



The Education Trust



ADVANCEMENT PROJECT



South Louisiana Coalition for Education



January 10, 2022

*Sent via email*

Senate and House Governmental Affairs Committees  
Louisiana State Senate  
P.O. Box 94183  
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**Re: Board of Elementary and Secondary Education (“BESE”)  
Compliance with Section 2 of the Voting Rights Act**

Dear Chair Stefanski, Chair Hewitt, and Other Members of the House and Senate Governmental Affairs Committee:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”), Advancement Project National Office, American Civil Liberties Union of Louisiana, Black Voters Matter Fund, Fair Districts Louisiana, The Education Trust, League of Women Voters of Louisiana, Louisiana NAACP State Conference, Louisiana Progress, Our Voice Nuestra Voz, Power Coalition for Equity and Justice, Southern Louisiana Coalition for Education, Southern Poverty Law Center Action Fund, Urban League

of Louisiana, and former BESE member Linda Johnson write to urge you to adopt a map for the Louisiana Board of Elementary and Secondary Education (“BESE”) with three districts comprised of a majority of minority voters (“majority-minority districts”). For the reasons explained below, Section 2 of the Voting Rights Act of 1965 (“Section 2”) likely requires this body to enact a map this upcoming redistricting cycle with three majority-minority districts. Moreover, we have confirmed that it is possible to draw a BESE map with three majority-minority districts and are submitting along with this letter two such maps for your consideration.

## **I. Background**

The BESE was established in Louisiana’s 1974 Constitution as the administrative body for elementary and secondary schools, special schools for students with disabilities, and educational units in the state’s correctional institutions and mental health facilities. The eleven-member board consists of three members appointed at large, and eight members elected from single-member districts (“SMDs”). Members served six-year, overlapping terms until 1984 when the terms were shortened and made concurrent with the four-year term of the Governor. Elected members were initially selected from Louisiana’s then-eight congressional districts. However, when Louisiana lost one congressional district in the reapportionment process following the 1990 Census, the State created a BESE map with eight unique districts, and it has remained that size through multiple redistricting cycles.

The BESE has the authority to create policies that govern the statewide operations of public and non-public schools, to administer the budget for educational programs and services at those schools, and to conduct administrative hearings to resolve any conflict concerning its policies and actions.

It is critical that Black and Latino Louisianans have an equal opportunity to elect their preferred representatives to the BESE. Under the current map, Black and Latino Louisianans are severely underrepresented. Louisiana’s population as a whole is 39.5% Black or Latino and Louisiana’s population under the age of 18 (who are eligible to attend public schools in the state or will be in the coming years) is 47.5% Black or Latino. However, Black and Latino voters in Louisiana only have an opportunity to elect candidates of their choice in two of the eight SMDs (i.e., 25% of the districts). Currently, one of the three governor-appointed BESE seats is held by a person of color, so three out of 11 BESE members (27%) are people of color and/or representatives preferred by Black and Latino voters. Moreover, under the previous administration all three appointed members were white people, and, as a result, only two out of 11 BESE members (18%) were people of color and/or representatives

preferred by Black and Latino voters. In short, Black and Latino Louisianans are severely underrepresented on the BESE.

## **II. The Legislature Has an Obligation to Comply With Section 2 of the Voting Rights Act in Redistricting.**

The state legislature has an affirmative obligation to comply with the Voting Rights Act in the redistricting process. In particular, Section 2 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.<sup>1</sup> A chief purpose of Section 2 is to prohibit minority vote dilution at all levels of government.<sup>2</sup>

A district map may violate Section 2 if it dilutes the voting power of voters of color, including by “packing” Black voters into districts where they constitute an unnecessarily large percentage of the voting population and depriving them of the opportunity to elect candidates of choice in other districts.<sup>3</sup> Section 2 prohibits minority vote dilution regardless of whether a plan was adopted with a discriminatory purpose.<sup>4</sup> Indeed, Section 2 outlaws redistricting plans that result in a reduced ability of voters of color to elect candidates of their choice.

In *Thornburg v. Gingles*, 478 U.S. 30 (1986), the U.S. Supreme Court set forth three pre-conditions for assessing whether a districting plan or voting system has resulted in vote dilution. The three “*Gingles* preconditions” are whether: (1) an alternative districting plan can be drawn that includes one or more SMDs in which the minority community is sufficiently large and geographically compact to constitute a majority in the 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 non-minority voters in support of different candidates.<sup>5</sup> Together,

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<sup>1</sup> *Thornburg v. Gingles*, 478 U.S. 30, 34 (1986).

<sup>2</sup> See *St. Bernard Citizens For Better Gov’t v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at \*10 (E.D. La. Aug. 26, 2002); *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).

