Sent via email

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Re: Duty to Comply with the U.S. Constitution and Voting Rights Act in Alabama's Redistricting Process

Dear Legislative Reapportionment Committee Members:

The NAACP Legal Defense and Educational Fund, Inc. ("LDF")[1], Alabama State Conference of the NAACP, American Civil Liberties Union ("ACLU"),[2] Greater Birmingham Ministries and ACLU of Alabama[3] write to remind you of your obligation to comply with the U.S. Constitution and Section 2 of the Voting Rights Act ("Section 2") during the post-2020 reapportionment and redistricting cycle. In

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[1] Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in political participation, education, economic justice, 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.

[2] The ACLU has worked to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States for over 100 years. The ACLU established its Voting Rights Project in 1965 – the same year that the historic Voting Rights Act was enacted. Its mission is to build and defend an accessible, inclusive, and equitable democracy free from racial discrimination.

[3] The ACLU of Alabama is freedom's watchdog; working in the courts, legislatures and communities to defend the individual rights and personal freedoms guaranteed by the Constitution and the Bill of Rights.

particular, you must consider whether Section 2 requires the Alabama legislature to enact a map with **two** opportunity districts each comprised of a majority of Black voters ("majority-minority opportunity district"). In so doing, you must conduct a localized analysis of racial bloc voting and effectiveness thresholds and you must avoid drawing congressional or state legislative districts in a manner that places voters of color in districts based on their race at higher thresholds than is necessary for them to elect their candidates of choice.

According to 2020 Census data, nearly 28% of Alabama's residents identify as Black, either alone or as part of a multi-racial identity. It is fair, necessary, and logical that all Black Alabamians have an opportunity to elect their preferred Congressional representatives. Members of Congress make decisions and influence policies that impact every aspect of American life, including access to education, economic opportunity, housing, health care, and the direct and collateral consequences of the criminal legal system. An additional majority-minority opportunity district, which Section 2 likely requires, would provide Black voters with representation to address the state's pervasive and ongoing record of inequality of opportunity in various aspects of life.

I. The Reapportionment Committee Must Ensure Alabama's Compliance with Section 2 of the Voting Rights Act and the U.S. Constitution.

Under Alabama law, the Reapportionment Committee is responsible in the first instance for redrawing district maps for Alabama's seven Congressional districts as well as for all of the state's legislative districts, based on data from the 2020 census.[4] It is critical that the state legislature uses this opportunity to remedy long-standing dilution of Black voting strength in Alabama's congressional map. Nearly 28% of Alabama residents identify as Black people, yet since Reconstruction, Alabama has never had more than one Black member of Congress in its delegation. This is a direct consequence of the configuration of Alabama's congressional districts: Black voters are packed into District 7, the state's only majority-minority opportunity district, and cracked among the state's districts comprised of a majority of white voters ("majority-white districts"). Although District 7 has consistently elected Black candidates over the past 30 years, none of the majority-white districts have elected a Black Congressperson. The Reapportionment Committee must ensure that Black voters have an equal opportunity to elect candidates of their choice, as required by Section 2, while also complying with the Constitution's "One Person, One Vote"

[4] *See* Ala. Code §§ 29–2–50, 29–2–51.

principle. Careful attention to these important constitutional and statutory constraints is particularly important in the upcoming legislative session because this is Alabama's first redistricting cycle without the full protection of Section 5 of the Voting Rights Act ("Section 5").

A. Section 2 Likely requires the Development of a Second Majority-Black Congressional District.

Section 2 demands that voters of color in Alabama have an equal opportunity "to participate in the political process and elect candidates of their choice."[5] Section 2 is particularly important in Alabama, a state with a well-documented history of racial discrimination in voting. Section 2 imposes an affirmative obligation on the Committee to carefully assess where it must draw districts to provide minority voters with an effective opportunity to elect their preferred candidates. Assessing minority voting opportunities entails attention not only to the demographic composition of districts, but also to other factors such as "participation rates and the degree of cohesion and crossover voting" among minority voters.[6] Our analysis suggests,[7] and other analysts have demonstrated,[8] that drawing two majority-minority Congressional districts in Alabama is possible and in line with constitutional limitations. Attached to this letter is an example of a map that creates two majority-minority opportunity districts in Alabama's U.S. Congressional map (Appendix One). The Legislature must therefore consider whether, in conducting the analysis required by Section 2, a Congressional map creating two majority-minority districts is now required.

