



Multicultural Family and Education Center



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VIRGINIA LEAGUE OF CONSERVATION VOTERS



VIRGINIA
CIVIC ENGAGEMENT TABLE

November 4, 2021

Via Email

Virginia Redistricting Commission

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Re: Language and Disability Access Deficiencies in the Virginia Redistricting Process

Dear Commissioners,

Virginians' fundamental right to participate in the redrawing of district lines cannot be conditioned on their ability to communicate in English or their disability status. The undersigned call upon the members of the Virginia Redistricting Commission ("Commission") to end English-only community engagement practices and actions that impair the equal opportunities of

limited-English proficient (LEP) and disabled Virginians from participating in the redistricting process. The lack of language-sensitive and accessible communications and accommodations limits the ability of the Commission to be fully transparent and inclusive of the voices of communities impacted by the redistricting process. As the Commission engages in a critical phase of its work, nearing the end of the redistricting process, we strongly urge it to quickly improve the ability of LEP and disabled Virginians and communities to understand and comment on the work of the Commission.

Specifically, we have identified the following concerns and offer recommendations that the Commission may consider to improve accessibility.

1) Maintenance of an English-only, Inaccessible Statewide Redistricting website

The Virginia redistricting website, www.virginiaredistricting.org, is one of the most important resources for community engagement--many residents rely upon this forum for information about public hearings, creating and sharing proposed maps, and understanding their rights and opportunities to champion their communities of interest. The website is an important part of the Commission's communications strategy and tool in fulfilling its statutory obligation to ensure ". . .meetings and hearings. . .[are] adequately advertised and planned to ensure the public is able to attend and participate fully."¹ Further, by maintaining an inaccessible website, the Commission is not upholding its obligations to ensure that "[m]eetings and hearings shall be advertised in multiple languages as practicable and appropriate."²

Advocates have raised concerns about the Commission's plans to conduct outreach to ensure that LEP persons and persons with disabilities are able to fully participate and be aware of the Commission's meetings.³ Similarly, advocates raised concerns about the accessibility of the website and the advertising of Commission meetings in March, which the Commission has only taken limited action to rectify.⁴

Unfortunately, the only attempt at language inclusion on the website demonstrates the failure of the Commission to implement basic translations to connect LEP Virginians with existing language access resources. The website advertises the availability of individuals to request a link to listen to a Spanish interpretation via email. However, the information about the availability is posted in English only: "Public Meetings Now Being Translated in Spanish LIVE! Email varedistricting2021@gmail.com to receive a link to listen to in Spanish!"⁵

The undersigned ask that the Commission take immediate steps to ensure the accessibility of the website for disabled Virginians. We further ask that the Commission, at

¹ Va. Code §§ 30-391 to -400.

² *Id.*

³ See Liz White, OneVirginia 2021, *Open Letter from OneVirginia2021, NAACP, etc.*, Mar. 30, 2021, available at <https://www.virginiaredistricting.org/2021/Data/Public%20Hearings/033021publiccomments.pdf>.

⁴ See Erin Corbett, Virginia Civic Engagement Table, *Throwing the redistricting commission a line: this is how you can serve Virginians*, Mar. 29, 2021, available at <https://vcet.medium.com/throwing-the-redistricting-commission-a-line-this-is-how-you-can-serve-virginians-10a65e277549>.

⁵ Virginia Redistricting Commission, <https://www.virginiaredistricting.org/> (last accessed Oct. 18, 2021).

minimum, make the website available in the languages listed below (see *infra* “Recommendations”). We note that Google translations are not comprehensible and linguistically sensitive, and as such are not sufficient.

2) Barriers to interpretation services at public hearings

The Commission’s decision to announce the availability of Spanish-language interpretation only at the beginning of public hearings in English prevents Spanish-dominant Virginians from receiving meaningful notification of this existing service. But Spanish is not the only language requiring interpretation. There are other language-minority communities in Virginia with high LEP rates, including, for example, Korean, Vietnamese, and Arabic-speaking communities. Moreover, some Virginians with disabilities are also excluded from participation unless American Sign Language interpretation is available.