<sup>3</sup> See *Gingles*, 478 U.S. at 46, n.11.

<sup>4</sup> *Id.* at 35.

<sup>5</sup> *Id.* at 50-51.

the second and third *Gingles* preconditions are commonly referred to as racial bloc or racially polarized voting.<sup>6</sup>

If these three *Gingles* preconditions are met, a decisionmaker must then evaluate the “totality of circumstances” 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.”<sup>7</sup> Courts consider several factors (commonly known as the “Senate Factors”) to determine whether, under the totality of the circumstances, the minority vote has been diluted impermissibly.<sup>8</sup> 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.”<sup>9</sup>

### **III. A New BESE Map With Only Two Majority-Minority Districts Likely Violates Section 2.**

A new BESE map will likely violate Section 2 if it fails to provide Louisiana’s Black and Latino voters with an equal opportunity to elect candidates of their choice through the development of three districts comprised of a majority of Black and Latino voters. For the reasons explained below, each of the three *Gingles* preconditions are likely present in Louisiana, and there is ample evidence to show that under the totality of the circumstances, Black and Latino voters have less opportunity than other members of the electorate to participate in the political process and elect candidates of their choice to the BESE.

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<sup>6</sup> Racially polarized voting occurs when there is a pattern of different racial groups voting for different candidates. In a racially polarized election, for example, Black people vote together for their preferred (frequently Black) candidate, and most non-Black voters vote for the opposing (typically white) candidate.

<sup>7</sup> 52 U.S.C. § 10301(b); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 425 (2006).

<sup>8</sup> 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 state or political subdivision uses voting practices that may enhance the opportunity for discrimination; (4) whether minority candidates have access to candidate slating processes; (5) the extent to which minority 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 minority people have been elected to public office; (8) whether elected officials are responsive to the needs of minority 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.

<sup>9</sup> *Clark v. Calhoun Cty.*, 21 F.3d 92, 97 (5th Cir. 1994).

**a. *Gingles* Precondition One: It Is Possible to Draw a BESE Map With Three Majority-Minority Districts.**

We have confirmed that there are multiple ways to draw three majority-minority districts in the eight-district BESE map. **Appendix 1** provides an illustrative map that contains three districts in which the combined Black and Latino voting-age population (“BVAP” and “LVAP”) is over 50%.<sup>10</sup> The map proposed in Appendix 1 is also **more compact** than the current map according to the widely accepted Polsby-Popper compactness measure and it **splits fewer parish boundaries** than the current map.

The current BESE map cracks Black and Latino communities in Northern Louisiana into districts 4 and 5, denying voters of color in Northern Louisiana any opportunity to elect candidates of their choice in either of those districts. The proposed map creates a new version of District 5 that unifies these communities in Northern Louisiana with a new district in which the combined BVAP and LVAP is over 50%.

In addition, to the extent the Legislature wishes to consider a map that retains traditional district alignments to the extent practicable, we also are providing an alternate proposal for the BESE map that keeps all districts largely intact, other than districts 4 and 5 in Northern Louisiana (see **Appendix 2**).<sup>11</sup> This map incorporates the same third majority-minority district in northern Louisiana as the map presented in Appendix 1, but adjusts the boundaries of the other six districts only as needed to ensure population equality. This map illustrates an alternate approach to ensuring that Black and Latino voters have their voices heard in elections to the BESE.

Accordingly, because it is possible to adopt a BESE map with three majority-minority districts, the first *Gingles* precondition could readily be satisfied.<sup>12</sup>

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<sup>10</sup> The Fifth Circuit has confirmed that Section 2 protects coalitions of Black and Latino voters who, when combined, would constitute a majority in a single-member district. *See Campos v. City of Baytown, Tex.*, 840 F.2d 1240 (5th Cir. 1988); *League of United Latin Am. Citizens Council, No. 4386 v. Midland Indep. Sch. Dist.*, 812 F.2d 1494 (5th Cir. 1987), vacated on other grounds, 829 F.2d 546 (5th Cir. 1987).

<sup>11</sup> House Concurrent Resolution 90 (“HCR 90”), which sets forth redistricting principles for the Committee’s consideration, advises that “[d]ue consideration shall be given to traditional alignments to the extent practicable. HCR 90, Joint Rule No. 21(D)(4). However, as acknowledged in HCR 90, compliance with Section 2 of the Voting Rights and other federal laws is a higher priority than other considerations such as traditional district alignments.

<sup>12</sup> *See Gingles*, 478 U.S. at 50.

