



May 8, 2026

Sent via email

Constitutional Laws Subcommittee
Judiciary Committee
South Carolina House of Representatives
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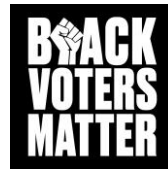
Re: Testimony Vehemently Opposing Mid-Decade Congressional Redistricting Under the Current Circumstances; Opposition to House Bills 5683 & 5684

Dear Chair Jay Jordan and Constitutional Law Subcommittee Members:

The Legal Defense Fund (“LDF”), the NAACP South Carolina State Conference, Black Voters Matter Capacity Building Institute, and Delta Sigma Theta Sorority, Incorporated write to express opposition in the strongest possible terms to any mid-decade congressional redistricting and related changes to the congressional election schedule during the 126th term of the South Carolina General Assembly.¹ This includes opposition to House Bills 5683 and 5884. Redistricting, under the current circumstances, poses harms to *all* South Carolinians, including voters, organizations that serve voters, election administrators, and congressional candidates. We are particularly alarmed by any planned redistricting that would nullify the ability of Black South Carolinian voters, who comprise about 25% of South Carolina’s population, to elect their preferred candidate to at least one congressional district, which has long been Congressional District (“CD”) 6. For at least *four* reasons explained below, we urge South Carolina’s General Assembly to go no further towards wasting resources by engaging in what certainly will be harmful and racially discriminatory mid-decade congressional redistricting.

***First*, any redraw of South Carolina’s congressional map disrupts an election process that is already well underway.** In sworn testimony before a federal court, representatives of the South Carolina Election Commission (“SCEC”) stated that it takes three to five months to prepare to implement a new

¹ *Notice of Public Hearing*, S.C. House Judiciary Laws Subcomm. (May 7, 2026), <https://www.scstatehouse.gov/agendas/126h16536.pdf>.



congressional map *after* it is approved for implementation.² Consistent with that representation, South Carolina has already expended resources to print ballots for the June 9, 2026 primary that identify congressional candidates under the existing 2021-drawn congressional map.³ Moreover, the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), requires that states and territories allow certain groups of citizens, including overseas military and their families, to register and vote absentee in elections for federal offices.⁴ Therefore, in compliance with UOCAVA, South Carolina has already transmitted validly requested absentee ballots to UOCAVA voters no later than 45 days before an election for a federal office. For the upcoming June 9 congressional party primary elections, ballots were mailed to UOCAVA voters with existing mail ballot requests around April 25.

In addition to UOCAVA, many South Carolina voters qualify to vote absentee under state law, such as voters traveling during a scheduled election, voters with physical disability, and voters who are over the age of 65.⁵ Voters were able to apply for an absentee ballot as early as January 1, 2026.⁶ Under state law, SCEC must mail absentee ballots approximately 30 days before the election, which, for the June 9 primary elections, would begin to happen—if it has not already happened—over the next few days.⁷

Voters already have or will soon have absentee ballots. Under state law, voters can return those absentee ballots as soon as they receive them. Indeed, the SCEC encourages voters to return their absentee ballot “as soon as possible.”⁸ Moreover, the SCEC has confirmed that more than 200 absentee ballots already have been returned.⁹ Therefore, any congressional redraw that this body may carry out, if it leads to a failure to tally and count those votes, will violate the fundamental right to vote for South Carolinians who have cast votes for

² *Alexander v. S.C. State Conference of the NAACP*, Dkt. 23A851 (U.S.), Appellants’ Emergency Application for Stay of Panel’s Injunction for the 2024 Elections (Mar. 18, 2024), at 2, 8.

³ See, e.g., Seanna Adcox and Jessica Holdman, *Legislators Might Try to Redraw SC’s Congressional Lines. GOP Senators Caution that Could Backfire*, S.C. Daily Gazette (May 5, 2026), <https://scdailygazette.com/2026/05/05/legislators-might-try-to-redraw-scs-congressional-lines-gop-senators-caution-that-could-backfire/>.

⁴ 52 U.S.C. § 20310.

