



MARCH 2021

Briefing Paper for Funders on Virginia Redistricting

*The 2021–2022 redistricting cycle following the 2020 Census is a critical opportunity for Virginia communities to build power, ensure equitable political representation, and address systemic inequities for the next decade. The extent to which communities are fairly represented profoundly influences policies and resources for issues like **education**, **health care**, economic development, the environment, and **many others**.*

Redistricting might seem administrative in nature, but it is really about the redistribution of political power. How the lines are drawn affects who gets elected, and who gets elected determines who makes key decisions affecting the state’s future. Thus, how Virginia’s districts are drawn can have far-reaching impacts, affecting partisan control of governing bodies, electoral competitiveness, how much political power communities of color have and which individual politicians get to represent a particular area.

The current redistricting cycle in particular represents a once-in-a-generation opportunity to begin to correct for

years of racial and incumbent-protection gerrymandering, to reflect the state’s growing diversity, and to lay the groundwork for better policy outcomes. That’s because Virginia is one of just a small handful of states that have changed their redistricting process since 2010.

Virginia now has an independent redistricting commission, whose structure is far from perfect but at least opens greater opportunity to ensure the process is fair and there is authentic engagement with communities of color. And it makes Virginia one of the top opportunities in the entire country to dramatically improve both the process and outcomes of redistricting this cycle.



Why Funder Engagement Is Important in Virginia

Virginia’s history of race and racism

The importance of redistricting in Virginia can only be fully understood within the Commonwealth’s history of racism and oppression. Since before the Nation’s founding, Virginia has been central to the American story, yet its own story is rife with systemic embraces of bigoted and racist policies and practices — in many ways exemplifying the Nation’s struggle with race and structural racism.

In 1619, Virginia saw the **first instance of Africans sold into slavery in the English Colonies**. And as home to the heart of the tobacco industry’s slave-labor market, the Commonwealth became one of the wealthiest states in the South. Then following its secession, Virginia solidified its role within the Confederacy, when the **Confederate capital was moved to Richmond, VA**.

“In 2000, Republicans controlled the entire state government, won a second U.S. Senate seat, and George W. Bush won the state’s electoral votes. By 2019, Democrats had turned the tables, winning the Virginia statehouse for the first time in a generation along with the Governorship and both U.S. Senate seats.”

	2000	2019
Governor	Republican	Democratic
U.S. Senate	Republican	Democratic
U.S. House of Representatives	Republican	Democratic
Virginia General Assembly	Republican	Democratic

Following the Civil War and Reconstruction, widespread segregation practices eventually led to a rollback of rights secured by African Americans under Reconstruction, then codified in law through mandated school segregation and bars to the ballot box created in **Virginia’s 1902 constitution**. These changes ultimately locked in political control of the state until the mid 1960s.

The distinct divide between white and Black Virginians continued through the 1960s despite the erosion of the power of the Jim Crow South. This divide was perhaps most apparent in Virginia’s capital, where, by 1970, **the poverty rate hovered at 25%**, with African Americans experiencing the bulk of that poverty. At the same time, a system of de facto segregation in the city’s public schools was created as nearly 30% of the white residents left Richmond’s urban center between 1970 and 1980.

Since then, Virginia has remained at the center of the country’s struggle with racism and racialized politics. Within the last two years, Virginia’s **Governor** and **Attorney General** were both embroiled in scandals involving the wearing of blackface and Ku Klux Klan regalia. And, in 2017, the country watched as, in reaction to the removal of Confederate monuments, **supremacists marched through the streets of Charlottesville**.

Recent Virginia politics

Virginia has seen a remarkable political shift over the past generation. In 2000, Republicans controlled the entire state government, won a second U.S. Senate seat, and George W. Bush won the state’s electoral votes. By 2019, Democrats had turned the tables, winning the Virginia statehouse for the first time in a generation along with the Governorship and both U.S. Senate seats. Moreover, many of those elected to the state legislature and U.S. Congress were notably both diverse and progressive, including Danica Roem who is the first out transgender person to be elected in a US legislature and Kathy Tran who is the first person of Vietnamese descent to be elected in the Commonwealth.