**b. *Gingles* Preconditions Two and Three: Louisiana Elections Reflect Racially Polarized Voting Patterns.**

There is ample evidence to suggest that the second and third *Gingles* preconditions are likely satisfied due to Louisiana’s well-documented history and ongoing record of racially polarized voting in elections across the state. For example, over the past three decades, numerous federal courts have found that racially polarized voting pervades Louisiana statewide and local elections.<sup>13</sup> Additionally, in the past two decades—including as recently as this year—the Department of Justice (“DOJ”) has sued local parishes under Section 2 three times; in each case, the DOJ identified racially polarized voting patterns within the parish.<sup>14</sup>

**c. Totality of Circumstances: Voters of Color Have Less Opportunity to Elect Candidates of Their Choice to the BESE.**

In addition to the indicia of the three *Gingles* preconditions, under the totality of the circumstances, Black and Latino 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 BESE.<sup>15</sup> There is ample evidence that several of

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<sup>13</sup> A district court recently found that there was sufficient preliminary evidence of racially polarized voting statewide to support plaintiffs’ challenge to Louisiana’s Supreme Court district map. *Louisiana State Conference of NAACP v. Louisiana*, 490 F. Supp. 3d 982, 1019 (M.D. La. 2020). In *St. Bernard Citizens For Better Government*, the district court found racially polarized voting patterns in statewide gubernatorial elections, as well as local parish elections. *St. Bernard Citizens For Better Gov’t*, 2002 WL 2022589, at \*7 (E.D. La. Aug. 26, 2002). See, e.g., *Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 436-37 (M.D. La. 2017), *rev’d sub nom. Fusilier v. Landry*, 963 F.3d 447 (5th Cir. 2020) (The district court found that there were racially polarized voting patterns in the parish’s judicial elections, and although the Fifth Circuit reversed the district court’s decision, it held that the district court did not err in its finding of racially polarized voting); *Citizens for a Better Gretna v. City of Gretna*, 636 F. Supp. 1113, 1124 (E.D. La. 1986); *Major v. Treen*, 574 F. Supp. 325, 337 (E.D. La. 1983) (The court found that there was racial polarization in Orleans Parish).

<sup>14</sup> Most recently, in 2021, the DOJ sued the City of West Monroe under Section 2 over its at-large alderman elections. The DOJ contended that there was racially polarized voting sufficient to satisfy *Gingles* because “[i]n contests between Black candidates and White candidates for West Monroe Board of Alderman and other parish, state, and federal positions, White voters cast their ballots sufficiently as a bloc to defeat the minority’s preferred candidate.” The court agreed and entered a consent decree between the parties. *United States v. City of West Monroe*, No. 21-cv-0988 (W.D. La. Apr. 14, 2021); see also *United States v. City of Morgan*, No. 00-cv-1541 (W.D. La. Aug. 17, 2000) (“Racially polarized voting patterns prevail in elections for the City Council of Morgan City. In contests between [B]lack and white candidates for City Council, [B]lack voters consistently vote for [B]lack candidates and white voters vote sufficiently as a bloc to usually defeat the [B]lack voters’ candidates of choice.”); *Greig v. City of St. Martinville*, No. 00-cv-00603 (W.D. La. Jun. 3, 2000) (The DOJ asserted that “[e]lections in the City of St. Martinville are racially polarized”).

<sup>15</sup> *Gingles*, 478 U.S. at 36-37 (quoting 42 U.S.C. § 10301(b)).

the congressionally-delineated “Senate Factors” can be demonstrated including: the extent of the history of voting discrimination in Louisiana (Factor 1); the extent of racially polarized voting in Louisiana (Factor 2); the extent to which Black and Latino voters bear the effects of discrimination in a variety of areas of life, including in education (Factor 5); the extent to which Black and Latino candidates have been elected to statewide, public office in Louisiana (Factor 7); and whether elected members of the BESE are responsive to the needs of Black and Latino residents (Factor 8).<sup>16</sup> For example:

- Factor 1: The state of Louisiana has an extensive history and ongoing record of voting discrimination that has adversely impacted the right of Black and other minority voters to register to vote, to vote, or otherwise to participate in the political process.<sup>17</sup> Since Reconstruction, Louisiana has passed countless laws to deny Black democratic participation, including grandfather clauses, poll taxes, and educational and property qualifications.<sup>18</sup>
- Factor 1: Louisiana has a long history and ongoing record of employing voting practices, such as at-large elections and redistricting, that have diluted the weight of votes cast by voters of color. Most recently, the DOJ successfully challenged the City of West Monroe’s at-large alderman elections under Section 2.<sup>19</sup> From the passage of the Voting Rights Act in 1965 until the Supreme Court’s *Shelby County v. Holder* decision in 2013, the DOJ blocked nearly 150 proposed changes to voting policies or practices in Louisiana on the grounds that they discriminated against voters of color.<sup>20</sup> The DOJ even issued an objection letter pursuant to Section 5 to the redistricting plan proposed for the BESE in 1991.<sup>21</sup>
- Factor 1: In public hearings conducted by the Louisiana Advisory Committee to the U.S. Commission on Civil Rights in November and December 2017,

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<sup>16</sup> See *supra* note 12 (listing the Senate Factors).