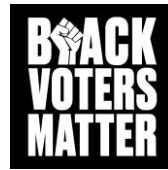
⁵ *Absentee Voting*, South Carolina Election Commission (May 2026), <https://scvotes.gov/voters/absentee-voting/>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ @MaayanSchechter, X (May 7, 2026), <https://x.com/MaayanSchechter/status/2052428640797737147?s=20>.



congressional candidates based on the existing congressional map.¹⁰ As explained below, valid ballots like these would be voided for *no* compelling reason. It is “hard to envision a more ‘severe restriction’ than retroactive invalidation of one’s vote.”¹¹ This harm cannot be merely remedied, namely by a chance for a voter who already voted to then have to vote in a new election under a new map with different districts and different candidates that this body may adopt.¹² To be sure, such a set of circumstances raises serious constitutional violations under the First and Fourteenth Amendments to the U.S. Constitution, as well as other potential liability.

Further, any congressional map redraw harms candidates. Candidates have already expended resources to qualify and campaign in the districts they currently are running for in the June primary election under the existing map. As part of their campaigning, candidates for specific districts under the existing map are actively encouraging voters to vote, including those who have received absentee ballots.

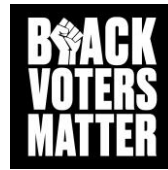
There also is and will remain significant public confusion – of voters, organizations that serve voters, election administrators, and others – because of any congressional map redraw. Continuing to move forward towards redrawing South Carolina’s congressional lines creates uncertainty over the voting and ballot-counting rules and processes underway. This uncertainty is particularly harmful to non-partisan, pro-democracy groups like signatories to this letter, which currently are engaged in voter education and advocacy to encourage voter participation. Such groups may now have to pause this work because of uncertainty about the conduct of upcoming elections and also have to update materials at their expense and at the last minute, if it is even possible to do so. These groups also have to address voter confusion about such topics as whether all elections will be cancelled, whether and how their ballots will be counted, and to clarify which elections to vote for on their ballots.

In sum, any redraw of congressional lines for the 2026 elections wastes resources, risks nullifying already cast ballots, impedes campaigning already

¹⁰ See *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Duncan v. Poynthress*, 657 F.2d 691, 704 (5th Cir. Unit B Sept. 1981).

¹¹ See *Griffin v. N.C. State Bd. of Elections*, 781 F. Supp. 3d 411, 449 (E.D.N.C. 2025) (citation omitted) (three-judge court); see also *United States v. Classic*, 313 U.S. 299, 315 (1941) (“The right to vote includes the right to cast an effective ballot that is counted in the election in which it is lawfully submitted.”).

¹² *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“Any loss of constitutional rights is presumed an irreparable injury.”); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224 (4th Cir. 2014) (“This loss of voting rights in an election cannot be remedied after the fact.”).



underway, causes confusion for South Carolinians, and reduces confidence in our democracy. The U.S. Supreme Court has blocked the implementation of last-minute changes to election procedures for many of these harms that would result from implementation of any new congressional map for the 2026 congressional elections in South Carolina.¹³

Second, there is no good, let alone compelling, reason to redraw South Carolina’s congressional map. There is no reason to believe that the current 2021-drawn congressional map is constitutionally suspect or otherwise legally questionable. In a lawsuit challenging the map as being racially discriminatory, South Carolina’s General Assembly vigorously defended it as being legally compliant. In doing so, the General Assembly defended all seven congressional districts as having been drawn race-neutral, including some congressional districts being drawn primarily for partisan advantage.¹⁴ The State’s map drawer, Will Roberts, for example, “denied drawing any lines based upon race, using a racial target, using race as a proxy for politics, or using politics as a proxy for race.”¹⁵ The key legislative sponsor, former Senator Campsen, similarly testified that he “never considered race or reviewed racial data” during the mapdrawing process.¹⁶ The General Assembly also affirmatively *disclaimed* that any congressional districts, including CD6, were drawn as “‘reasonably necessary’ to comply with the Voting Rights Act.”¹⁷ And the U.S. Supreme Court credited these representations, determining that race did not play a role in South Carolina’s 2021 mapdrawing process.¹⁸ Nothing has changed with respect to this process since the Supreme Court rendered its 2024 decision.¹⁹

¹³ See, e.g., *Purcell v. Gonzalez*, 549 U.S. 1 (2006); *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025); *Merrill*, 142 S. Ct. 879, 881-882 (2022) (Kavanaugh, J., concurring) (reasoning that parties have “not established that the changes” it requested to an election process “are feasible without significant cost, confusion, or hardship”).