As referenced above, individuals who require assistance, whether because of language barriers or disability, face needless impediments in requesting services so they may meaningfully participate in the Commission’s meetings. The undersigned ask that the Commission immediately make available interpreters in the languages listed below (see *infra* “Recommendations”) as well as American Sign Language. We also ask that these services be advertised in-language and in an accessible manner prior to public hearings and meetings as well as the beginning of public hearings and meetings.

3) Unequal time for the voices of LEP Virginians

LEP Virginians’ voices are as valuable to the redistricting process as English-dominant Virginians’ voices, yet the Commission has been treating them unequally. The undersigned have observed that the Commission only gives one additional minute to testifying Virginians using translators. This prevents equal airtime to these community members and undermines the ability of the Commission to fairly evaluate the concerns, ideas, and other contributions of all Virginians. Further, the use of allotted time limits for both testimony and translation appears to run counter to the Commission’s own rules to provide each speaker with a maximum of three minutes of time to testify.⁶ LEP Virginians are not allowed to utilize the full time they are allocated unlike their English proficient peers because they are required to squeeze in time for translations into those same three minutes.

Disturbingly, the Commission provided in an email that: “Time limits will be at the discretion of the commissioner presiding over the hearing.” This runs counter to the Commission’s own rules and violates the principle of equal time for all persons providing testimony.

The Commission has been meeting since January 2021 and only began to offer live interpretation in October 2021. This means that non-English speakers were effectively barred

⁶ Virginia Redistricting Commission, *Virginia Redistricting Commission Public Participation Guidelines*, July 17, 2021, available at <https://virginiaredistricting.org/2021/PublicParticipationGuidelines.pdf>.

from participating in the Commission's public meetings or providing live testimony for ten months, an unacceptable delay.

The Commission must uphold its duties to established and growing LEP communities in Virginia during the redistricting process. Even before expanded designations occur pursuant to Section 203 of the Voting Rights Act of 1965 based on 2020 census data, Korean, Spanish, and Vietnamese dominant Virginians in Fairfax County have enjoyed some in-language voting services⁷. Further, many languages not covered by the Voting Rights Act are widely used throughout the Commonwealth, such as Arabic and Amharic. Similarly, Spanish-dominant Virginians educated in Puerto Rico have a right to in-language voting services pursuant to Section 4(e) of the Voting Rights Act. The fact that these same Virginians encounter the Commission's English-only website and unreasonable time limits on presenting testimony highlights the Commission's particular failings to LEP Virginians. These deficiencies are also antithetical to the Commonwealth's own commitments to LEP residents. Further, the Commission's public outreach has fallen plainly short of its statutory mandate: namely, that "[m]eetings and hearings shall be advertised in multiple languages as practicable and appropriate." It is abundantly practicable and appropriate for this Commission to advertise its meetings and hearings in multiple languages.

We call upon the Commission to prioritize addressing LEP Virginians' unequal burden in accessing the redistricting process.

Recommendations

The Commission has been aware of the need to provide language accessible services since it was constituted. The operating statute encourages the Commission to adopt language inclusive practices.⁸ Advocates, including signatories to this letter, brought language access needs to the Commission's attention in January 2021 and continued to raise concerns with the Commission.⁹

Before the Commission concludes its work and presents a plan to the General Assembly, it must take immediate action to remedy the lack of active outreach to and inclusion of the voices and perspectives of LEP Virginians. There are a number of best practices the Commission can engage in to be inclusive of LEP Virginians and other communities of interest. Many of these practices are already implemented by other agencies throughout the Commonwealth and by other states utilizing redistricting commissions.

⁷Under current designations, Fairfax County is a covered jurisdiction under Section 203 of the Voting Rights Act for Spanish and Vietnamese.

⁸ Va. Code §§ 30-391 to -400.

⁹ Corbett, *supra*.