<sup>17</sup> *St. Bernard Citizens For Better Gov’t*, 2002 WL 2022589, at \*9 (quoting *Citizens for a Better Gretna*, 636 F. Supp. at 1124) (“The history of black citizens’ attempts, in Louisiana since Reconstruction, to participate effectively in the political process and the white majority’s resistance to those efforts is one characterized by both *de jure* and *de facto* discrimination. Indeed, it would take a multi-volumed treatise to properly describe the persistent, and often violent, intimidation visited by white citizens upon black efforts to participate in Louisiana’s political process.”)

<sup>18</sup> Debo P. Adebile, *Voting Rights in Louisiana: 1982 -2006*, 17 S. Cal. Rev. L. & Soc. Just. 416-418 (2008).

<sup>19</sup> See *United States v. City of West Monroe*, No. 21-cv-0988 (W.D. La. Apr. 14, 2021).

<sup>20</sup> See *Voting Determination Letters for Louisiana*, Department of Justice, <https://www.justice.gov/crt/voting-determination-letters-louisiana> (last accessed Aug. 25, 2021).

<sup>21</sup> See *Objection Letter Regarding Act No. 651 (1991)*, United States Department of Justice (Oct. 1, 1991), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/LA-1770.pdf>.

voting rights advocates testified that due to the state’s failure to train and inform poll workers and registrars, Latino voters face substantial barriers to voting in Louisiana.<sup>22</sup> According to this testimony: (1) Latino voters are not being advised of their rights under state law as it relates to voting as a naturalized citizen; and (2) election officials are not advising them of their right, under federal law, to bring someone to the voting booth with them to help translate to vote if necessary.<sup>23</sup>

- Factor 2: As explained above, it is indisputable that there is RPV in Louisiana elections at the state and local level.
- Factor 5: Black and Latino Louisianans continue to experience the brunt of racial discrimination in every sector of public life.<sup>24</sup> Black and Latino Louisianans experience higher unemployment rates than white Louisianans. Unemployment data at the end of 2019 shows that Black people were unemployed at a rate of 7.9% and Latino people at a rate of 5.9%, compared to 3.1% for white people.<sup>25</sup> Black and Latino Louisianans also experience socioeconomic disparities as a result of systemic discrimination. In 2019, 29.4% of Black Louisianans and 25.3% of Latino Louisianans lived below the poverty line, compared to 12.5% of white people.<sup>26</sup>
- Factor 7: Black and Latino people have been largely underrepresented in Louisiana public offices.<sup>27</sup> Louisiana has never had a Black or Latino U.S. Senator, has never had a Latino governor since becoming a state in 1812, and has not had a Black governor since Reconstruction. Louisianans rarely elect

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<sup>22</sup> *Barriers to Voting in Louisiana*, Louisiana Advisory Committee for the United States Commission on Civil Rights (June 2018), <https://www.usccr.gov/files/pubs/2018/08-20-LA-Voting-Barriers.pdf>.

<sup>23</sup> *Id.*

<sup>24</sup> “Congress and the Courts have recognized the effect lower socio-economic status has on minority participation in the political process.” *Id.* In *Citizens for a Better Gretna*, the court found that “depressed levels of income, education and employment are a consequence of severe historical disadvantage” that in turn engenders “depressed levels of participation in voting and candidacy.” 636 F. Supp. at 1120.

<sup>25</sup> *State unemployment by race and ethnicity*, Economic Policy Institute, <https://www.epi.org/indicators/state-unemployment-race-ethnicity-2019q4/> (last updated March 2020).

<sup>26</sup> *Poverty Rate by Race/Ethnicity*, KFF, <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last accessed Sep. 1, 2021).

<sup>27</sup> The U.S. Supreme Court has held that one of the “predominant” factors under Section 2 is “the extent to which members of the minority group have been elected to public office in the jurisdiction.” *Gingles*, 478 U.S. at 37; *see also Citizens for a Better Gretna*, 636 F. Supp. at 1120 (“Where members of the minority group have not been elected to public office, it is of course evidence of vote dilution.”)