¹⁴ See, e.g., *Alexander v. S.C. State Conference of the NAACP*, Dkt. 22-807 (U.S.), Brief for Appellant (July 7, 2023), 31.

¹⁵ *Id.* at 12.

¹⁶ *Id.*

¹⁷ *S.C. State Conference of the NAACP v. Alexander*, Dkt. 3:21-cv-03302-MGL-TJH-RMG (D.S.C.), Senate Defendants’ & House Defendants’ Response to Plaintiffs’ *Motion in Limine* to Preclude Defendants from Introducing Evidence or Argument Supporting a Rationale for Congressional Map Based on Voting Rights Act Compliance (Sept. 8, 2022).

¹⁸ *Alexander v. S.C. NAACP*, 602 U.S. 1, 13-14, 19, 22 (2024).

¹⁹ See, e.g., *S.C. Senate Majority Leader Shane Massey on White House’s Push for S.C. Congressional Redistricting*, SCETV (statement of Sen. Massey, at 6:30-7:10) [“Sen. Massey Interview”].



Now, after the Supreme Court’s decision on April 29, 2026 in *Louisiana v. Callais*,²⁰ and because the President has once again encouraged mid-decade congressional redistricting, South Carolina’s General Assembly is convening to consider whether to redraw its self-proclaimed legally-compliant congressional map.²¹ But the *Callais* decision applies to redistricting processes and plans not relevant to South Carolina’s 2021 congressional map. *Callais* assessed whether the intentional creation of a majority-minority congressional district in Louisiana violated the U.S. Constitution, including reviewing the framework for how federal courts assess claims under Section 2 of Voting Rights Act in the redistricting context.²² *Callais* should *not* serve as a basis for the General Assembly to conduct mid-decade congressional redistricting in South Carolina. As that 2021 legislative process reveals, the General Assembly did *not* purposefully develop a majority-minority congressional district. Rather, as noted above, it defended the current congressional map as being race-neutral and disclaimed that any congressional districts were drawn to comply with the Voting Rights Act. Indeed, Senator Majority Leader Shane Massey, who also testified in the *Alexander* litigation and was cited by the Supreme Court in its decision, said, “I really don’t think that [*Callais* decision] applies to us at all because we don’t have a Section 2 district.”²³

In sum, neither *Callais*, nor the President’s commands, function as good, let alone compelling reasons, to disrupt ongoing election processes that harm *all* South Carolinians. This is particularly so given South Carolina’s vigorous defense of its 2021 map that the U.S. Supreme Court has sanctioned.

Third, a redraw of South Carolina’s congressional map with a focus on targeting CD6 will harm Black voters and other voters. CD6, which is represented by Representative James Clyburn, is the *only* district that elects a Black Representative who is Black voters’ candidate of choice in South Carolina’s seven-member congressional delegation. As of the 2020 Census, Black voters account for approximately 25% of South Carolina’s voting-age population. South Carolina elections continue to be marked by racially polarized voting patterns, which means Black voters support different candidates than white voters, including in intra-party elections.²⁴ Given key realities, such as those voting patterns and where Black voters reside, a functional, effective voting district(s) is necessary for Black voters to have access to representation in South Carolina’s congressional

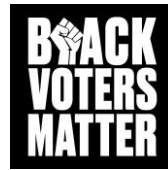
²⁰ *Louisiana v. Callais*, Dkts. 24-109 and 24-110, 2026 WL 1153054 (U.S. Apr. 29, 2026).

