-Minority Opportunity Districts.

It is possible to draw three majority-minority opportunity districts in the nine-member Tangipahoa School Board map. Figure 1 provides an illustrative School Board map with nine districts in which three districts are majority Black.¹⁴ Figure 1 is just one of many versions of a nine-single-member school board map that can be drawn with three majority-Black districts. Accordingly, the first *Gingles* precondition could readily be satisfied, and demonstrates that it is unnecessary to continue to pack Black voters into two of the nine School Board districts in the upcoming redistricting cycle.¹⁵

b. *Gingles* Preconditions Two and Three: Tangipahoa School Board Elections Reflect Racially Polarized Voting Patterns.

There is ample evidence to suggest that School Board elections in Tangipahoa Parish are racially polarized, satisfying the remaining two *Gingles* preconditions.

Even as Black voters have supported Black candidates (demonstrating Black voter cohesion under *Gingles* precondition two), Black candidates have lost recent elections against white candidates in majority-white districts (indicating that white voters tend to vote against Black voters' preferred candidates under *Gingles*

¹⁴ As shown in Appendix 2, in the illustrative map, District 1 has a Black Citizen Voting Age Population ("BCVAP") of 56.62%, District 2 has a BCVAP of 52.52%, and District 3 has a BCVAP of 57.79%. This illustrative map was prepared using data from the 2015-2019 American Community Survey five-year estimates (of a sample of the population). The Census will release complete counts (non-estimates) of the data necessary for reapportionment and redistricting with the P.L. 94-171 file by September 30, 2021.

¹⁵ See *Gingles*, 478 U.S. at 50.

precondition three). In every election since 1998, Black candidates have prevailed in the two majority-Black districts (Districts A and G). By contrast in 2018, Black candidates for School Board seats—Terran Perry, Janice Reid Holland, and Rene Soule—lost to white candidates in three of the parish’s majority-white districts (Districts C, D, and F). Similar voting patterns existed in prior elections as well. This suggests that the current map, in combination with racially polarized voting patterns, are diluting the votes of Black people in Tangipahoa Parish and depriving them of the opportunity to elect candidates of their choice.

Moreover, Louisiana has well-documented history and ongoing record of racially polarized voting in elections across the state.¹⁶ Therefore, there is ample evidence to support the conclusion that *Gingles* preconditions two and three can be satisfied.

c. Totality of Circumstances: Voters of Color Have Less Opportunity to Elect Candidates of Their Choice to the Tangipahoa School Board.

In addition to the indicia of the three *Gingles* preconditions, under the “totality of the circumstances,” Black voters have “less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice” to the Tangipahoa School Board.¹⁷ There is ample evidence that multiple congressionally-delineated “Senate Factors,” can be demonstrated including: the extent of any history of discrimination related to voting in Tangipahoa specifically and Louisiana generally (Factor 1); the extent to which Black voters bear the effects of discrimination in a variety of areas of life in Tangipahoa (Factor 5); whether political campaigns in Tangipahoa have been characterized by overt or subtle racial appeals (Factor 6); and whether elected officials in Tangipahoa are responsive to the needs of Black residents (Factor 8).¹⁸ For example:

- The Tangipahoa Parish School System has been subject to decades-long desegregation litigation. In 1969, a Louisiana district court ruled that segregation in Tangipahoa schools violated the Equal Protection Clause of the

¹⁶ See, e.g., *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 433 (concluding that elections in Terrebonne Parish are racially polarized), *rev’d sub nom. Fusilier*, 963 F.3d 447; *Hall v. Louisiana*, 108 F. Supp. 3d 419, 440 (M.D. La. 2015) (finding that racially polarized voting was present in elections for the City Court of Baton Rouge); *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*, 2002 WL 2022589, at *8 (finding the existence of racially polarized voting in elections to the St. Bernard Parish Council).

¹⁷ *Gingles*, 478 U.S. at 36-37 (quoting 42 U.S.C. § 10301(b)).

¹⁸ See *supra* note 12 (listing the Senate Factors).