Black and Latino candidates to Congress. The state has had only five Black Congresspeople since Reconstruction, all of whom were elected to represent majority Black districts;<sup>28</sup> and has only elected two Latino Congresspeople, the last of whom served until 1941.<sup>29</sup> By contrast, since the Voting Rights Act was adopted in 1965, Louisiana has sent 46 white representatives to Congress.<sup>30</sup>

- Factor 8: The BESE has been unresponsive to the particularized needs of Black and Latino families. For example, the BESE supported removing COVID-19 safety protocols, including a statewide mask mandate in schools,<sup>31</sup> notwithstanding the existence of severe racial disparities in COVID-19 – although only one-third of Louisiana’s population, Black people accounted for more than 70% of the people who died of COVID-19.<sup>32</sup>
- Factor 8: The BESE is currently revising statewide social studies curriculum standards **to address gaps in the existing curriculum**, and there are concerns from parents and educators that the BESE’s decision-making will be influenced by politicized distortions on the teaching of full and accurate history in Louisiana’s schools, including the impact that legally-sanctioned enslavement of Black people and other institutions of racial oppression have had on Black and Latino communities.<sup>33</sup>
- Factor 8: Louisiana is one of the few states in the country that requires high school seniors to pass a state test, the Louisiana Educational Assessment

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<sup>28</sup> Four of the Black Congresspeople were elected in large part due to Black voter support in District 2. See *Black-American Members by State and Territory, 1870-Present*, History, Art & Archives: United States House of Representatives, <https://history.house.gov/Exhibitions-and-Publications/BAIC/Historical-Data/Black-American-Representatives-and-Senators-by-State-and-Territory/> (last visited Dec. 29, 2021).

<sup>29</sup> See *Hispanic Americans in Congress*, History, Art & Archives: United States House of Representatives, <https://history.house.gov/People/Search?filter=11> (last visited Dec. 29, 2021).

<sup>30</sup> See *United States Congressional Delegations from Louisiana*, Ballotpedia, [https://ballotpedia.org/United\\_States\\_congressional\\_delegations\\_from\\_Louisiana](https://ballotpedia.org/United_States_congressional_delegations_from_Louisiana) (last visited Dec. 29, 2021).

<sup>31</sup> *Statement from BESE President regarding Governor’s lifting of statewide mask mandate in K-12 schools*, Louisiana State Board of Elementary and Secondary Education (May 25, 2021) <https://bese.louisiana.gov/about-bese/bese-news/2021/05/26/statement-from-bese-president-regarding-governor's-lifting-of-statewide-mask-mandate-in-k-12-schools>.

<sup>32</sup> *Black Communities Are Hit Hardest By COVID-19 In Louisiana And Elsewhere*, New Orleans Public Radio, (Apr. 6, 2020), <https://www.wwno.org/latest-news/2020-04-06/black-communities-are-hit-hardest-by-covid-19-in-louisiana-and-elsewhere>.

<sup>33</sup> JC Canicosa, *Louisiana parents, teachers raise concerns about critical race theory in social studies standards*, Louisiana Illuminator (Dec. 13, 2021 7:27 pm) <https://lailluminator.com/2021/12/13/louisiana-parents-teachers-raise-concerns-about-critical-race-theory-in-social-studies-standards/>.

Program (LEAP), in order to graduate.<sup>34</sup> This requirement has presented a particularized barrier to graduation for students who primarily speak a language different from that of English, or English Language Learners (ELL students). As a result of this requirement, even though Louisiana’s overall graduation rate is 80%, the graduation rate among ELL students was only 41%.<sup>35</sup> ELL students in Louisiana, who are mostly Latino,<sup>36</sup> have one of the lowest graduation rates for ELL students in the country.<sup>37</sup> Notably, when LEAP testing was suspended due to the pandemic, the graduation rate for ELL students increased significantly. However, notwithstanding requests from advocates, the BESE has not adopted alternative pathways to graduation for ELL students on a permanent basis.<sup>38</sup>

- Factor 8: Louisiana’s K-12 accountability system, which assigns a School Performance Score (“SPS”) to public schools and school districts, is set by the BESE and impacts the funding and the overall viability of schools.<sup>39</sup> Leaders of majority-Black and Latino or economically-disadvantaged schools have raised concerns that the state’s existing accountability metrics do not account for systemic issues that these communities often face that may adversely impact academic outcomes. The BESE has not yet adopted accountability systems that would address these concerns, despite being presented with such a proposal by Louisiana Department of Education Superintendent Dr. Cade Brumley in June 2021.<sup>40</sup>

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<sup>34</sup> Jennifer Crocket, *Coalition pushes for this COVID-19 change in Louisiana high schools to stay put*, WDSU (Nov. 29, 2021, 5:20 PM), *Coalition pushes for this COVID-19 change in Louisiana high schools to stay put* (wdsu.com).