²¹ Sen. Massey Interview, *supra* note 19.

²² *Callais*, Dkts. 24-109 and 24-110, 2026 WL 1153054.

²³ *Id.*

²⁴ *S.C. State Conference of the NAACP v. Alexander*, Dkt. 3:21-cv-03302-MGL-TJH-RMG (D.S.C.), ECF 482, Plaintiffs’ Post-trial Proposed Findings of Fact and Conclusions of Law (Nov. 10, 2022), 249-257.



delegation. During the *Alexander* litigation, the General Assembly repeatedly defended splitting Charleston County between CDs 1 and 6 because legislators lauded Representative Clyburn as being an effective representative and because of his leadership roles and ability to bring resources to South Carolinians.²⁵ Accordingly, any effort to eradicate the lone district, among seven districts, with the highest concentration of Black voters and a senior Congress member with an established record of service to the state, particularly given voting patterns in South Carolina, will raise serious concerns about intentional racial discrimination under the Fourteenth and Fifteenth Amendments, among other potential violations.

The grave threats to the minimal, yet necessary, electoral opportunity for South Carolina's sizeable and important Black population are particularly alarming under these circumstances of mid-decade congressional redistricting. Any new congressional map has serious implications and consequences for the lives of Black people and other people throughout South Carolina. Given what is at stake, it is unacceptable that the General Assembly would contemplate providing such little opportunity for Black voters and their allies to consider the import of any change in law due to *Callais* on its congressional map, and to deny the public the opportunity to engage in a robust and meaningful legislative process about any changes.

A rushed, non-transparent, unnecessary redistricting process is not a deliberative process. Compressed deliberation prevents meaningful review of the impact of the map on all South Carolinians, and opportunities to testify about the impact of maps and offer alternatives that protect all voters. It takes time and care to develop a statewide map that serves all South Carolinians and one that is consistent with legal standards. Among other concerns, a rushed, nontransparent process also denies participation from Black and other communities who need to organize, take time from their work, family, and other life needs to participate meaningfully. None of the serious deliberation that is required for a fair map can or should be done during such a short window, in a quick legislative session where it will be impossible to provide transparency and meaningful engagement, and while elections are already underway. Any racial harm stemming from this irregular and inadequate process would therefore not be incidental. It would be the foreseeable and evidently intended result of an irregular and non-transparent process.

Finally, the apparent goal of dismantling South Carolina's sole Black electoral opportunity district cannot be separated from South Carolina's pattern of using a myriad of electoral schemes to deny Black voters access

²⁵ *Alexander*, 601 U.S. at 14.



to the political process.²⁶ This pattern harms not only Black South Carolinians, but South Carolinians writ large, all of whom suffer when the government engages in racial discrimination. Regarding political representation in particular, Black representation in Congress was eradicated violently in the 1890s;²⁷ Rep. Clyburn’s election in 1992 saw him become the first Black Congressman in South Carolina in more than 100 years;²⁸ and before 1965, South Carolina used many schemes to deny Black voters their voting rights and then, after passage of the Voting Rights Act in 1965, the State and localities throughout it, continued to resist compliance.²⁹ This background is relevant to illuminate the lack of care and respect for the dignity and constitutional rights of Black Americans that is undeniable in South Carolina.

* * *

For all of these reasons, we urge this Committee to immediately halt any further consideration of mid-decade congressional redistricting. Under the current conditions, the confluence of harms described above would not be merely procedural; the harms would be unconstitutional, antidemocratic, indicative of discriminatory intent, and an affront to the dignity and rights of voters and candidates throughout the state. South Carolina and the public interest writ large are served by ensuring that voters may cast effective ballots under clear, settled rules. Under these circumstances, however, the risks of disenfranchisement and lack of representation are severe because ballots that have been cast may not be tallied and counted, and lines may be drawn that do not provide access to congressional representation for