In *Thornburg v. Gingles*, 478 U.S. 30 (1986), the U.S. Supreme Court set forth three pre-conditions indicating that a districting plan or voting system results in vote dilution. These preconditions, referred to as the "*Gingles* preconditions" are met when: (1) an alternative districting plan can be drawn that includes one or more single-member districts where a minority community is sufficiently large and geographically compact to make up the mathematical majority of the district; (2) the minority group is politically cohesive in its support for preferred candidates; and (3) in the absence of majority-minority districts, candidates preferred by the minority group would usually be defeated because of political cohesion in the voting patterns

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[5] *See Thornburg v. Gingles*, 478 U.S. 30, 34 (1986).

[6] Bernard Grofman, Lisa Handley, David Lublin, *Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence*, 79 N.C. L. Rev. 1383, 1415 (2001).

[7] See Infra Appendix 1.

[8] *E.g.*, @Redistrict, Twitter (Sept. 21, 2021, 5:41 PM), https://twitter.com/Redistrict/status/1440431034114318342.

of non-minority voters in support of different candidates.[9] Together, the second and third *Gingles* preconditions are commonly referred to as racial bloc voting or racially polarized voting.[10] Racially polarized voting "is the linchpin of a § 2 vote dilution claim."[11]

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."[12] Courts consider several factors—such as the jurisdiction's history of voter discrimination—to determine whether the minority vote has been impermissibly diluted.[13] Importantly, it is "only the very unusual case" where "plaintiffs can establish the existence of the three *Gingles* factors" and fail "to establish a violation of § 2 under the totality of circumstances."[14]

In Alabama, based on present demographics, voting patterns, and other conditions, a Congressional redistricting plan that includes only one majority-minority district likely violates the Voting Rights Act. Each of the three *Gingles* preconditions is likely satisfied in Alabama and there is ample evidence that, under the totality of the circumstances, Black voters have less opportunity than other

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9 *Gingles*, 478 U.S. at 50-51.

10 Racially polarized voting occurs when different racial groups vote as a bloc for different candidates. In a racially polarized election, for example, Black people vote together for their preferred (frequently, though not always, Black) candidate, and most non-Black voters vote for the opposing (typically, though not always, white) candidate.

11 *Ala. State Conf. of the NAACP v. Alabama*, No. 2:16-CV-731, 2020 WL 583803 (M.D. Ala. Feb. 5, 2020); *City of Carrollton Branch of the NAACP v. Stallings*, 829 F.2d 1547, 1550 (11th Cir. 1987) ("The court's new three-part test establishes that racial bloc voting is the hallmark of a vote dilution claim"); *see also Gingles*, 478 U.S. at 48 n.15.

12 52 U.S.C. § 10301(b); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 425 (2006).

13 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.

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

members of the electorate to participate in the political process and elect candidates of their choice.

i. *Gingles* Precondition One: It is Possible to Draw Alabama's U.S. Congressional Map with Two Majority-Minority Opportunity Districts.

It is possible to draw a second majority-minority opportunity district in Alabama's seven-district Congressional map. **Appendix One** provides one example of an Alabama Congressional district plan, based on 2020 Census data, in which two of the seven districts are comprised of a majority of Black voters.[15]

In the attached plan, the Black community, measured by the Black voting age population ("BVAP") within each of the majority-minority opportunity districts, are sufficiently large and geographically compact to satisfy the first *Gingles* precondition. The appended map includes one majority-minority opportunity district that contains the core of the current District 7 as well as a second majority-minority opportunity district where the BVAP is over 50%.[16]

Currently, District 7, with over 60% BVAP, is diluting the votes of Black Alabamians. As the state is aware from its experience in precious redistricting cycles, compliance with Section 2 of the Voting Rights Act provides a compelling reason to consider race in redistricting, but it does not provide license to draw districts in ways that apply racial targets without a localized effectiveness analysis over several election cycles. The U.S. Constitution protects against maps that intentionally "pack" Black voters into districts with unnecessarily high Black populations or "crack" them into districts with unnecessarily low ones—both stratagems that can illegitimately elevate race over other considerations and diminish the political power of Black people.[17] Similarly, "if a legislature uses race as a proxy for a legitimate districting

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[15] While we believe that these maps are *sufficient* for compliance with Section 2, we make no representations as to whether the demographic percentages in any particular district in these draft maps are *necessary* for Section 2 compliance. An assessment of that question would require a more finely detailed analysis, including of racial polarization patterns, which we are unable to complete before an anticipated deadline for map submissions.