<sup>35</sup> *Id.*

<sup>36</sup> *A Look at English Learners in Louisiana*, Univ. of La. Monroe (Oct. 10, 2018), <https://online.ulm.edu/articles/education/english-learners-in-louisiana.aspx>.

<sup>37</sup> Claudio Sanchez, *English Language Learners: how your state is doing*, NPR (Feb. 23, 2017, 6:00 am), <https://www.npr.org/sections/ed/2017/02/23/512451228/5-million-english-language-learners-a-vast-pool-of-talent-at-risk>.

<sup>38</sup> Aubri Juhasz, *Louisiana’s English Learners Rarely Graduate on Time. These Educators Want to Change the Criteria*, WWNO (Oct. 22, 2021, 1:49 PM), <https://www.wwno.org/education/2021-10-22/louisianas-english-learners-rarely-graduate-on-time-these-educators-want-to-change-the-criteria>.

<sup>39</sup> *See generally, BESE’s Responsibility*, Louisiana State Board of Elementary and Secondary Education, <https://bese.louisiana.gov/about-bese/bese’s-responsibility>; *Louisiana’s K-12 Accountability System*, Louisiana Department of Education, [https://www.louisianabelieves.com/docs/default-source/key-initiatives/louisianas-key-initiatives\\_k-12-accountability-system.pdf?sfvrsn=7](https://www.louisianabelieves.com/docs/default-source/key-initiatives/louisianas-key-initiatives_k-12-accountability-system.pdf?sfvrsn=7).

<sup>40</sup> Will Sentell, *This Plan Would Give Fewer Louisiana Schools Failing Grades It’s Running Into Opposition*, *The Advocate* (June 14, 2021, 2:45 PM),

There is strong evidence based on the totality of circumstances that Black and Latino voters have less opportunity to participate in the political process and elect candidates of their choice to the BESE.

#### **IV. The Louisiana State Legislature Can and Must Enact a BESE Map with Three Majority-Minority Districts.**

For the reasons explained above, the state Legislature must earnestly consider its obligations under the Voting Rights Act and adopt a BESE map with three majority-minority districts to ensure Black and Latino voters' right to an equal opportunity to elect candidates of their choice. A failure by the Legislature to comply with Section 2 may lead to costly and unnecessary litigation.<sup>41</sup> We therefore urge the Legislature to consider districting plans that ensure non-dilution of Black and Latino voting strength in BESE elections, including the maps we have provided in in this letter.

We have also submitted comma-delimited block equivalency files for the maps proposed in the appendices to this letter.

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

Sincerely,

*/s/ Michael Pernick*

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<sup>41</sup> See 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 September 2021*, NAACP Legal Defense and Educational Fund <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-9.19.21-Final.pdf> (last visited Dec. 12, 2021).

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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.

## Advancement Project National Office

Advancement Project is a next generation, multi-racial civil rights organization. Rooted in the great human rights struggles for equality and justice, we exist to fulfill America’s promise of a caring, inclusive and just democracy. We use innovative tools and strategies to strengthen social movements and achieve high impact policy change.

## American Civil Liberties Union of Louisiana

The ACLU of Louisiana has worked to advance and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States and the State of Louisiana since 1956. The organization is part of a nationwide network of ACLU affiliates that fight tirelessly in all 50 states, Puerto Rico, and Washington, D.C.

## Black Voters Matter Fund

The Black Voter’s Matter Fund believes in the value of the voter 365. In this vein not only do we support our partners voting rights during and in between elections, we also support capacity and power building all year long.

## The Education Trust

The Education Trust is a national nonprofit that works to close opportunity gaps that disproportionately affect students of color and students from low-income families. Through our research and advocacy, Ed Trust supports efforts that expand excellence and equity in education from preschool through college, increase college access and completion particularly for historically underserved students, engage diverse communities dedicated to education equity, and increase political and public will to act on equity issues.

### Fair Districts Louisiana

Fair Districts Louisiana is a grassroots, non-partisan alliance of citizens advocating for redistricting and voting reform.

### League of Women Voters of Louisiana

The League of Women Voters of Louisiana is a nonpartisan political organization encouraging informed and active participation in government. It influences public policy through education and advocacy.

### Louisiana Progress

Louisiana Progress is dedicated to informing, engaging, and mobilizing people across Louisiana--community leaders, activists, advocates, students, and policymakers--with the goal of working together to support solutions-driven public policies that help build a better Louisiana for everyone.

### Louisiana NAACP State Conference

Louisiana State Conference of the National Association for the Advancement of Colored People (the “Louisiana NAACP State Conference”) is a state subsidiary of the National Association for the Advancement of Colored People, Inc. For decades, the Louisiana NAACP State Conference has worked towards its mission to ensure the political, educational, social, and economic equality of all persons and to eliminate race-based discrimination.

