

July 30, 2021

The House Legislative and Congressional Reapportionment Committee
and Senate Reapportionment and Redistricting Committee
Coverdell Legislative Office Building
18 Capitol Square, Suite 402
Atlanta, Georgia 30334

Re: Written Testimony for the July 30, 2021 Virtual Town Hall

Dear Chair Rich, Chair Kennedy, and Committee Members:

The Southern Poverty Law Center (“SPLC”) is a non-profit, non-partisan organization dedicated to upholding the fundamental right of all citizens to vote and to ensuring that their vote is not diluted by unfair or unlawful redistricting plans.

On June 15, 2021—the day the House Legislative and Congressional Reapportionment Committee and Senate Reapportionment and Redistricting Committee (collectively, the “Joint Redistricting Committee”) held their first town hall for this redistricting cycle—SPLC provided oral and written testimony which included several proposals that, if adopted, would allow more Georgians to participate and provide more meaningful input to the Joint Redistricting Committee. *See* June 15, 2021 SPLC written testimony, attached hereto as Exhibit A, at 3. Sadly, the Joint Redistricting Committee did not adopt any of these proposals. The predictable result was that the process excluded many Georgians—especially hard-to-reach communities and Georgians of color—and those who could participate were unable to offer input with updated Census numbers.

The Joint Redistricting Committee has refused the numerous entreaties by SPLC and other organizations, including the ACLU of Georgia and Asian Americans Advancing Justice - Atlanta, to provide notice of the redistricting town halls in languages other than English. In our June 15 written testimony, we requested that all redistricting information—including notice of the town halls—be provided in languages other than English. *See id.* at 3 (“For any public input sessions . . . the Joint Redistricting Committee[] should . . . provide . . . information in languages required to reach diverse Georgians, but at least Spanish, Korean, Vietnamese, Mandarin/Cantonese, Hindi, Arabi and [American Sign Language]”). When no changes were made to the English-only notice procedure, SPLC and 62 other organizations sent a letter to Chair Rich and Chair Kennedy in which we “express[ed] our concern that the Joint Reapportionment Committee is not engaging in efforts to provide any language accommodations for the upcoming June 28th town hall,” and noted that providing language access was “not only the right step to take, but a legally required one” under Section 4(f)(2) of the Voting Rights Act of 1965. *See* June 25, 2021 letter from the Georgia Immigrant Rights Alliance to the Chairs of the Georgia Joint Reapportionment Committee. This letter further noted that Asian Americans and Pacific Islanders represented a population of over 300,000 in Georgia, and forty-four percent of them have limited English proficiency. *See id.*

Receiving no response to this letter, in our June 28 oral testimony at the Georgia State Capitol, we renewed our call for notice of the town halls to be provided in languages other than English. *See* June 28, 2021 SPLC oral testimony, attached hereto as Exhibit B. We expressed our “disappoint[ment] that the Committees have thus far not accepted the suggestion we made in our June 15th testimony to provide information in languages other than English, so it is accessible to the over 100,000 Georgians with limited English proficiency,” and asked Chair Rich and Chair Kennedy to “commit to providing information about the redistricting process, including these town halls, in languages other than English[.]” *See id.*

Chair Rich and Chair Kennedy declined to respond to this question in person, but have since responded with inaction: a continued refusal to provide notice of the town halls in languages other than English. The result is that over 100,000 Georgians with limited English proficiency have been excluded from providing input into the redistricting process. Similarly, the absence of an American Sign Language interpreter at town halls and the absence of closed-captioned videos online forecloses people with hearing loss from the redistricting process. And several town hall venues have not been fully accessible for people with wheelchairs; these have included microphones only accessible by walking up or down steps. Public access has also been limited by holding all but two town halls in-person during a pandemic, and not allowing community members to sign-up to speak online, but rather only at 4:30 p.m. during weekdays. *See* Ex. A (“For any public input sessions . . . the Joint Redistricting Committee[] should . . . adopt uniform and transparent procedures for public testimony that ensure equal and full access for people with disabilities to provide input in-person as well as accessible remote testimony options for all hearings . . . and establish mechanisms for the public to sign-up in advance.”)