Fourteenth Amendment.¹⁹ As a result, the School Board was bound by a consent decree mandating desegregation efforts and court monitoring.²⁰ That case is ongoing today.²¹

- There are stark racial disparities in the academic performance indicators between Black and white students in the Tangipahoa Parish School System. The Louisiana Department of Education has identified twenty-two schools in Tangipahoa Parish that have at least two consecutive years of “F”-level academic performance with respect to Black students, but only two schools that have at least two consecutive years of “F”-level academic performance with respect to white students.²²
- Tangipahoa Parish School System hiring practices evince racial disparities. Only 19.1% of the Central Office Staff Level Employees and 24% of teachers are Black, well below Black representation in the relevant labor market.²³ The Tangipahoa NAACP has lodged multiple complaints with the School Board concerning hiring practices.²⁴
- The state of Louisiana—and Tangipahoa Parish specifically—has an extensive history of voting discrimination. In 1868, southern white Democrats killed around 200 Black people in St. Landry Parish to suppress the Black vote in the tragic Opelousas Massacre.²⁵ A century later in 1964, Tangipahoa Parish used a now-infamously difficult literacy test to disenfranchise Black voters.²⁶

¹⁹ *Moore v. Tangipahoa Par. Sch. Bd.*, 304 F. Supp. 244, 250 (E.D. La. 1969).

²⁰ *Moore v. Tangipahoa Par. Sch. Bd.*, 507 F. App’x 389, 401 (5th Cir. 2013) (Dennis, J. dissenting).

²¹ *Moore v. Tangipahoa Par. Sch. Bd.*, No. CV 65-15556, 2021 WL 1207795, at *11 (E.D. La. Mar. 31, 2021).

²² Louisiana Department of Education, Tangipahoa Parish School System Performance.

²³ The Greater Tangipahoa Parish NAACP Branch Education Committee, NAACP Mutual Consent Agreement Monitoring Report 2-3 (2021); C23002, Sex by Age by Employment Status for the Population 16 Years and Over, 2015-2019 American Community Survey five-year estimates, United States Census.

²⁴ *Id.* at 5.

²⁵ Lorraine Boissoneault, *The Deadliest Massacre in Reconstruction-Era Louisiana Happened 150 Years Ago*, Smithsonian Magazine (Sept. 28, 2018), <https://www.smithsonianmag.com/history/story-deadliest-massacre-reconstruction-era-louisiana-180970420/>.

²⁶ *Literacy Tests: The Louisiana Literacy Test*, The Law Library of Louisiana, <https://lasc.libguides.com/c.php?g=940581&p=6830148> (last visited Aug. 2, 2021).

- The United States Department of Justice issued an objection letter pursuant to Section 5 of the Voting Rights Act to the redistricting plan proposed for the Tangipahoa Parish Council in 2003.²⁷
- There is deeply concerning evidence of racial appeals in Tangipahoa School Board campaigns. For example, in 2018, a white Tangipahoa School Board Member and candidate for reelection posted a picture of a noose on Facebook with the caption “IF WE WANT TO MAKE AMERICA GREAT AGAIN WE WILL HAVE TO MAKE EVIL PEOPLE FEAR PUNISHMENT.”²⁸
- There are dramatic race-based socioeconomic disparities in Tangipahoa Parish. Black adults are nearly twice as likely as white adults to lack a high school diploma.²⁹ Over half of Black children live below the poverty line, compared to less than one out of six white children.³⁰ Black adults between 18 and 64 are over 50% more likely to lack health insurance coverage than white adults.³¹
- The School Board has not been responsive to Black voters in Tangipahoa. For example, in 2021, the Tangipahoa NAACP formally requested that the School Board provide a job description for the Magnet Supervisor, a soon-to-be vacant position crucial to court-ordered desegregation efforts.³² They received no response. Instead, the School Board dissolved the Magnet Supervisor position altogether.³³ The Tangipahoa NAACP sent a formal complaint to the School Board objecting to the removal of the Magnet Supervisor position.³⁴ To date, the School Board has not responded.

²⁷ See *Objection Letter Regarding Tangipahoa Parish 2003 Redistricting Plan*, United States Department of Justice (Oct. 10, 2003), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/LA-2420.pdf>.

