

**ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND**99 HUDSON STREET, 12th FL • NEW YORK, NY 10013 • TEL 212.966.5932 • www.aaldef.org • info@aaldef.org

May 4, 2022

Hon. Patrick F. McAllister
Steuben County Supreme & County Court
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Bath, NY 14810
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Re: Submission to Special Master, Jonathan Cervas, in the Matter of *Harkenrider v. Hochul* Index No. E2022-0116CV

The Asian American Legal Defense and Education Fund (AALDEF) is a 48-year-old national civil rights organization based in New York City that promotes and protects the civil rights of Asian Americans through litigation, legal advocacy, and community education. AALDEF's Democracy Program focuses on voting rights, the census, and redistricting. During the last round of redistricting, AALDEF actively advocated for fair districting maps in New York City.¹ In this most recent redistricting cycle, AALDEF is again a member of the Unity Map Coalition, as well as a member of the APA VOICE Redistricting Task Force. AALDEF has been involved in redistricting for over four decades, and has also partnered with Asian American community-based organizations throughout New York City, to identify Asian American neighborhoods and communities of interest (COI). We have enclosed AALDEF's Asian American Communities of Interest maps submission to the Independent Redistricting Commission (IRC) for your review.

AALDEF has previously submitted testimony to the U.S. Congress,² testified at hearings, submitted amicus briefs to the U.S. Supreme Court,³ and released detailed reports regarding Asian American voting experiences and the continued need for the full protections of the Voting Rights Act, including in the redistricting context.

AALDEF submits this testimony to urge this court to keep Asian American communities of interest whole during the redistricting process, so that these communities may have a fair and

¹ In New York City, AALDEF jointly proposed a "Unity Map" with other racial justice groups that would more fairly represent communities of color. To develop this map, AALDEF, along with the Center for Law and Social Justice at Medgar Evers College, LatinoJustice PRLDEF, and the National Institute for Latino Policy, surveyed its community members to determine the boundaries of their neighborhoods, in order to create a fair and comprehensive redistricting map. See ASIAN AMERICAN LEGAL DEFENSE & EDUCATION FUND, *Unity Map*, <https://www.aaldef.org/unity-map/> (last visited Sept. 25, 2021). AALDEF has similarly worked with community groups in this redistricting cycle, to conduct a similar analysis of our community's neighborhood boundaries.

² See Statement of the Asian American Legal Defense and Education Fund before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Civil Liberties Hearing "Enforcement of the Voting Rights Act in the State of Texas," submitted May 3, 2019; Joint Statement of the Asian American Legal Defense and Education Fund and Asian Americans Advancing Justice before the Committee on the Judiciary, United States Senate Hearing "From Selma to *Shelby County*: Working Together to Restore the Protections of the Voting Rights Act," submitted July 17, 2013.

³ See, e.g., Amicus brief submitted to the Supreme Court in *Perry v. Perez*, No. 11-715 (Dec. 22, 2011), available at https://www.aaldef.org/uploads/pdf/Texas%20Redistricting%20Amicus%20Brief_Final.pdf.

equal opportunity to fully and effectively participate in the electoral process, and elect candidates of their choice.

We urge you to superimpose these COI maps over all proposed plans, including yours, to fully appreciate the degree to which any proposed plan divides Asian American communities of interest and prevents these communities from electing a candidate of their choice, despite the tremendous growth in these communities over the past decade. We have enclosed images of these COI maps superimposed over the Unity Maps for state senate and congressional districts in New York City. These images illustrate how Asian American COIs and population should be kept whole, and not divided in proposed districts.

Here in New York, the federal court in Diaz v. Silver, 978 F. Supp. 96 (E.D.N.Y.) (per curiam), aff'd, 522 U.S. 801 (1997) recognized that Asian Americans in Manhattan's Chinatown and Brooklyn's Sunset Park were a community of interest that should be kept together within the 12th Congressional District. The court specifically recognized the following factors and shared community concerns:

- Cultural background
- Economic status
- Common media markets
- Shared community services and organizations, including health clinics, stores, public transportation and workplaces
- Voting patterns
- Common languages and dialects
- Common country of origin

Several Asian American communities throughout New York City share common concerns and socioeconomic characteristics, but they have been divided between two or more districts. We urge this court to take a closer look at these neighborhoods and ensure that Asian American communities are kept together and not splintered among newly-drawn districts. The Unity Map best ensures that these COIs are kept whole to the extent possible at all legislative levels.

Tremendous growth among Asian Americans

Asian Americans are the fastest growing racial group in New York City, New York State and the country and were the main driver of population growth in the city – which ultimately limited New York State to losing one congressional seat, not two. The Asian population grew by 43% in Brooklyn, by 29% in Queens, and 24% in Manhattan. The new district lines at all levels must reflect the tremendous growth in this community and the demographic shifts that have occurred over the last decade. The Unity Maps best represent this growth.

Malapportionment in State Senate

AALDEF and our Unity Map partners challenged the severe malapportionment of the state senate plan in the previous redistricting cycle.⁴ Downstate state senate districts were severely

⁴ Favors v. Cuomo, 881 F. Supp. 2d 356 (E.D.N.Y. 2012)

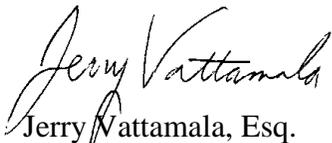
overpopulated and upstate districts were severely underpopulated, which deprived New York City of more than one state senate district. In addition, multiple Asian American COIs were unfairly divided among numerous senate districts. The Unity Map plan, the legislature's plan, and both IRC plans all rectified this extreme malapportionment and reduced the total deviations from close to 10% to 3% or less. Correcting for this extreme malapportionment resulted in New York City receiving an equal share of senate districts, with both Brooklyn and Queens each receiving a new state senate district. In particular – all plans (Unity Map, legislature and both IRC plans) drew a new senate district in Brooklyn which united the Asian American COIs of Sunset Park and Bensonhurst. This court should likewise correct for last cycle's radical malapportionment and preserve the Asian American plurality senate district in Brooklyn which was adopted in *all* of the plans mentioned above. The Unity Map plan was able to draw this district as a majority Asian district.

We have also enclosed our analysis of the legislature's plans, as well as the IRC plans for your review. In addition, we have enclosed a New York Times article concerning the Asian American COI of Richmond Hill/South Ozone Park and the unfair splintering of their community of interest.

Asian Americans are a protected racial group under the Voting Rights Act. As the Asian American community in New York continues to grow, it comes closer to attaining a significant political voice—so long as they are not set back by discriminatory redistricting. This community simply seeks to be treated equally and be given the same opportunities as other communities to elect candidates of their choice.

Asian American communities of interest should not be divided at any legislative district level. We urge this court to keep communities of interest together, and to ensure that racial minorities have a full and fair opportunity to elect candidates of their choice, as required by the Voting Rights Act. Wherever possible, AALDEF respectfully offers its assistance in this redistricting process and encourages you to adopt the Unity Map for all legislative district levels. Thank you.

Respectfully Submitted,



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Special Master Appointed by the Court