²⁶ Mark A. Posner, *Current Conditions of Voting Rights Discrimination in South Carolina*, Leadership Conference on Civil and Human Rights (Aug. 16, 2021), <https://andstillivote.org/wp-content/uploads/2021/09/South-Carolina-HHRG-117>; John C. Ruoff and Herbert E. Buhl, “Voting Rights in South Carolina, 1982-2006,” *University of Southern California Review of Law and Social Justice* 17.2 (Spring 2008), https://gould.usc.edu/wp-content/uploads/legacy/students/journals/rlsj/issues/assets/docs/issue_17/05_%20South_Carolina_Macro.pdf; see also *Democracy Defended: Key Findings from the 2020 Election*, LDF (2021), <https://www.naacpldf.org/democracy-defended/#states>.

²⁷ Joseph Crespino, *Strom Thurmond’s America* (New York: Hill and Wang, 2012), pp. 15-16; Richard Rothstein, *The Color of Law: A Forgotten History of How our Government Segregated America* (New York: Norton, 2017), pp. 40-41; Peter F. Lau, *Democracy Rising: South Carolina and the Fight for Black Equality since 1865* (Lexington: University Press of Kentucky, 2021), pp. 15-19.

²⁸ Posner, *supra* note 26, at 11.

²⁹ Ruoff and Buhl, *supra* note 26, at 683-697; *Voting Determination Letters for South Carolina*, U.S. Dept. of Justice (2026), <https://www.justice.gov/crt/voting-determination-letters-south-carolina>.



all voters.³⁰ South Carolina should honor votes already cast, resist attempts to harm the electoral opportunities of Black voters, and preserve confidence in the ongoing elections. Moving forward with mid-decade congressional redistricting wastes public resources, including exposing the state to serious legal liability yet again. The Supreme Court’s decision in *Callais* provides no warrant for what is being contemplated. Our Constitution also provides no cover for the intentional dismantling of the *only* congressional district in which Black South Carolinians can elect a representative who will respond to their interests.

Sincerely,

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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 NAACP since 1957, though LDF was originally founded by the NAACP and shared its commitment to equal rights.

The NAACP South Carolina State Conference

The NAACP South Carolina State Conference is a state conference of branches of the National Association for the Advancement of Colored People (“NAACP”), a national civil rights organization. NAACP South Carolina State Conference was

³⁰ See *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1355 (11th Cir. 2005); (preserving “franchise-related rights is without question in the public interest”).



chartered in 1939 and is the oldest civil rights group in South Carolina. NAACP South Carolina State Conference, on behalf of its members and the other constituents it serves, seeks to remove all barriers of racial discrimination through democratic processes and the enactment and enforcement of federal, state, and local laws securing civil rights, including laws relating to voting rights.

Black Voters Matter Capacity Building Institute

Black Voters Matter is a fund that supports local organizations and leaders working for social justice and civic engagement in predominantly Black communities. BVM's goal is to increase power in marginalized, predominantly Black communities. BVM achieves this goal through voter registration/get-out-the-vote activities, policy advocacy, development and training, and electoral communications.

Delta Sigma Theta Sorority, Incorporated

Delta Sigma Theta Sorority, Incorporated was founded on January 13, 1913, on the campus of Howard University to promote academic excellence; to provide scholarships; to provide support to the underserved; educate and stimulate participation in the establishment of positive public policy; and to highlight issues and provide solutions for problems in their communities. Since its founding, more than 350,000 women have joined the organization, making it one of the largest predominantly Black women's organizations in the country. Delta Sigma Theta Sorority, Incorporated has over 1,000 collegiate and alumnae chapters worldwide, continuing to uplift Black communities globally through its unwavering mission and strategic action.

The Sorority's tradition of activism on the frontlines dates back to just weeks after its inception, when its Founders boldly marched in the 1913 Women's Suffrage Parade—the only Black women's organization to do so. In keeping with this tradition, members of Delta Sigma Theta conduct voter registration drives and host voter education programs on many topics, including redistricting. Delta Sigma Theta has 75 chapters, alumnae and collegiate, including members, many of whom are registered voters, in South Carolina.