²⁸ Caroline Grueskin, *Tangipahoa School Board Member Who Posted Noose Meme Opts for Last Minute Run for Reelection*, *The Advocate* (July 31, 2018), https://www.theadvocate.com/baton_rouge/news/communities/livingston_tangipahoa/article_e0999182-9506-11e8-bf14-fb6afcf2a6ee.html.

²⁹ C15002, Sex by Educational Attainment for the Population 25 Years and Over, 2015-2019 American Community Survey five-year estimates, United States Census.

³⁰ B17020, Poverty Status in the Past 12 Months by Age, 2015-2019 American Community Survey five-year estimates, United States Census.

³¹ C27001B, Health Insurance Coverage Status by Age, 2015-2019 American Community Survey five-year estimates, United States Census.

³² Letter from Greater Tangipahoa Parish NAACP Branch Education Committee to Melissa Stilley, Tangipahoa Parish School System Superintendent (May 21, 2021), on file with LDF.

³³ Letter from Greater Tangipahoa Parish NAACP Branch Education Committee to Donald Massey, Tangipahoa Parish School System Court Compliance Officer, and Andrew Jackson, Chief Equity Officer (July 27, 2021), on file with LDF.

³⁴ *Id.*

There is strong evidence based on the totality of circumstances that Black voters in Tangipahoa Parish have less opportunity to elect candidates of their choice under the current district map.

IV. The Tangipahoa School Board Must Enact a Map with Three Majority-Minority Opportunity Districts.

For the reasons explained above, the School Board must consider its obligations under the Voting Rights Act, including whether it is necessary to develop an additional majority-Black opportunity district to provide Black voters with an equal opportunity to elect candidates of their choice. A failure by the School Board to comply with Section 2 may lead to costly and unnecessary litigation.³⁵ We therefore urge the School Board to consider school board plans that ensure non-dilution of Black voting strength in Tangipahoa Parish. We are happy to provide the School Board with a more detailed image or shapefile of the map in Appendix 2 and discuss other iterations of illustrative maps for the School Board that would comply with the Voting Rights Act and U.S. Constitution.

Please feel free to contact Michael Pernick at (917) 790-3597 or by email at mpernick@naacpldf.org with any questions or to discuss these issues in more detail. We also commend you to digest *Power on the Line(s): Making Redistricting Work for Us*,³⁶ a guide for community partners and policy makers who intend to engage in the redistricting process at all levels of government.

Sincerely,

/s/ Michael Pernick

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³⁵ NAACP Legal Defense and Educational Fund, Inc., *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation as of February 21*, NAACP Legal Defense and Educational Fund, <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-2.19.21.pdf> (last visited Aug. 2, 2021).

³⁶ See NAACP Legal Defense and Educational Fund, Inc., Mexican American Legal Defense and Educational Fund, and Asian Americans Advancing Justice | AAJC, *Power on the Line(s): Making Redistricting Work for Us*, (2021), <https://bit.ly/3ogg6pS>.

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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.