While we have repeatedly called for the Joint Redistricting Committee to allow more Georgians to provide input into the districting decisions that will determine their political representation, the Joint Redistricting Committee’s process has not allowed *any* community members to provide input with updated Census numbers. The Joint Redistricting Committee begins each session with a short educational video on redistricting, then either assumes that community members are knowledgeable enough about redistricting to speak in a way that could guide the Joint Redistricting Committee’s work, or does not care either way. These hearings are a one-way street, not a give-and-take: community members speak, and the members of the Joint Redistricting Committee sit silently. And, as Chair Rich and Chair Kennedy have repeatedly joked, community members get “bonus points” for speaking as little as possible.

Community members have received almost no information from the Joint Redistricting Committee. The Joint Redistricting Committee has refused to answer questions. We have requested that questions be answered numerous times, first in our June 15 written testimony. *See* Ex. A (“For any public input sessions . . . the Joint Redistricting Committee[] should . . . engage in an informative and responsive process, for instance, by hosting Q & A sessions between Joint Redistricting Committee members and members of the public.”) Perhaps the only time that Chair Rich or Chair Kennedy answered a question, was when a white man at the July 28 Columbus hearing asked basic questions about the redistricting process, and Chair Kennedy began to answer, but hesitated, and replied, “We’re not here to answer questions,” and that people have asked questions, but “we’ve not taken the time to engage.” In addition to refusing to answer basic questions that could allow community members to engage in a difficult process, the Joint Redistricting Committee has not published the guidelines that they claim will guide its districting decisions. So, even the community members who are more knowledgeable about redistricting have little idea what the Joint Redistricting Committee will purport to do.

Moreover, holding the hearings before the full, comprehensive 2020 Census data is released forecloses community members and organizations from proposing their own redistricting plans. Of course, without knowing how many and which Georgia residents live in each census block, it is impossible to propose district maps that we know will ultimately comply with federal and state laws. *See* June 29, 2021 SPLC oral testimony, attached hereto as Exhibit C. The Joint Redistricting Committee

knows, as Chair Kennedy stated at the June 28 town hall in Atlanta, that you “can’t do a lot until [you] collect the Census data.” *See id.* And the Google document form the Joint Redistricting Committee provided for the submission of written testimony does not allow community members to attach documents, which forecloses their ability to submit proposed redistricting maps, community of interest maps, or longer testimony that includes text and graphics. *See id.*

In sum, the Joint Redistricting Committee has done nothing to mollify our concerns (first stated in our June 29 oral testimony) that, for the Joint Redistricting Committee, this town hall process is “simply a pro forma exercise to ‘check the box’ of saying you listened to the public.” *See id.* We are disappointed by the Joint Redistricting Committee’s refusal of all suggestions to make the public input process more inclusive and to allow for more meaningful input and engagement. While there has been no indication the Joint Redistricting Committee has listened to community members, we again encourage it to do so. The Joint Redistricting Committee can demonstrate it is listening to community input by adopting the changes community members have frequently requested during these town halls, including:

- making the town halls more accessible to all Georgians, including those with limited English proficiency, hearing loss, wheelchairs, and compromised immunity;
- answering questions;
- releasing the Joint Redistricting Committee’s guidelines as soon as possible;
- promising to hold additional town halls after the full, comprehensive Census data has been released;
- and providing transparency, including releasing all proposed redistricting plans to the public for comment before they are adopted, and all accompanying data relied upon in the Joint Redistricting Committee’s decisions.

Despite our well-founded concerns that the Joint Redistricting Committee is not seriously considering *any* community input, including ours, we continue to advocate for a fair redistricting process and fair redistricting plans because the consequences of these redistricting plans will be—and have historically been—so enormous for all Georgians, and especially those of color. In our June 15 written testimony, we offered a brief synopsis of Georgia’s history of redistricting discrimination since the passage of the Voting Rights Act of 1965. *See Ex. A.* Georgia has historically diluted the voting strength of people of color, particularly Black communities. This vote dilution has denied people of color a fair opportunity to elect the candidates of their choice, who would be more responsive to their needs.