The state-level electoral realignment has had meaningful policy consequences, including:

- Decriminalization of marijuana
- Background checks for most gun sales and restrictions on concealed carry of firearms
- Increases in tobacco taxes
- Medicaid expansion
- Adding hate crimes to the criminal code
- Repealing photo ID
- Abolishing death penalty (*first state in the South to do so*)
- Driver privilege cards
- Enacting a landmark state Voting Rights Act
- Providing raises for teachers
- Expanding paid leave policies
- In-state tuition regardless of citizenship status

The primary driver of those political changes has been demographic: the growth and diversification of the state, especially the growth of suburban Northern Virginia, an influx of immigrants and their U.S.-born children, and the growth of higher education. In addition, the court case undoing the racial and political gerrymander of 2010 (*described later in this briefing*) allowed those political and demographic changes to be expressed in meaningful representation.

Of equal significance, but less noted, has been the concomitant investment by both state and national donors in state-based groups, which has led to the development of a significantly more robust progressive political infrastructure, one that has been crucial to the victories of the past years.

Groups such as [New Virginia Majority](#) (founded in 2015), [the Virginia Civic Engagement Table](#) (2008), [Progress Virginia](#), [OneVirginia2021](#) (2013), and other community and advocacy organizations all played key roles in making sure that changes in the electorate were able to be expressed at the ballot box — and then translated into meaningful policy change. These groups will be important vehicles for informing and engaging grassroots activists and the general public in the redistricting process.

Ongoing challenges for communities of color and the lingering legacy of racism and segregation

Despite the political shifts previously noted, Black and Brown Virginians lag behind the rest of the state by most meaningful socioeconomic measures (similar to the [nationwide pattern](#)). Last year, The Commission to Examine Racial Inequity in Virginia Law (*“the Commission”*) issued a [report](#) focusing on the indirect impacts of centuries of systemic oppression and racism. In it the Commission found:

... even though de jure or explicit discrimination in Virginia has been outlawed for decades, the intended impacts of the preceding state-sanctioned discrimination [have resulted in a situation in which]...many people of color in Virginia still live in segregated communities, attend segregated schools, have disparately negative health, economic, and educational outcomes, and represent a disproportionately large share of the Commonwealth’s prison population.

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Here are a few particularly poignant examples of the disparities the Commission noted:

Education

A **2020 report** found that, while some steps have been taken to address school segregation, **“school segregation by race and poverty is deepening in Virginia.”**

Health

Virginians of color continue to see poorer health outcomes than the rest of the state. For example Black women in Virginia experience **twice the rate of pregnancy-related mortality** than the rest of the state. The impacts of the COVID crisis are no exception, with non-white **Hispanic Virginians representing 60% of the COVID cases in the Northern part of the state** as of July 2020, but only 18% of the population. And as of August 2020, **Black and Latino residents in Richmond made up 80% of cases and accounted for over 60% of deaths.**

Wealth and Economic Security

Despite shrinking by a third between 1950 and 1970, the racial wealth gap for Black Virginians has **not seen any meaningful change for the past 50 years.** Moreover, Black Virginians trail across all economic measures. **Black residents of the Commonwealth experience almost twice the unemployment and poverty rates and make just over 2/3 the average income that white residents earn.**

Housing

According to the Commission’s report, households of color have a 25% lower homeownership rate and are twice as likely to have a loan application denied compared to white households.

Incarceration

Despite an overall decrease of incarceration of Black Americans nationally, according to the Commission’s report, Black Virginians still make up 50% of those in prison in the Commonwealth while only making up 20% of the population. This also means that Virginia’s felon disenfranchisement law continues to carry out its original purpose by disproportionately stripping Black Virginians of their right to cast a ballot.