APPENDIX 1

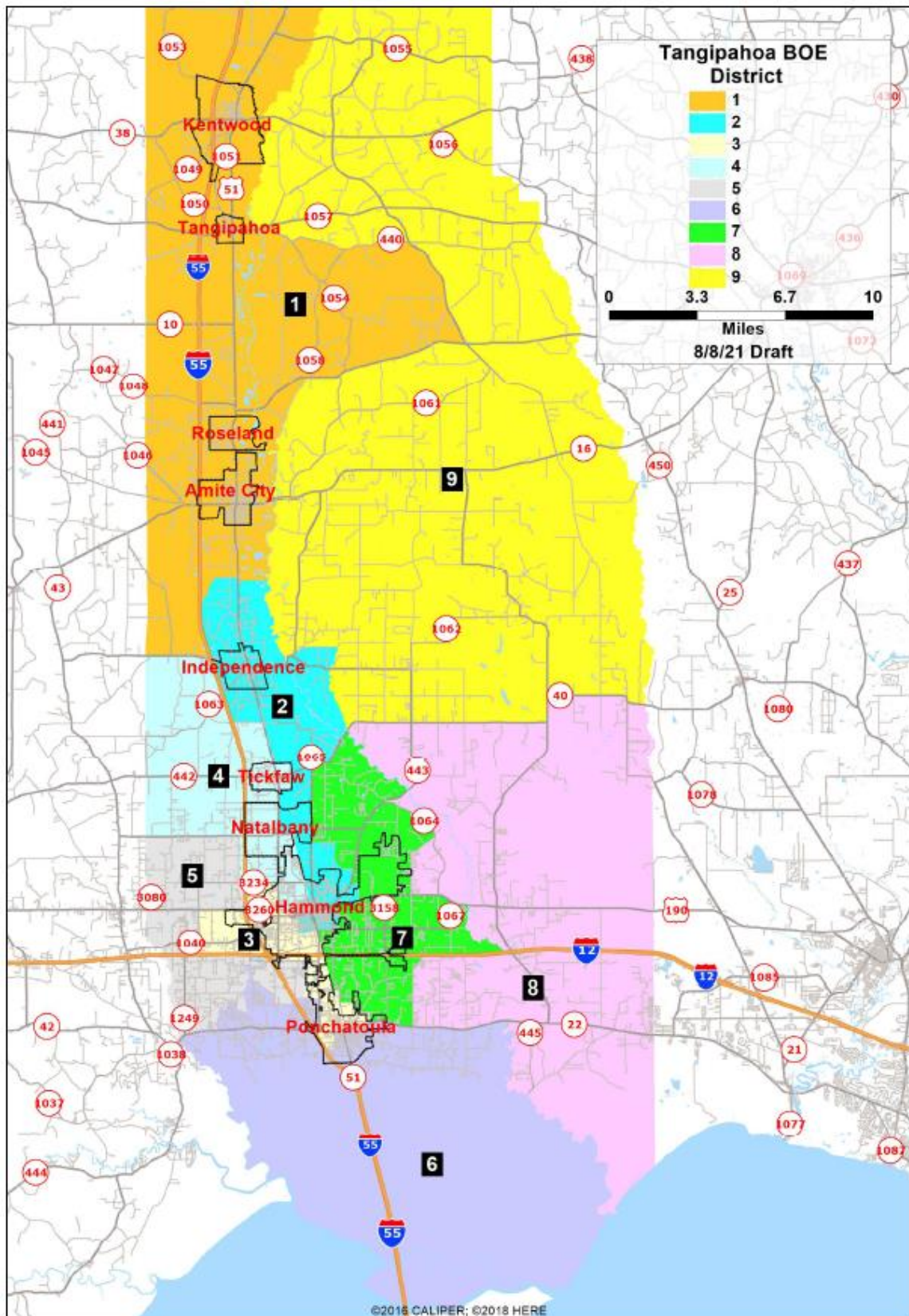
Demographics for Current School Board Districts

District	2015-2019 ACS Population Estimate	Estimated Population Deviation	Deviation Percent	2015-2019 ACS BCVAP Estimate
A	13,613	-1060	-7.22%	64.04%
B	14,697	24	0.17%	16.89%
C	13,026	-1647	-11.22%	15.86%
D	13,041	-1632	-11.13%	33.00%
E	13,410	-1263	-8.61%	23.27%
F	17,112	2439	16.62%	15.22%
G	15,008	335	2.28%	56.36%
H	15,724	1051	7.16%	11.38%
I	16,426	1753	11.95%	16.00%

Source: 2015-2019 ACS five-year data

APPENDIX 2

Illustrative Map with Three Majority-Minority Opportunity Districts



APPENDIX 3

Demographics for Illustrative Map (Appendix 2)

District	2015-2019 ACS Population Estimate	Estimated Population Deviation	Deviation Percent	2015-2019 ACS BCVAP Estimate
1	15,009	336	2.29%	56.62%
2	14,562	-111	-0.76%	52.52%
3	14,603	-70	-0.48%	57.79%
4	14,375	-298	-2.03%	15.94%
5	14,626	-47	-0.32%	21.47%
6	14,439	-234	-1.60%	11.09%
7	14,649	-25	-0.17%	17.23%
8	14,716	43	0.29%	5.03%
9	15,080	407	2.77%	10.46%