



November 15, 2021

Sent via email

Redistricting Ad Hoc Committee
Judiciary Committee
South Carolina House of Representatives
P.O. Box 11867
Columbia, South Carolina 29211
redistricting@schouse.gov

**Re: Supplemental Comments on House Committee's
Proposed House Redistricting Plan**

Dear Chair Jordan and Committee Members:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”), American Civil Liberties Union (“ACLU”), South Carolina State Conference of the NAACP (“SC NAACP”), and ACLU of South Carolina write to supplement the oral testimony that we provided during the Redistricting Ad Hoc Committee’s November 10, 2021 hearing.¹ Here, we offer additional comments on the Committee’s proposed redistricting plan for the 124 members of the South Carolina House of Representatives, as we indicated that we would on November 10. This Committee released its proposed House plan on Monday, November 8—less than two days before the November 10 hearing. Because of that extremely short timeframe, we have continued evaluating this Committee’s proposed House plan since then. We recognize the House staff for its work in developing its initial proposal. However, as described in our testimony on November 10, and herein, we continue to have serious concerns about several of the map’s components.

First, we ask this Committee to reconsider its proposed boundary lines for **House Districts 102, 103, and 111** because, as currently configured, the plan puts at risk the ability of Black voters in Berkeley and Charleston Counties to continue to elect their preferred representative in these districts. Under this

¹ On November 12, we emailed this Committee written comments reflecting the oral testimony that President Murphy of the SC NAACP and Leah Aden of the LDF provided on November 10.

Committee’s proposal, communities of interest containing Black voters, which have been electing candidates of choice under the districts in the 2010 benchmark map, will be paired with precincts comprised predominantly of white voters. As we have shared with this body in previous correspondence on August 9 and October 8,² and in testimony before this body on November 10, there is indicia that across South Carolina and in these areas in particular, an insufficient number of white voters share the candidate preferences of Black voters. For these reasons and those explained by Lynn Teague and John Ruoff of the League of Women Voters of South Carolina (“League”) in their written and oral comments to this body during its November 10 meeting, we strongly urge you to revisit these areas and adopt an approach that gives due consideration to communities of interest and racial bloc voting patterns. Doing so protects Black voters’ ability to continue to elect candidates of choice in these areas.

Second, with respect to the configurations of proposed **House Districts 6, 7, 8, and 9**, we are concerned by the cracking of Black voters in the communities among these districts, particularly in the City of Anderson in Anderson County. The import of the proposed changes in these districts is to render Black voters with little or no ability to influence elections in these areas of the state. Under this Committee’s proposed plan, Black voters are cracked into four districts, where they are between 14.6% and 18% of the voting-age populations.³ By contrast, for example, under our proposed plan, Black voters are 36.8% of the voting-age population (“VAP”) in **House District 7**. In the map proposed by the League, Black voters are 35.2% of the voting-age population in **House District 6**. We request that this Committee revisit its decision to crack Black voters in these districts, and instead adopt the approach of our coalition and/or the League. Either would be far more protective of Black voters’ ability

² Letter from LDF, et al., to S.C. House of Reps. Jud. Comm. Redistricting Ad Hoc Comm. (Oct. 8, 2021), <https://www.naacpldf.org/wp-content/uploads/Letter-to-H-Redistricting-Ad-Hoc-Comm-Submitting-Congressional-and-House-Maps-10-8-21.pdf>; Letter from LDF, et al., to S.C. House of Reps. Jud. Comm. Redistricting Ad Hoc Comm. (Aug. 9, 2021), https://www.naacpldf.org/wp-content/uploads/Letter-to-SC-House-Redistricting-Ad-Hoc-Committee_08.09.2021_final.pdf.