### Our Voice Nuestra Voz

Our Voice Nuestra Voz is a nation-building organization, anchoring indigeneity while building Black and Brown solidarity in New Orleans. We work to remember our shared culture and language, reconnect to the land, and organize our community around collective action to create a world for Black and Brown people to love, live, and thrive.

### Power Coalition for Equity and Justice

We are a coalition of community-based organizations who work together to educate and empower voters across Louisiana. Through our voter engagement and community organizing work, we seek to unify our collective voices into a stronger, more cohesive force that can successfully advocate for an agenda of shared values and issues.

Our work is diverse and includes power mapping, listening sessions, organizing, voter engagement, policy advocacy, and leadership development. It is centered on creating spaces where community can come together to lift up the issues that impact them, and then connect those issues to local, regional, and national resources—including the state voter file—to move our shared agenda.

### South Louisiana Coalition for Education (SLCE)

South Louisiana Coalition for Education (SLCE) was formed in 2015 by a group of community educators that noticed something concerning: the policy decisions being made on behalf of our students needed greater input from those with a direct stake in schools. To this end, we began organizing in the communities we served with one goal: to get input from people that worked with schools, then use that to drive a student-centered policy agenda and help put students back at the forefront of policy decisions.

SLCE members are current & former teachers and school staff, parents, family members, students, and others with a shared desire to ensure that our schools are as excellent as possible for students. We hail from many different geographical locations, political affiliations, religious traditions, and even schools of thought on educational theory, but we share a thorough belief that this diversity of thought and experience makes our coalition stronger and allows us to achieve the strongest possible outcomes for students.

Since our initial formation, we have used House Meetings, Public Actions, Teach-Ins, and other organizing strategies to engage thousands of individuals across South Louisiana in the process of making our schools stronger for students.

### Southern Poverty Law Center Action Fund

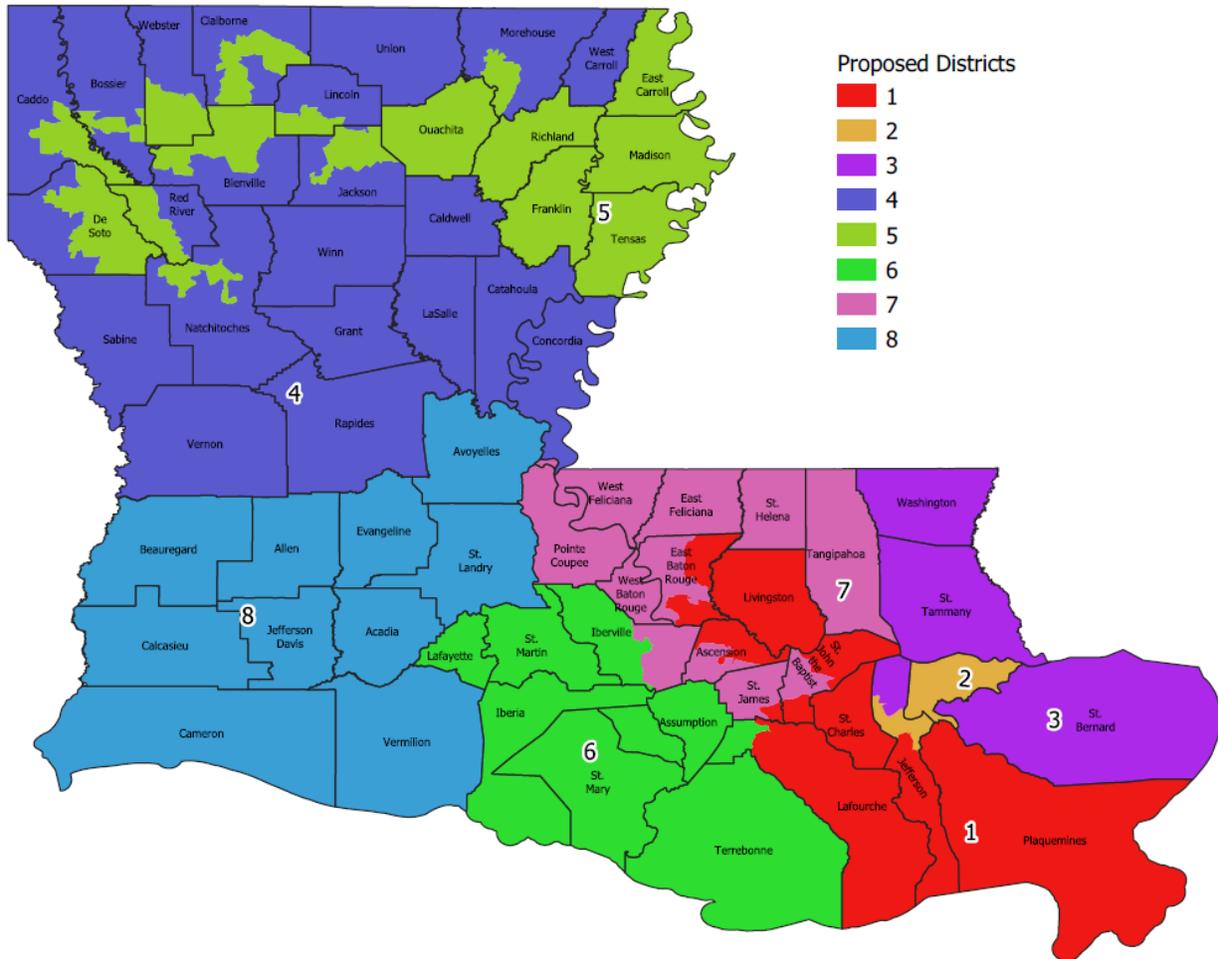
SPLC Action is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people.