[16] *See infra* Appendix 1. The Supreme Court has held that a minority community is sufficiently large when it "make[s] up more than 50 percent of the voting-age population in the relevant geographical area." *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009).

[17] *See*, *e.g.*, *Ala. Leg. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015); *Bethune-Hill v. Virginia State Bd. of Elections*, 326 F. Supp. 3d 128, 180 (E.D. Va. 2018) (three-judge court) (holding that 11 state legislative districts were unconstitutional racial gerrymanders because the legislature decided to make them all meet a 55% BVAP target for which there was no strong basis in evidence); *Smith v. Beasley*, 946 F. Supp. 1174, 1210 (D.S.C. 1996) (holding that districts for which a legislature imposes unnecessarily high BVAP targets will fail constitutional scrutiny, because

criterion . . . this consideration of race likewise is subject to strict scrutiny."[18] To overcome that exacting scrutiny, this body would have to show it drew districts to comply with Section 2 – a burden our analysis reflects cannot be met.

ii. Other state-wide elected bodies.

Alabama's current State Legislative maps likewise evidence unnecessary packing and cracking of Black voters, including in some of the same areas of the state that are of concern in the congressional plan. With respect to the House plan, Black voters appear to be packed into several districts in the Montgomery and Birmingham areas and other parts of the state in ways that do not respect communities of interest and are likely not necessary for Black voters to elect candidates of choice. This packing artificially dilutes the ability of Black voters to elect candidates of choice in additional districts in those regions. The Committee should also, in compliance with Section 2, determine whether additional majority-minority districts in those regions are required by the Voting Rights Act. Similarly, on preliminary investigation, it appears that Huntsville's Senate districts, and potentially other Senate districts in the state including in the Montgomery area, are cracked in a way that could dilute Black political power, artificially limiting Black voters' ability to elect candidates of choice. Our analysis indicates that ceasing these practices would allow Black voters to elect candidate of choice in at least two additional districts. The Committee must carefully consider whether the *Gingles* preconditions exist with respect to the State Legislative districts and draw its redistricting plans accordingly.

iii. Gingles Preconditions Two & Three: Voting in Alabama is Racially Polarized.

There is ample evidence to suggest that the second and third *Gingles* preconditions are satisfied in Alabama. Alabama has a well-documented history and ongoing pattern of racially polarized voting in elections across the state. Over the past three decades, numerous federal courts have found that racially polarized voting pervades Alabama's statewide and local elections. In 2015, in *Alabama Legislative Black Caucus v. Alabama* the Supreme Court acknowledged that "voting … in the

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Section 2 "does not require super-safe majority-minority districts of at least 55% BVAP," and explaining: "Such districts should be narrowly tailored so that each district is considered individually and lines are drawn so as to achieve a district where minority citizens have an equal chance of electing the candidate of their choice. Districts in which most minority citizens register and vote will not need 55% BVAP to elect a candidate of choice. To be narrowly tailored, such facts should be considered when district lines are drawn.").

[18] *Bethune-Hill*, 326 F. Supp. 3d at 142.

State itself, is racially polarized."[19] The Department of Justice (DOJ) has sued local jurisdictions under Section 2 multiple times; in each case, the DOJ identified racially polarized voting patterns within the county.[20]

Our preliminary analysis of election contests between 2016 and 2020 shows that this stark pattern of racially polarized voting across Alabama, continues. Our analysis indicates that majority-minority districts are likely required to ensure Black voters have an opportunity to elect their candidates of choice on an equal footing with non-Black voters. Our analysis does not, however, reveal a need to draw districts with the present BVAP levels extant in District 7 or in many state legislative districts. For example, our preliminary analysis reveals that BVAP percentages in excess of a bare majority (i.e., 50%+1) are unnecessary in many parts of the state for Black voters to elect their candidates of choice, although effectiveness thresholds vary by locality and require a localized analysis. We continue to conduct those key analyses, and the Committee is obligated to do so as well.