We implore you to break from this shameful history. Receiving meaningful community input from all Georgians is a critical first step in pushing Georgia forward. We hope that you seriously consider our suggestions and strive to produce a public input process and districting maps that provide fair representation for all.

Sincerely,

/s/ Jack Genberg

Jack Genberg, Senior Staff Attorney
Pichaya Poy Winichakul, Staff Attorney
Kayla Kane, Data and Research Analyst
Southern Poverty Law Center
P.O. Box 1287
Decatur, GA 30031-1287
(404) 521-6700
Jack.Genberg@splcenter.org
Poy.Winichakul@splcenter.org
Kayla.Kane@splcenter.org

EXHIBIT A

June 15, 2021

The House Legislative & Congressional Reapportionment Committee
and Senate Reapportionment and Redistricting Committee
Coverdell Legislative Office Building
18 Capitol Square, Suite 402
Atlanta, Georgia 30334

Re: Fair Redistricting and Redistricting Process in Georgia

Dear Chair Rich, Chair Kennedy, and Committee Members:

The Southern Poverty Law Center (SPLC) is a non-profit, non-partisan organization dedicated to upholding the fundamental right of all citizens to vote and to ensuring that their vote is not diluted by unfair or unlawful redistricting plans. Thus, SPLC strongly encourages the Joint Redistricting Committees to engage in meaningful, open, public, and transparent dialogue with residents and community groups as you collect important information about residents, their communities of interest, and how they have been helped and harmed by redistricting in the past. Fair redistricting plans are essential if all Georgia voters are to have an opportunity to elect candidates of their choice.

Redistricting plans that dilute the voting strength of people of color do not provide all Georgia voters a fair opportunity to participate in the electoral process. Unfortunately, Georgia's past redistricting plans have been marred by their deleterious effects on people of color, particularly African-American communities. The 1970 reapportionment plan boundary separating Georgia's Fifth and Sixth Congressional Districts was drawn with the purpose of fragmenting the concentration of Black residents in the area. The U.S. Attorney General objected to the plan under Section 5 of the Voting Rights Act's preclearance provisions based on the Attorney General's inability to conclude "that [the] new boundaries [would] not have a discriminatory racial effect on voting by minimizing or diluting black voting strength in the Atlanta area."¹

The Department of Justice also denied Section 5 preclearance to Georgia's 1981 reapportionment plan. Joe Mack Wilson — then Chairman of the House Reapportionment Committee — dominated the 1981 redistricting process in the Georgia House of Representatives. After conducting a trial regarding the plan, a three-judge federal court found that "Joe Mack Wilson is a racist," who told his colleagues on numerous occasions that "I don't want to draw n***** districts."² After the Georgia Senate passed a redistricting plan that contained a 69% Black Fifth Congressional District, a much higher percentage than the House's proposed 51.74% Black Fifth Congressional District, the federal court found that Tom Murphy, the Speaker of the House, "refused to appoint black persons to the conference committee [to resolve the dispute between the House and Senate] solely because they might support a

¹ See *Busbee v. Smith*, 549 F. Supp. 494, 500 (D.D.C. 1982), *aff'd*, 459 U.S. 1166 (1983).

² See *id.* at 501.

plan which would allow black voters, in one district, an opportunity to elect a candidate of their choice.”³ The Conference Committee agreed to a 57.24% Black Fifth Congressional District after Chairman Wilson, according to Senator Kidd, “indicated very strongly that that’s as high as they (the House Conferees) could go.”⁴ Senator Bond testified that the Conference Committee provided for a Fifth Congressional District with a 57 percent Black population because “the House Conferees knew that the 57 percent black population district was in fact a 46 percent black voting district and that a black candidate for office would be unsuccessful in that district.”⁵ After reviewing all of the evidence, the federal court concluded:

The only reason the Georgia General Assembly failed to enlarge the black population in the Fifth District more than it did and failed to unite black neighborhoods was solely because the population was of the black race. There was no legitimate, nondiscriminatory reason why the Fifth District was drawn the way it was. . . . The Fifth District was drawn to suppress black voting strength in Georgia.⁶