We recommend, at a minimum:

- All materials and communications should be translated into, at least, the most spoken languages in the Commonwealth: Spanish, Korean, Vietnamese, Chinese (includes Mandarin and Cantonese), Hindi, Arabic, Farsi, and Amharic.¹⁰
- The website should be accessible and translated into multiple languages, through the use of a human reviewed translation service. We caution against the use of technology based translation services, such as Google Translate, as they often do not accurately translate material.
- The Commission should use the live multilingual translation feature during all virtual meetings for the entirety of the meeting.¹¹
- The Commission should immediately begin advertising its meetings and hearings through posts on its website, social media, and engagement with ethnic press in multiple languages.
- The Commission promotes the ability to request translation services in language rather than requiring the request to be made in English. The advertisement should be placed on the website in available languages.
- As part of the process to sign up to speak at a hearing, the Commission should offer an option to indicate at that time if they need language assistance and what the assistance would be. This would allow the Commission to provide targeted assistance to public speakers. The interpretation should be available throughout the meeting and not solely during the speaker's testimony.
- When holding hearings in areas with large language access needs, the Commission should be prepared to offer language assistance in the languages spoken in the area.
- Time utilized for translation and interpretation should not be counted against the time allocated to an individual to provide testimony.

The undersigned remain available to discuss these issues further and provide their expertise with language minority and disability communities.

Sincerely,

¹⁰ Katie Zhang and Rodrigo Soto, *As a State of Many Languages, Virginia Needs Language Access*, July 2021, available at <https://thecommonwealthinstitute.org/the-half-sheet/virginia-needs-language-access/>.

¹¹ See, e.g., Zoom, *Using Language Interpretation in your meeting or webinar*, available at <https://support.zoom.us/hc/en-us/articles/360034919791-Using-Language-Interpretation-in-your-meeting-or-webinar>.

Irene Shin
Executive Director
Virginia Civic Engagement Table
P.O. Box 682
Richmond, Virginia 23218

Jorge Vasquez
Sabrina Khan
Jess Unger
Advancement Project National Office
1220 L Street NW, Suite 850
Washington, DC 20005

Terry Ao Minnis
Niyati Shah
Asian Americans Advancing Justice-AAJC
1620 L Street, NW Suite 1050
Washington, DC 20036

Mike Burns
National Director
Campus Vote Project
1825 K St. NW, Suite 450
Washington, DC 20006

Suzanne Almeida
Redistricting and Representation Counsel
Common Cause
805 15th Street, NW, Suite 800
Washington, DC 20005

Jorge Figueredo, MPP
Executive Director
Edu-Futuro
2100 Washington Blvd, 3rd Floor
Arlington, VA 22204

Miranda Galindo
Senior Counsel
LatinoJustice, PRLDEF
523 W Colonial Dr.
Orlando, FL 32804

Michael Town
Executive Director

Virginia League of Conservation Voters (LCV)
100 W Franklin Street, Suite 102
Richmond, VA 23220

Deb Wake
President
League of Women Voters of Virginia
1011 E. Main St. Suite 214A
Richmond, VA 23219

Sookyung Oh
Director
NAKASEC Virginia
6715 Little River Turnpike, Suite 207
Annandale, VA 22003

LaTwyla Mathias
Executive Director
Progress Virginia
PO Box 742
Earlysville, VA 22936

Kiran Kaur Gill
Executive Director
Sikh American Legal Defense and Education Fund (SALDEF)
1050 Connecticut Avenue, NW, Suite 500
Washington, DC 20036

Andres Tobar
Executive Director
Shirlington Employment and Education Center
909 S. Dinwiddie St. Suite 422
Arlington, Virginia 22204

Monica Sarmiento
Executive Director
Virginia Coalition of Immigrant Rights (VACIR)
P.O. Box 8042
Alexandria, VA 22306

Rosalia Fajardo
Executive Director
Multicultural Family and Education Center
7224 Evanston Rd,
Springfield, Virginia 22150