### Urban League of Louisiana

The Urban League of Louisiana's mission is to assist African Americans and other communities seeking equity to secure economic self-reliance, parity, and civil rights. As an affiliate of the National Urban League, and for over 83 years, the Urban League of Louisiana has worked to ensure quality education, equal employment, entrepreneurial opportunities, economic inclusion, and shared dignity under the law.

# APPENDIX 1

## Louisiana State Board of Elementary and Secondary Education (BESE) Proposed Districts



## APPENDIX 1-A

District	Total	Deviation	% Deviation	VAP	Black VAP	% Black VAP	Latino VAP	% Latino VAP	NH Black & Latino VAP	% NH Black & Latino VAP
1	606,007	23,787	4.09%	461,274	69,054	14.97%	28,044	6.08%	96,190	20.85%
2	577,285	-4,935	-0.85%	453,053	233,598	51.56%	43,871	9.68%	271,323	59.89%
3	586,038	3,818	0.66%	455,095	67,409	14.81%	52,984	11.64%	118,335	26.00%
4	575,569	-6,651	-1.14%	442,765	94,272	21.29%	19,115	4.32%	112,513	25.41%
5	557,693	-24,527	-4.21%	423,959	202,317	47.72%	14,457	3.41%	215,502	50.83%
6	582,785	565	0.10%	443,349	115,153	25.97%	24,016	5.42%	138,114	31.15%
7	588,911	6,691	1.15%	451,739	227,711	50.41%	24,139	5.34%	250,127	55.37%
8	583,469	1,249	0.21%	439,314	106,220	24.18%	17,036	3.88%	122,225	27.82%

\* Black VAP represents Black Alone and In Part, including Latinos. See United States Census Bureau, P.L. 94-171 File, Table 3.

\* Latino VAP represents all Latinos. See United States Census Bureau, P.L. 94-171 File, Table 4.

\* NH Black VAP represents Black Alone and In Part, excluding Latinos. See United States Census Bureau, P.L. 94-171 File, Table 4.

\* Ideal population is 582,220.



## APPENDIX 2-A

District	Total	Deviation	% Deviation	VAP	Black VAP	% Black VAP	Latino VAP	% Latino VAP	NH Black & Latino VAP	% NH Black and Latino VAP
1	597,552	15,332	2.63%	470,387	61,344	13.04%	55,961	11.90%	113,799	24.19%
2	566,858	-15,362	-2.64%	440,192	253,014	57.48%	34,771	7.90%	283,276	64.35%
3	573,335	-8,885	-1.53%	432,755	93,215	21.54%	30,838	7.13%	122,762	28.37%
4	596,743	14,523	2.49%	458,818	96,276	20.98%	20,104	4.38%	115,488	25.17%
5	557,693	-24,527	-4.21%	423,959	202,317	47.72%	14,457	3.41%	215,502	50.83%
6	604,145	21,925	3.77%	461,614	80,316	17.40%	25,832	5.60%	105,203	22.79%
7	598,589	16,369	2.81%	452,605	88,378	19.53%	21,820	4.82%	109,105	24.11%
8	562,842	-19,378	-3.33%	430,218	240,874	55.99%	19,879	4.62%	259,194	60.25%

\* Black VAP represents Black Alone and In Part, including Latinos. See United States Census Bureau, P.L. 94-171 File, Table 3.

\* Latino VAP represents all Latinos. See United States Census Bureau, P.L. 94-171 File, Table 4.

\* NH Black VAP represents Black Alone and In Part, excluding Latinos. See United States Census Bureau, P.L. 94-171 File, Table 4.

\* Ideal population is 582,220.