Because of Alabama's stark patterns of voting along racial lines, Alabama's Reapportionment Committee and legislature must be attuned to their obligations under Section 2, not merely as an afterthought after maps are drawn, but affirmatively in the drawing of all statewide electoral maps. As the Supreme Court recently instructed: a "legislature undertaking a redistricting must assess whether the new districts it contemplates (not the old ones it sheds) conform to the [Voting Rights Act']s requirements."[21] This Committee will not be able to fulfill its legal obligations in the redistricting process if it attempts to ignore patterns of voting along racial lines in the drawing of electoral maps.

iv. Totality of Circumstances: Alabama's Voters of Color Have Less Opportunity to Elect Candidates of their Choice.

A consideration of the "totality of circumstances" surrounding voting in Alabama confirms that Black voters have "less opportunity than other members of the electorate to participate in the political process and to elect representatives of

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[19] *Ala. Legis. Black Caucus v. Ala.*, 575 U.S. 254, 277 (2015); *see also Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253, 1258 (N.D. Ala. 2018) ("There was racially polarized voting in both the 2008 and 2010 [statewide] elections.") *United States v. McGregor*, 824 F. Supp. 2d 1339, 1346 (M.D. Ala. 2011).

[20] *See*, *e.g.*, *United States v. Dallas Cty. Comm'n*, 739 F.2d 1529, 1536 (11th Cir. 1984); *United States v. Tallapoosa County*, No. CV-93-D-1362-E (M.D. Ala. filed Nov. 12, 1993).

[21] *Cooper v. Harris*, 137 S. Ct. 1455, 1471 (2017).

their choice" in Alabama's Congressional elections.[22] Several of the Senate Factors, which inform Section 2 liability, strongly indicate that vote dilution is occurring, including: the extent of the history of voting discrimination in Alabama (Factor 1); the extent of racially polarized voting in Alabama (Factor 2); the extent to which Alabama has used voting practices that may enhance the opportunity for discrimination against Black voters (Factor 3); the extent to which a candidate slating process has been used to deny Black voters in Alabama access to that process (Factor 4); the extent to which Black voters bear the effects of discrimination in a variety of areas of life (Factor 5); whether political campaigns in Alabama have been characterized by overt or subtle racial appeals (Factor 6); and the extent to which Black candidates have been elected to public office in Alabama (Factor 7). The following are just a few examples of circumstances impacting Black voters' ability to participate equally in Alabama's congressional elections:

- Alabama has a well-documented history of voting discrimination.[23] Among other violations, in 1985, the U.S. Supreme Court struck down Alabama's intentionally discriminatory misdemeanant disfranchisement law.[24] In 1986, a federal district court found that, from the late 1800s to the 1980s, the State Legislature had purposefully manipulated the method of electing local governments as needed to prevent Black residents from electing their preferred candidates.[25] The court also found that the state laws requiring numbered posts for nearly every at-large voting system in Alabama had been intentionally enacted to dilute Black voting strength.[26]

- In 2010, as a part of a federal investigation into bribery, State Senators Scott Beason and Benjamin Lewis, and State Representative Barry Mask agreed to wear recording devices. At trial in 2011, these recordings became public and revealed that a cadre of prominent state legislators had plotted to stop a gambling-related referendum from appearing on the November 2010 ballot. These legislators were concerned that the referendum would increase Black voter turnout because, in general, Black Alabamians supported gambling.[27] While discussing their plot to suppress Black voter turnout, Senators Beason, Lewis, and other top legislators were recorded

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

23 *See* Deuel Ross et al., *Voting Rights in Alabama: 2006 to Present* (Aug. 2021) (on file with author).

24 *Id. Hunter v. Underwood*, 471 U.S. 222 (1985).

25 *Dillard v. Crenshaw Cty.*, 640 F. Supp. 1347, 1357 (M.D. Ala. 1986).

26 *Id.* at 160.

