



September 27, 2021

Sent via email

Senate Judiciary Redistricting Subcommittee
South Carolina Senate
101 Gressette Senate Office Building
Columbia, South Carolina 29202
redistricting@scsenate.gov

Re: Follow-up on Recommendations for Transparency, Public Involvement, and Fair Representation in South Carolina's Redistricting Process

Dear Chair Rankin and Subcommittee Members:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”), American Civil Liberties Union (“ACLU”), ACLU of South Carolina, South Carolina State Conference of the NAACP, League of Women Voters of South Carolina, South Carolina Appleseed Legal Justice Center, and South Carolina Progressive Network Education Fund write to reiterate our grave concerns with this Subcommittee’s failure to provide transparency during the ongoing redistricting cycle.

On August 2, 2021, several of the present signatories wrote to this Subcommittee, in part, to recommend ways to involve your constituents and organizations that serve them, during *all* stages of the redistricting process.¹ In that letter, we commended this Subcommittee’s effort to prioritize public involvement at the beginning of the redistricting process. But we also recommended that this Subcommittee must provide meaningful opportunities for the public to testify and provide public comments on maps proposed by this

¹ Letter from LDF, et al., to the S.C. Senate Judiciary’s Redistricting Subcommittee (Aug. 2, 2021), <https://www.naacpldf.org/wp-content/uploads/Letter-to-South-Carolina-Senate-Judiciary-Redistricting-Subcommittee-8-2-21.pdf>.

Subcommittee or others, emphasizing that the public must have an opportunity to respond to proposed maps *before* any such maps are finalized or approved.

Unfortunately, however, this Subcommittee has failed to provide updates about its redistricting process moving forward. Because of these shortcomings, we write to request more information about how this Subcommittee plans to proceed during the redistricting cycle that is underway. Specifically, we request responses to the following questions:

1. When does the Senate intend to return to session to consider redistricting plans?²
2. Consistent with this Subcommittee’s goal that the “public shall be provided accurate and complete information about redistricting plans introduced in the Senate, whether by House or Senate bill, and on public record with the Redistricting Subcommittee,”³ when does this Subcommittee intend to share proposed maps with the public?
3. We appreciate this Subcommittee’s decision to create a deadline and portal for the public to submit redistricting plans.⁴ Accordingly, during what timeframe does this Subcommittee intend to consider such maps?
4. Does this Subcommittee intend to hold public hearings in which testimony and public comment can be provided on maps proposed by this Subcommittee and maps proposed by members of the public, *before* such maps are finalized or approved by the Subcommittee?
5. What is the Senate’s timeline for considering and approving redistricting plans?
6. What steps, if any, has the Senate taken to ensure that its timeline for considering and approving maps will be sufficient to allow any

² Public reporting indicates that the Senate cancelled its October 2021 special session. Jeffrey Collins, *South Carolina Senate Cancels Next Month’s Special Session*, Associated Press (Sept. 24, 2021), <https://apnews.com/article/coronavirus-pandemic-business-health-south-carolina-columbia-3d24d0d547e9dc8b8b94845cc217ed01>. If the Senate does not reconvene for a special session, the next opportunity for it to consider any redistricting maps would be during the regular session, which is scheduled to begin on January 11, 2022. *See* S.C. Const., art. III, § 9 (“The annual session of the General Assembly shall convene at the State Capitol Building in the City of Columbia on the second Tuesday of January of each year.”).

³ *2021 Senate Public Submissions Policy*, S.C. Senate Judiciary Redistricting Subcommittee, <https://redistricting.scsenate.gov/plansubmission.html>.

⁴ *Plan Submission Form*, S.C. Senate Judiciary Redistricting Subcommittee, <https://redistricting.scsenate.gov/plansubmission.html>.

litigation that may be filed to be fully resolved before the March 16, 2022, candidate filing deadline for the 2022 partisan primaries?

If history is a guide, if the Senate does not reconvene to consider and approve redistricting plans until December 2021 or January 2022, that unnecessary delay will likely prevent a court from ruling on the constitutionality of your maps before the candidate filing deadline in March. This Subcommittee is no doubt aware that a redistricting process that leaves insufficient time for judicial review puts the court and the public in the impossible position of leaving an unconstitutional plan in place or striking the plan down close to an election, which could breed voter “confusion and consequent incentive to remain away from the polls.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). In the 2010 redistricting cycle, for example, the federal district court for the District of South Carolina took nearly four months to adjudicate constitutional claims related to redistricting. *Backus v. South Carolina*, 857 F. Supp. 2d 553 (D.S.C.), *aff’d*, 568 U.S. 801 (2012). Similarly, during the 2000 redistricting cycle, the South Carolina federal court needed six months to draw a new plan after this body failed to draw maps with roughly equal population, violating the principle of one-person-one-vote. *Colleton Cty. Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002).

As we explained in our August 2 letter, it is critical to involve your constituents and other community members, as well as to ensure transparency during *all* stages of the redistricting process. Equally important, as we further explained in our letter, transparency and robust public input are also necessary to assist this Subcommittee with its affirmative obligations to comply with the U.S. Constitution, Section 2 of the Voting Rights Act, and other legal considerations and redistricting principles. Answers from the Subcommittee’s to the basic questions above will be an important step toward meeting these obligations. Further, based on the law, South Carolina’s recent history, and the Senate Redistricting Guidelines—which appropriately prioritize constitutional compliance—the Senate should revisit its process immediately and ensure ample time for meaningful consideration and analysis, for the public to digest its maps, and for courts to adjudicate any constitutional claims well in advance of the 2022 election cycle.

Unfortunately, the lack of information that this Subcommittee has provided thus far suggests an unwillingness on your part to engage your constituents and the public in a fair, transparent, and participatory redistricting process. We therefore call on this Subcommittee to immediately take steps to remedy these shortcomings. We request your response in writing **by 5:00 p.m. on Wednesday, September 29, 2021.**

* * *

Please feel free to contact John Cusick at jcusick@naacpldf.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/ John S. Cusick

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