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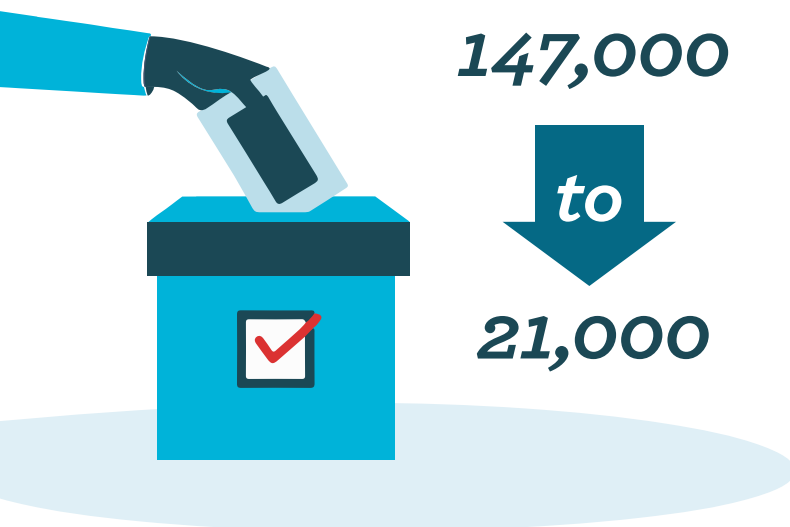


Redistricting in Virginia

History of the redistricting process in Virginia

The history of redistricting in Virginia is the history of racial discrimination going **all the way back to the colonial era**. In 1830, Virginia rewrote its state constitution to give extra power to the eastern parts of the Commonwealth, where slavery was most entrenched (*sometimes called “The Great Gerrymander of 1830”*). In the post-Civil War period, Virginia was among the group of Southern states that were enthusiastic practitioners of racial voter suppression via poll taxes, secret ballots, literacy/understanding tests, and grandfather clauses. Those tactics were effective in achieving the goal of disenfranchising the overwhelming number of African Americans: in Virginia, between the turn of the century and WWII, **the number of African American voters dropped from 147,000 to 21,000**. They also drew legislative maps that overrepresented southeastern Virginia, where there was strong support for segregationist Jim Crow laws.

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As direct methods of racialized voter suppression began to be outlawed, culminating in the Voting Rights Act of 1965, Southern states increasingly relied on racial gerrymandering to dilute the power of the African American vote. In the post-Civil Rights era, these racial gerrymanders were largely coterminous with partisan gerrymandering. Because of that alignment, line-drawers could pack voters of color into fewer districts while claiming that they were complying with the Voting Rights Act and other federal law. These efforts were so overt that partisan operatives spoke openly of the tactic at an American Legislative Exchange Council (“ALEC”) panel called “**How to Survive Redistricting**.”

This is precisely what happened in Virginia in the two most recent rounds of redistricting. Districts drawn in 2000 through the traditional partisan political process prioritized incumbent protection, with the effect that the number of competitive races in the state dwindled to almost none. In the races for the Virginia Assembly in 2005, for example, the second-place finisher came within 10 percentage points of the winner **in just 12 of the 100 contests**. In 2007, **just 10 of the 100 races** were that competitive. A second effect — **common to most gerrymandered geographies** — is that communities of color were noticeably underrepresented.

The last time Virginia redrew its districts in 2010, a bipartisan deal between the two legislative chambers resulted in the state Senate opting not to block conservatives’ racially gerrymandered map for the state House in exchange for the Senate majority being able to draw the state Senate map. The net result was that in 2011, 95 percent of the winners, almost all of them incumbents, were running in completely safe districts. In 63 races, just one candidate was on the ballot, depriving voters of even the illusion of choice.