The Department of Justice twice denied Section 5 preclearance to Georgia’s 1991 State House and Senate redistricting plans, after concluding that they fragmented certain concentrations of Black population in the state to minimize the number of majority Black districts and to ensure the reelection of white incumbents at the expense of Black voters.⁷ Then, in defending its 2001 redistricting plans before another three-judge federal court, Georgia focused its expert analysis on attempting to prove that Black voters in certain districts would have an “equal opportunity” to elect a candidate of their choice where they composed less than a majority of the districts’ voters, in an effort to avoid its obligation to draw majority-minority districts altogether.⁸ Georgia’s 2011 redistricting plan passed despite the opposition of 40 out of 41 Black representatives in the House of Representatives, and the opposition of all Black senators in the Senate.⁹ Black Congressman and civil rights icon, John Lewis, described the 2011 redistricting plan as “an affront to the spirit and the letter of the Voting Rights Act.”¹⁰

This history is just a snapshot as to why it is imperative that communities of color provide meaningful input to avoid any dilution of their voting strength. Unfortunately, the public town halls that are currently scheduled do not sufficiently engage communities because the public does not have enough information, including census data, draft maps, or information about the special legislative session and other legislative meetings, to provide the Committees with the full range of information it needs to make the proper determinations in drawing district lines. Instead, Georgians continue to be met with an opaque system that forces them to engage in a process when both they and the Committees lack information that is vital for the redistricting process.

According to the Census Bureau, redistricting data may not be available to the states until September 30, 2021, thus well-after the Joint Redistricting Committees’ last-scheduled summer town hall.

³ See *Busbee*, 549 F. Supp. at 510.

⁴ *Id.*, Deposition of E. Culver Kidd, at 40-41.

⁵ *Id.*, Trial Testimony of Julian Bond, at 577.

⁶ *Id.* at 514-15.

⁷ See John R. Dunne, Assistant Attorney General, to Mark H. Cohen, January 21, 1992; John R. Dunne, Assistant Attorney General, to Mark H. Cohen, March 20, 1992; “The Case for Extending and Amending the Voting Rights Act,” ACLU (Mar. 2006), <https://www.aclu.org/other/case-extending-and-amending-voting-rights-act?redirect=voting-rights/case-extending-and-amending-voting-rights-act>.

⁸ See *Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 64-68 (D.D.C. 2002); Brief of Appellant State of Georgia, p. 16 (Black candidates of choice have “an equal chance of winning an open-seat election where the [black voting age population] was 44%.”).

⁹ See HB 20, Georgia Congressional Reapportionment Act of 2011, <https://www.legis.ga.gov/legislation/34771>.

¹⁰ Aaron G. Sheinin, *GOP redistricting plan would tighten grip on congressional delegation*, ATLANTA J. CONST., (Aug. 23, 2011), <http://www.ajc.com/news/local-govt--politics/gop-redistricting-plan-would-tighten-grip-congressional-delegation/7pf5U0xghjknRgzQUW7O8O/>.

Therefore, SPLC strongly encourages the Joint Redistricting Committees to provide ample additional opportunities for public testimony. For any public input sessions, including opportunities for public testimony on any draft maps and/or redistricting legislation, the Joint Redistricting Committees should:

- adopt uniform and transparent procedures for public testimony that ensure equal and full access for people with disabilities to provide input in-person as well as accessible remote testimony options for all hearings, including delegation meetings that will consider and approve county commission and county school board maps;
- post public-input procedures online and establish mechanisms for the public to sign-up in advance;
- engage in an informative and responsive process, for instance, by hosting Q & A sessions between Joint Redistricting Committee members and members of the public;
- provide census data, draft maps, information regarding the legislative procedures and guidelines for considering redistricting bills, and all legislative language, including bills, amendments, and substitutes, on the General Assembly website at least 24 hours before any language is considered or voted upon by any Committee or on the House or Senate floor;
- provide all of the above information in languages required to reach diverse Georgians, but at least Spanish, Korean, Vietnamese, Mandarin/Cantonese, Hindi, Arabic and ASL; and
- ensure any website used to broadcast public input sessions or hearings to consider maps and legislation must be compliant with Section 508 of the Rehabilitation Act so that voters with disabilities can access the meetings, hearings, and sessions.