³ The percentages discussed in this letter are based on the non-Hispanic “DOJ Black” demographic category, which generally appears to be the category used by the Committee. However, our coalition understands that another category reported by the U.S. Census may appropriately be considered—the any-part Black category. This category, which the Census began using in 2000, counts as “Black” any person who self-identifies as Black alone or Black in combination with any other race or ethnicity, including those who also self-identify as Hispanic or Latino. *Georgia v. Ashcroft*, 539 U.S. 461, 473 n.1 (2003) (emphasis in the original), *superseded by statute on other grounds as recognized by Ala. Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257, 1273 (2015) (The U.S. Supreme Court has held that where Black voters are the only minority group whose exercise of the franchise is at issue, “it is proper to look at *all* individuals who identify themselves as black.”). Thus, the NH DOJ Black category is a narrower definition of “Black” which the Census also reports.

to participate in the electoral process and influence the elections than the district lines proposed by this Committee.⁴

Third, on November 10, this Committee heard public concern that **House District 90** packs Black voters at unnecessarily high numbers (more than 58%). We agree. This proposed change is especially troubling since neighboring **House District 91**, under the plans proposed by our coalition and the League, could be a district comprised of a majority of Black voters at approximately 51% or 52%, respectively (i.e., a majority-minority district). However, in the plan proposed by this Committee, House District 91 contains approximately 45% Black voters. We are not aware that this Committee has performed an analysis which reflects that proposed House District 91 will perform for Black voters where they only comprise a plurality of voters. We also are not aware that this Committee has performed any racially polarized voting analysis to determine whether a majority-minority district is necessary to ensure against non-dilution of Black voting strength in this area of the state (or, indeed, that the Committee has performed such an analysis in *any* area of the state).

Fourth, while the protection of incumbents may be a redistricting consideration, it is far less significant than the key principles that this Committee must address, such as compliance with the “one person, one vote” principle and the Voting Rights Act, or respecting communities of interest. Still, we are concerned that a number of candidates of choice of Black voters have been paired and will be forced to compete against one another in the proposed House plan, including in: **House Districts 59, 70, 77, and 93**. This is despite the fact that our coalitions’ proposed plan, submitted over a month ago on October 8, showed this body a way to meet its constitutional and statutory obligations and respect other redistricting principles *without* pairing such incumbents.

Moreover, on November 10, this Committee also heard various constituents of **House District 95** express serious concerns about the impact that the House’s proposal will have on them, namely how the House’s proposal moves them into a new district (**House District 66**) where they would likely be served by another representative. Importantly, the plan that our coalition proposed on October 8 shows this Committee that it is unnecessary to eliminate

⁴ To a lesser extent, we are concerned about the cracking of Black voters in the South Florence community among **House Districts 59 and 60**. Our concerns about the splitting of communities of interest impacting Black voters in these proposed districts echo those that the League has detailed in its written and oral comments to this Committee.

House districts and impact voters in this way. We request that you take seriously this public outcry.

Fifth, we echo the concern raised by a member of the public about how the House's proposed plan unnecessarily splits a precinct (1B) serving a community of interest of native Gullah people in **House District 123**. The plan that we proposed shows that this split is unnecessary. As this Committee is aware, a plaintiff in the litigation against this body related to its redistricting process, stayed as of November 12, has put it on notice of the particular need for the Legislature to be responsive to the needs of the native Gullah people in South Carolina, including in House District 123.

Sixth, and finally, as our testimony at the November 10 hearing clarified, overall, our coalition's proposed map, as compared to that proposed by the House, contains four more opportunity districts for Black voters—our proposed map contains 19 districts comprised of a majority of Black voters (majority-minority districts) and 16 additional opportunity districts where BVAP is between 40% and 50%. By contrast, while the Committee's proposed plan contains 20 majority-minority districts, it contains only 11 opportunity districts with BVAP between 40% and 50%, without any explanation for why such a net loss is necessary. We urge this body to bear these differences in mind as it considers public comments on the proposed map, including those we share here.

* * *

We appreciate the opportunity to bring these areas of concerns to your attention and encourage you to revisit them. As we continue to review the House's proposed plan and any others that it develops, we will provide further comments as we identify other concerns.

Please contact Leah Aden, Deputy Director of Litigation at the Legal Defense Fund, at laden@naacpldf.org, and Somil Trivedi, Senior Staff Attorney at the ACLU, at strivedi@aclu.org, with any questions or to discuss these issues in more detail. We look forward to hearing from you soon and working together for the people of South Carolina.

Sincerely,

/s/ Leah C. Aden

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