After several years of litigation over the 2010 redistricting, the **U.S. Supreme Court threw out** a number of the districts as illegal racial gerrymanders, resulting in those districts having to be redrawn. In the next election (2019), six seats in the House of Delegates changed parties; of these six flipped seats, four were districts redrawn by the



courts. Each of these four seats was in a district that saw a significant increase in the African American vote.

In reaction to the 2010 gerrymander — as well as the long history in the Commonwealth of both marginalizing people of color and favoring the party in power, advocates mobilized beginning in 2013 to advocate for redistricting reform. What came out of the conference committee on the last day of the 2019 General Assembly, however, was an amendment that did not mention or prohibit gerrymandering and a commission that would be composed of 50% politicians and 50% citizens. Lawmakers were given less than an hour before the end of the session to consider and vote on the Amendment, which ended up passing.

In the 2020 legislative session, the Virginia Legislative Black Caucus, OneVirginia2021 and other reform advocates worked to write and pass enabling legislation intended to fix what they saw as the shortcomings of the Amendment. Unfortunately, most of those reforms, which would have provided some guardrails for who could or could not serve on the Commission, explicitly prohibited gerrymandering and provided adequate guarantees for participation by people of color, failed.

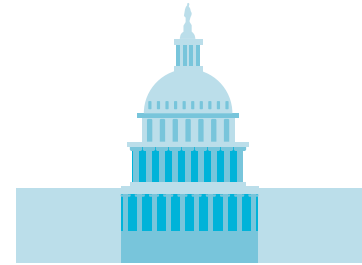
The Amendment eventually passed overwhelmingly on the 2020 ballot but split both Democrats and pro-reform advocates (*Republicans supported the Amendment overwhelmingly*). OneVirginia2021 ended up splitting into two groups — Linda Perriello and some in the group were against the referendum and Brian Cannon who was a part of One Virginia spun off a separate group called “Fair Maps VA” and spent upwards of two million dollars to support the Amendment. The Virginia Legislative Black Caucus and many in leadership in the General Assembly ended up also trying to stop the passage of the Amendment. On the other hand, both Senators Kaine and Warner supported the Amendment as well as a number of national groups and the Amendment was endorsed by the Washington Post.

National context

It is also important to place the redistricting process in Virginia in national context. Nationally, gerrymandering has had a huge impact in recent elections: [according to one analysis](#), unfairly drawn Congressional districts shifted, on average, 59 seats in the U.S. House of

Unfairly drawn Congressional Districts shifted an average of

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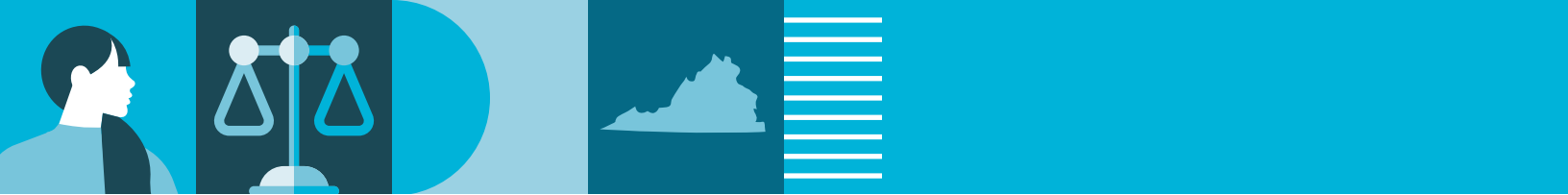


in the U.S. House of Representatives

Representatives during the 2012, 2014, and 2016 elections. To help put this number in perspective, a shift of 59 seats is slightly more than the total number of seats apportioned to the 22 smallest states by population.

While single-party political control of the redistricting process will continue in much of the country for this round of redistricting, Virginia is one of only six states (*Colorado, Michigan, New York, Ohio, Utah, and Virginia*) that have passed redistricting reforms since the past cycle. Of those, New York and Utah are under the full control of one political party and the redistricting commission is purely advisory, meaning that Virginia is arguably one of top four opportunities in the entire country to dramatically improve both the process and outcomes of redistricting.