27 *McGregor*, 824 F. Supp. 2d at 1339.

deriding Black Alabamians. They called Black voters "Aborigines" and predicted that the referendum's presence would lead "[e]very black, every illiterate" to be "bused [to the polls] on HUD financed buses."[28]

- In fall 2015, just after the state implemented a restrictive photo-ID law for in person voting,[29] the Alabama Governor and Secretary of the Alabama Law Enforcement Agency ("ALEA") announced the closure of 31 driver's license-issuing offices.[30] Eight of the eleven counties that were expected to lose driver's licensing offices were majority Black counties—which not only limited access to license-related services, but also reduced availability of one of the most convenient avenues for registering to vote. In December 2016, the U.S. Department of Transportation concluded that the Alabama driver's license office closures and reductions in hours had a disparate impact on Black people in violation of the Civil Rights Act.[31]

- Although COVID-19 presented risks to the entire population, Black Alabamians were disproportionately more likely to die of COVID-19.[32]

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Compliance with the Voting Rights Act is a nuanced, fact-specific inquiry that requires an "intensely local appraisal" based "upon the facts of each case."[33] While Alabama has made progress since 1965, the Reapportionment Committee must not fail to fulfill its affirmative obligations under Section 2 and the U.S. Constitution. As such, the Committee must proactively assess whether electoral lines dilute Black voters' ability to elect candidates of their choice or otherwise intentionally assign Black voters to districts in a way that minimizes their political power.

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28 *Id.* at 1345.

29 *Greater Birmingham Ministries v. Merrill*, 284 F.Supp.3d 1253 (N.D. Ala. 2018).

30 Memorandum of Agreement Between the U.S. Dep't of Transp. and the Alabama L. Enf't Agency (Dec. 22, 2016), https://www.transportation.gov/sites/dot.gov/files/docs/ALEA US DOT Signed MOA_0.PDF.

31 *Id.*

32 *People First of Ala. v. Merrill*, 467 F.Supp.3d 1179 (N.D. Ala. 2020); Ramsey Archibald, *Death Rate Due to Coronavirus Highest for Black Alabamians*, AL.com (Apr. 8, 2020), https://www.al.com/news/2020/04/death-rate-due-to-coronavirus-highest-for-black-alabamians.html

33 *Gingles*, 478 U.S. at 79.

B. The U.S. Constitution Requires the Committee Ensure the "One Person, One Vote" Requirement.

Article I, § 2 of the U.S. Constitution requires "equal representation for equal numbers of people" in the apportionment of Congressional districts.[34] This "One Person, One Vote" principle provides that Congressional maps that weaken the voting power and representation of residents of one Congressional district compared to other residents of another Congressional district in the state are unconstitutional.[35] The standard is 'as nearly as practicable,' to exact equality, which requires that each State make a good-faith effort to achieve precise mathematical equality.[36] "Unless population variances among congressional districts are shown to have resulted despite such [good-faith] effort, the State must justify each variance, no matter how small."[37]

In drawing state legislative districts, population deviations within plus or minus 5% of the mathematical mean are presumptively constitutional.[38] Impermissible deviations from population equality among districts may elicit malapportionment lawsuits, requiring the Legislature to show that an adopted plan legitimately advances a rational state policy formulated "free from any taint of arbitrariness or discrimination."[39]

II. The Reapportionment Committee Should Make All Phases of the Redistricting Process Transparent and Accessible to the Public.

The maps the Reapportionment Committee will draw in the upcoming special legislative session will determine how Alabamians are represented in Congress, the

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[34] *Wesberry v. Sanders*, 376 U.S. 1, 18 (1964).

[35] *See Reynolds v. Sims*, 377 U.S. 533, 567–68 (1964).

[36] *Id*. at 577.

[37] *Kirkpatrick v. Preisler*, 394 U.S. 526, 530-31 (1969) (Article I, § 2, "permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown.").

[38] *See Reynolds*, 377 U.S. at 568 ("The Equal Protection Clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races."); *see also Gaffney v. Cummings*, 412 U.S. 735, 744–45 (1973) (explaining that "minor deviations from mathematical equality among state legislative districts" are not constitutionally suspect, but "larger variations from substantial equality are too great to be justified by any state interest"); *Brown v. Thomson*, 462 U.S. 835, 842 (1983) (holding that apportionment plans with a maximum population deviation among districts of less than 10% are generally permissible, whereas disparities in excess of 10% most likely violate the "one person, one vote" principle).