We hope that the Joint Redistricting Committees provide a redistricting process that strives to produce redistricting plans which are fair to all persons living in Georgia.

Sincerely,

/s/ Jack Genberg

Jack Genberg, Senior Staff Attorney
Pichaya Poy Winichakul, Staff Attorney
Kayla Kane, Data and Research Analyst
Southern Poverty Law Center
P.O. Box 1287
Decatur, GA 30031-1287
(404) 521-6700
Jack.Genberg@splcenter.org
Poy.Winichakul@splcenter.org
Kayla.Kane@splcenter.org

EXHIBIT B

Oral Testimony Delivered to the House Legislative & Congressional Reapportionment Committee and Senate Reapportionment and Redistricting Committee on June 28, 2021 at the Georgia State Capitol in Atlanta, Georgia

Hello, my name is Jack Genberg and I am a Senior Staff Attorney with SPLC Action Fund, a 501(c)(4) affiliate of the Southern Poverty Law Center; SPLC Action Fund is dedicated to upholding the fundamental right of all citizens to vote. In our June 15th virtual town hall testimony, we strongly encouraged the Redistricting Committees to provide community members an opportunity for meaningful input before the Committees enacted their redistricting plans.

The City of Atlanta has a population of over 450,000 people, a majority of whom are people of color. Many attend one of Atlanta's historically Black colleges and universities. In its past redistricting plans, Georgia's state legislature diluted the strength of Atlanta's Black voters by creating districts in which they could not elect their preferred candidates, in violation of the Voting Rights Act. Georgia's state government is controlled by one party, but there are multiple political views that are represented in our state. The redistricting process needs to respect and reflect that.

And the process needs to include all Georgians. We are disappointed that the Committees have thus far not accepted the suggestion we made in our June 15th testimony to provide information in languages other than English, so it is accessible for the over 100,000 Georgians with limited English proficiency. When information regarding this town hall was released only in English, these Georgians were not included.

Given our 2-minute time limit, I will discuss additional suggestions to make this process fairer and more inclusive tomorrow in Cumming.

Chairman Rich and Chairman Kennedy: you stated you would not answer questions, but I hope you will reconsider. Will you commit to providing information about the redistricting process, including these town halls, in languages other than English?

EXHIBIT C

Oral Testimony Delivered to the House Legislative & Congressional Reapportionment Committee and Senate Reapportionment and Redistricting Committee on June 29, 2021 at South Forsyth High School in Cumming, Georgia

Hello, my name is Jack Genberg and I am a Senior Staff Attorney with SPLC Action Fund, a 501(c)(4) affiliate of the Southern Poverty Law Center, which is dedicated to upholding the fundamental right of all citizens to vote.

Yesterday, I discussed how Georgia's redistricting process must reflect the State's diversity, which includes over 100,000 Georgians with limited English proficiency. These Georgians can only be included if the Redistricting Committees provide information in languages other than English.

But even if Georgians with limited English proficiency are given the opportunity to participate, the process must improve for everyone else too, if anyone is to have meaningful input.

The Google document form the Committees provided for the submission of written testimony does not allow community members to attach documents, which forecloses their ability to submit proposed redistricting maps, community of interest maps, or longer testimony that includes text and graphics.

Chairman Kennedy, you said yesterday that you "can't do a lot until [you] collect the census data." We agree with you. And that also applies to the public, and organizations like the Southern Poverty Law Center. Without census data, the Southern Poverty Law Center cannot propose district maps that we know will ultimately comply with federal and state laws. For example, we don't know exactly how many people are in each census tract, so we can't propose district lines that we know will comply with the constitutional mandate of one-person, one-vote.

While some forum for listening to the public is better than nothing, if the process is to allow for substantive and meaningful input, rather than being simply a pro forma exercise to "check the box" of saying you listened to the public, there must be a way for community members to submit attachments rather than simply type into a comments box. And more importantly, there must be an opportunity for public input after the census data has been released.