Another factor that makes Virginia one of the most important redistricting opportunities in the country is changing demographics. Virginia has seen dramatic growth — and concomitant diversification — in the northern part of the state. Nationally, population growth since the past census has been extremely uneven: just 15 states, all but one in the South or West, are projected to account for 82 percent of the population growth. Virginia is among those states. In fact, Virginia is projected to be in the top 10 states nation-wide in [overall population growth](#) (*by contrast, states in the Midwest and Northeast grew slowly; and Illinois, Connecticut, and Rhode Island have all likely experienced small population declines*). Moreover, that growth is disproportionately in communities of color. [The Brennan Center estimates](#) that Black, Latino, and Asian Americans



1 in 10

eligible to vote in Virginia were born outside the United States

will make up 69% of the increase in Virginia's eligible voting population. As of the 2019 election, one in 10 people eligible to vote in the state were **born outside the United States**, up from one in 28 in 1990. Thus, making sure that these population gains are reflected in the maps and that communities of color in Virginia are adequately represented throughout the process is crucial.

Maps drawn by commissions — even imperfect ones — have tended to be both more responsive to voter preferences and better at protecting communities of color. Thus, while the state's new commission process (*described below*) is far from perfect, there is opportunity, with proper oversight, that the process could result in maps much less racially discriminatory and without the same high levels of partisan bias as last decade's initial set of maps.

The current system

Due to the **constitutional measure passed in 2020** described above, Virginia's congressional and state legislative lines are now both drawn by the **Virginia Redistricting Commission**, a hybrid commission made up of sixteen members: four Senators (*two per party*), four Delegates (*two per party*), and eight citizens. The eight citizens are chosen by a panel of retired judges, working from lists submitted by party leaders in the Senate and the House. The eight legislative members of the commission are **named here**, while the eight citizen members are **named here**.

Once final maps are approved by the Commission, they then go to the General Assembly for a straight

up or down vote; that is, the Assembly cannot make any changes to the Commission's plan, nor can the Governor veto it if approved. However, for a plan to be submitted for the General Assembly's approval, at least six of the eight citizen commissioners and at least six of the eight legislative commissioners must agree to it. Additionally, for plans for General Assembly districts to be submitted, at least three of the four Senators on the commission have to agree to the Senate districts plan and at least three of the four Delegates on the commission have to agree to the House of Delegates districts plan. If the Commission can't agree on maps or the General Assembly rejects the Commission's maps, the Supreme Court of Virginia would conduct a court-supervised redistricting process. The amendment also adds a requirement that districts provide opportunities for racial and ethnic communities to elect candidates of their choice.

While this process represents a significant improvement in both transparency and depoliticizing redistricting, it still leaves a lot to be desired, especially in the latter category (*indeed, problems with the politics of Commission members have already cropped up*). Proposed reforms intended to make Commission members more independent, explicitly prohibiting partisan and racial gerrymandering and providing adequate guarantees for participation by people of color were all rejected. As such, public scrutiny and pressure will be vital throughout the process.

Important Note on Timing: On February 12, 2021, the U.S. Census Bureau announced that it will **deliver redistricting data to all states by September 30, 2021**. This widely-reported adjustment is a significant change from previous redistricting years, and the delay will have an impact on Virginia's ability to have new House of Delegates districts **established in time for the November 2021 election**. Assuming data is actually received on September 30th, by statute, the Commission would have until November 14, 2021 — 12 days after the general election — to even submit new maps to the legislature for a vote.¹

¹As a consequence, holding the 2021 legislative elections as scheduled will likely **require some as-yet-undetermined legislative, executive, or judicial action**. The Commission has deferred to other authorities as to what that action might be. This could include allowing the state to use their existing legislative maps for the 2021 elections, with new maps in place for the 2023 elections. Influencing that process is yet another useful activity for funders to consider.