[39] *Roman v. Sincock*, 377 U.S. 695, 710 (1964); *see Brown*, 462 U.S. at 847–48 (stating that "substantial deference" should be given to a state's political decisions, provided that "there is no 'taint of arbitrariness or discrimination'"); *see also Brown*, 462 U.S. at 852 (Brennan, J., dissenting) ("Acceptable reasons . . . must be 'free from any taint of arbitrariness or discrimination . . . .'").

state legislature, and the Board of Education for the remainder of the decade. These maps will be the foundation of access to electoral power and to the right to vote for candidates of choice for federal and state governing bodies. They will also be vital to municipalities and counties with respect to funding allocations and to their own local redistricting efforts. These maps will also significantly impact how responsive local legislative delegations will be to local concerns. Given Alabama's lack of home rule, whether state legislative maps unnecessarily split counties will heavily determine—far more than in most other states—the fates of county budgets, hospitals, schools, and other intensively local projects. The public should have significant input into whether the Committee's proposed maps allow (or do not allow) communities of interest to have a voice in the process of electing their representatives. Accordingly, the Reapportionment Committee should consider and propose only those maps that adequately represent the diversity of Alabama. We recommend prioritizing public involvement and transparency *throughout* the process so that all Alabamians have the chance to participate.

The public hearings held from September 1 to September 19 took only a first step toward fulfilling this body's obligations to create meaningful opportunities for public engagement in the redistricting process—they were limited in their effectiveness because the hearings occurred before the legislature had proposed electoral maps and most were held during normal working hours rather than in the evenings. The Reapportionment Committee must pledge to hold a second round of public hearings in tandem with the upcoming special legislative redistricting session to solicit and incorporate community feedback when the public has access to proposed maps by the legislature to provide feedback and insight on. In addition, the Reapportionment Committee should ensure that the next public hearings allow for even more robust online engagement given the ongoing COVID-19 pandemic and accommodate the schedules of working Alabamians. When collecting commentary on draft maps, the Committee should allow remote participants to share live testimony and to have their questions answered in real-time.

Without transparency and meaningful opportunities for public participation, informed involvement by all Alabamians is not possible. The upcoming special legislative redistricting session represents a crucial opportunity for the public to ensure that communities of interest in the state are kept intact and that the voting strength of protected minorities is not minimized or diluted. The Reapportionment Committee should also publicize all data used to inform state redistricting plans, publish answers to all questions received, and prohibit backroom negotiations.

* * *

Ultimately, this body must ensure the efficacy and fairness of all state electoral maps. You have heard and will continue to hear that this is a paramount concern for your constituents. Communities of color in Alabama, and particularly Black Alabamians, are already underrepresented in the political life of the state and have been left behind from many of the economic opportunities of the past decade. The Alabama Permanent Legislative Committee on Reapportionment must make every effort to follow the mandates and spirit of Section 2 of the Voting Rights Act and the One Person, One Vote principal of the U.S. Constitution.

It is also critical that the Reapportionment Committee model best practices because redistricting by the Legislature sets the standard and tone for local redistricting in the state. As with state representative bodies, the Voting Rights Act requires that voters of color have equal opportunities to elect representatives of their choice to city and county councils, school boards, and other local elected bodies.

Please feel free to contact Kathryn Sadasivan at ksadasivan@naacpldf.org, Davin Rosborough at drosborough@aclu.org, or Tish Gotell Faulks at tgfaulks@aclualabama.org with any questions or to discuss these issues in more detail. We also urge you to review ***Power on the Line(s): Making Redistricting Work for Us***,[40] a guide for community partners and policy makers who intend to engage in the redistricting process at all levels of government. The guide provides essential information about the redistricting process, such as examples of recent efforts to dilute the voting power of communities of color and considerations for avoiding such dilution.

Sincerely,

/s/ *Kathryn Sadasivan*
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[40] *See* LDF, 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://www.naacpldf.org/press-release/civil-rights-organizations-release-redistricting-guide-to-support-black-latino-and-aapi-communities-participation-in-crucial-process/.

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APPENDIX ONE

Alabama Congressional Illustrative Map with Two Majority-Minority Opportunity Districts