Opportunities for Engagement in Virginia Redistricting Process

The role of state-based groups in Virginia's redistricting process

The involvement of state-based advocacy groups is a crucial ingredient in any successful public education campaign, and redistricting is no different: They have developed networks of grassroots groups they can engage and many have been involved in their states' government reform efforts for decades. They usually know the best locations to hold public — or these days, virtual — events. They know the key players in state government who should be engaged and who might participate in events and the state press who will cover them.

Importance of investing in the state infrastructure

Investment in redistricting in the Commonwealth is a critical step in the continued advancement toward a more equitable Virginia. The 2021–2022 redistricting process in Virginia offers an opportunity to invest further in organizing and power building that can help to undo decades of racial and incumbent-protection gerrymandering and, ultimately, centuries of state-sponsored racism and oppressive structures, systems and policies. With a rapidly growing population, bolstered primarily by growth in communities of color, and a more inclusive redistricting process, Virginia has the opportunity to move beyond the short-sighted swapping of one entrenched political power for another and draw districts that represent the growing diversity of residents that have flocked to the Commonwealth in recent years. Moreover, creating districts that recognize and give voice to every community in the state would give communities of color the opportunity to elect state and congressional leaders that truly represent them in experience, perspective and number.

Virginia is one of just a few states across the country that has made its redistricting process more inclusive and transparent since the last maps were drawn. This, coupled with the ongoing shift in demographics and a commission that has real power in the map drawing

Virginia is one of the most important opportunities in the country to influence the process in furtherance of achieving more equitable maps, reflective of not just a more diverse state, but representative of the nation's rapidly diversifying population as a whole.

process, makes Virginia one of the most important opportunities in the country to influence the process in furtherance of achieving more equitable maps, reflective of not just a more diverse state, but representative of **the nation's rapidly diversifying population as a whole**. These factors taken together offer national funders a unique opportunity to see that their investments around the redistricting process have real, lasting impact. Longer term, investment in the civic engagement infrastructure within Virginia could also help encourage greater participation in the political process and development of a new generation of leadership coming from the Commonwealth.

For funders in Virginia, investment in the infrastructure offers a chance to build on the organizing and work that was done last year to ensure an accurate Census count. Moreover, investment will bolster the infrastructure and encourage expanded, strategic engagement in the redistricting process, helping to ensure better



outcomes in the short term. This, in turn, will position the state to continue to effectively put in place policies and structures that support the success and well-being of all Virginians. Supporting nonprofits around such a critical, statewide engagement, will also serve as a longer-term investment in the development of the group network and infrastructure in the Commonwealth, helping to build capacities, increase strategic engagement, establish relationships and create muscle memory among groups.

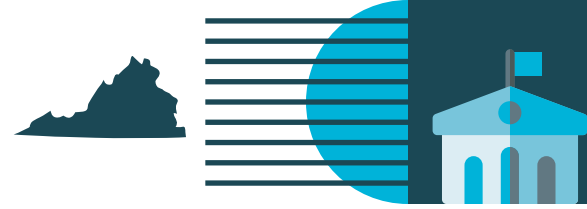
This redistricting cycle represents a critical opportunity for all Virginians. However, timing is crucial. The Commission's work has already begun and investment and engagement from philanthropy, nonprofits and local and state governments is needed now to help ensure transparency and broad community education and mobilization throughout the process in time to influence outcomes. There are a number of ways groups can effectively influence the redistricting process. Philanthropy can play a key role in supporting these activities, helping to build capacities, ensure strategic engagement and align priorities. Below is a list of key activities that philanthropies may want to consider for investment.

- Continued coalition-building like the **Virginia Counts Coalition** organized by the **Virginia Civic Engagement Table** to encourage strategic coordinated engagement of nonprofit and grassroots groups around aligned priorities throughout the redistricting process (*which given the delay in processing Census data will last well into 2022*).
- Education aimed at the general public about how the redistricting process works and opportunities to provide input.
- Training to inform community groups, member organizations and other stakeholders on how they can strategically provide input throughout the process.
- Mobilizing and grassroots organizing to encourage broad public input, particularly from racially and ethnically diverse communities. The new commission has several mandated opportunities for **public comment** and input into the process; Commission staff has also indicated that there will likely be additional opportunities for (*virtual*) public engagement in spring and summer of 2021 prior to

receiving the Census data. State advocates could also push the Commission to maximize opportunities for public input.

- Monitoring of the redistricting process for transparency and openness to public input.
 - For instance, if the Commission does not provide enough opportunities for public scrutiny and debate, advocates in **some states** have set up their own parallel process featuring public hearings, expert testimony, and ultimately, recommended maps.
 - Another form of public advocacy which benefits from funder engagement is public **redistricting competitions**. These have been shown to increase transparency and participation in the redistricting process by **providing the public** with the **tools and data** needed to draw and evaluate redistricting plans.
- Press and media engagement highlighting the importance of the process and successes or roadblocks with transparency. As noted above, state groups can help ensure that community leaders are engaged and that local press cover the redistricting process.
- Direct advocacy with the Commission, where legally permissible, for particular lines or district structures.
- Advocacy with members of the state legislature if necessary on the final up or down vote, including laying groundwork for a public pressure campaign on the legislature to push them to reject biased maps or, in the less likely event, that they seem inclined to reject good maps.
- Planning for potential litigation. It is an undeniable fact that most redistricting fights end up in court one way or another. In the case of Virginia, since the process automatically sends deadlocks in the Commission or the legislature to the State Supreme Court, funders and advocates should consider planning in advance for that eventuality, and may even want to consider a public awareness campaign aimed at the State Supreme Court should the maps wind up there. There are examples from various states and contexts of campaigns aimed at building public pressure on specific courts or judges.

Resources



How can I learn more about funder roles in redistricting?

Refer to the Funders Committee for Civic Participation's (FCCP) Funder Tool Kit: bit.ly/308jhEV

How do I stay up to date about what is going on related to redistricting in VA?

The Virginia Civic Engagement Table has created a hub for information such as daily updates, weekly trainings and other helpful materials and resources. Just go to: engageva.org/redistricting

How can I support redistricting?

- 1** You can support the Virginia Civic Engagement Table (VCET) directly as the convening organization for redistricting in Virginia: engageva.org
- 2** You can support the organizational members of VCET who will be doing community outreach, education and other activities related to redistricting if you have a relationship or particular interest in one. Please note this is a list of members as of 2/25/21. Organizations can become members at any time.
 - Asian Americans Advancing Justice Center advancingjustice-aajc.org
 - Advancement Project advancementproject.org
 - CASA wearecasa.org
 - Engage emgagepac.org/virginia
 - Justice for Muslims Collection justiceformuslims.org/who-we-are
 - Lawyers Committee for Civil Rights Under Law lawyerscommittee.org
 - League of Woman Voters of Virginia lwv-va.org
 - Mexican American Legal Defense and Educational Fund, maldef.org
 - National Korean American Service & Education Consortium (NAKASEC VA) nakasec.org
 - New Virginia Majority newvirginiamajority.org
 - Planned Parenthood Advocates of Virginia plannedparenthoodaction.org/planned-parenthood-advocates-virginia-inc
 - Progress Virginia progressva.org
 - SEIU Virginia seiuva512.org
 - State Voices bit.ly/388UYeC
 - The Impact Project is a new organization and don't have a website yet.
 - Virginia Coalition of Immigrant Rights virginiaimmigrantrights.org
 - Virginia Interfaith Center for Public Policy virginiainterfaithcenter.org
 - Virginia League of Conservation Voters valcv.org
 - Voices of Virginia's Children vakids.org



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