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January 30 Roundtable Update

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NEW YORK REDISTRICTING ROUNDTABLE UPDATE

LITIGATION

***Nichols v. Hochul*: State Assembly: Appellate Division Issues Decision**

On Tuesday, January 24th, the Appellate Division (1st Dept.) issued its decision in *Nichols v. Hochul* regarding the state Assembly lines. The court upheld the lower court's order that directed the Independent Redistricting Commission (IRC) to reconvene to carry out its constitutional process for redrawing the Assembly lines. The court explained that the state constitution requires the use of the IRC procedures for redistricting, except in instances where "a court is *required* to forego them in order to adopt a plan as a remedy for a violation of law." The court further explained that, when available, the constitution favors a legislative resolution for a violation of law. Furthermore, the court distinguished this case from *Harkenrider* where it was necessary to order a process outside of the IRC and legislature (appointing a special master) due to time constraints. The court concluded, "There is much more time available in this case...for the IRC and legislative procedures to proceed and conclude prior to the next election cycle, thereby allowing for a reasonable opportunity for the legislature to meet its constitutional requirements."

***Hoffmann et al v. Independent Redistricting Commission (IRC)*: Lawsuit to Compel IRC to submit a Second Congressional Plan (Appeal)**

On January 20th, in the Appellate Division (3rd Dept.), the Hoffmann petitioners submitted their brief asking the court to reverse the Albany County Supreme Court's order dismissing their amended petition and remand the case for further proceedings. The petitioners argue that (1) the state constitution permits the lower court to compel the IRC to complete its redistricting duties and fulfill the purpose of the 2014 Redistricting Amendments; (2) the lower court was incorrect in its interpretation of the constitution that "an approved map [must] be in effect until a subsequent map is adopted after the...decennial census," and (3) the lower court erred in assuming that future IRC action would be futile, especially considering the IRC's recent actions in compliance with the order from the Assembly case.

Rockland County: *Parietti v. Rockland County Executive et al*

On January 26th, the county moved to dismiss the case, arguing that plaintiff Parietti's petition includes "no fact-based analysis which, if true, would establish that the map violates either state or federal law." First, the county argued that Parietti lacked standing to assert his first claim—that the redistricting plan disadvantages minorities—because he does not live in the relevant district and is not a member of any allegedly disadvantaged minority group. Next, the county argued that Parietti's second claim—that the plan advantages incumbents—is without merit because the map disadvantages incumbents by placing two in the same district and there is party enrollment data showing that party composition roughly remains the same across districts. Finally, the county contends that Parietti's third claim—that the redistricting process did not comply with the First Amendment—is without merit as there is no First Amendment right to speak at public meetings, and the claim does not invoke any cause of action or seek any relief.

Orleans County: *Lewis v. Orleans County Legislature*

On January 25th, in Orleans County State Supreme Court, the county filed its answer and a memo arguing that petitioners' challenge to the county's legislative districts is "premised on erroneous information and inaccurate data." First, the county states that petitioners were incorrect in their allegation that the county had refrained from redistricting for more than 50 years. The county maintains that the legislature redistricted in 2011, and on January 24, 2023, the county's reapportionment plan was presented to the legislature and a public hearing is scheduled for February 9th. The county further contends that this plan was drawn with the help of an outside expert and has a population deviation of 4.2%, which is within the 5% requirement. Next, the county explains that the legislature has seven members, four that represent specific districts and three that are elected at large and represent the entire county (each voter votes for four legislators). The county clarifies that the East, Central, and West at-large districts are identified as such only to indicate residency requirements for the legislators (local law requires that each of the at-large members reside in a different region of the county), not to delineate which voters vote for each at-large member. Therefore, the county asserts, the population deviation between the East, Central, and West districts "has no bearing on the weight of any individual's vote for the at-large member." Furthermore, the county contends that this structure has been upheld by a court and approved by the voters in a referendum. Finally, the county asserts that petitioners relied on inaccurate data in their petition as they failed to use the prisoner reallocation population data.

AROUND NEW YORK

APA Voices Releases Redistricting Video

"This is Where We Draw the Line," was released as a video by the APA Voice Redistricting Task Force <https://bit.ly/apavoice-this-is-where-we-draw-the-line> to highlight its mobilizing efforts to educate communities on redistricting and to participate in the redistricting process.

Citizens Union Advocates Moves Municipal Elections to Even-Numbered Years

Citizens Union issued a report in favor of moving New York City's municipal elections to even-numbered years.

This move would bring elections for Mayor, Comptroller, Public Advocate, Borough Presidents, and City Council in line with gubernatorial or presidential elections.

Citizens Union believes that the move would boost voter turnout and diversify the electorate, with the largest turnout increases seen in communities of color and amongst younger voters. The move would also save money and reduce voter fatigue.

You can read about the report in *Gothamist* [here](#), or read the full report [here](#).

CENSUS NEWS

US O.M.B Revising Race & Ethnicity Standards for Census Data

The [U.S. Office of Management and Budget's \(OMB\) Office of the Chief Statistician released an initial set of recommended revisions](#) proposed by the Federal Interagency Technical Working Group on Race and Ethnicity Standards to revise OMB's 1997 *Statistical Policy Directive No. 15 (SPD 15): Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*.

Initial proposals include:

- Collecting race and ethnicity together with a single question;
- Adding a response category for Middle Eastern and North African, separate and distinct from the "White" category; and
- Updating SPD 15's terminology, definitions, and question wording.

The public can review the initial proposals [by reading the full Federal Register Notice](#) and [by visiting the Working Group's new website](#) and provide comments on the proposals by April 12, 2023.

Biden Administration Seeks to Update LGBTQI+ Data

Last week, the Biden Administration released a Federal Evidence Agenda on LGBTQI+ Equity, which lays out a roadmap for the federal government to build the evidence it needs to better serve the LGBTQI+ community ([Federal-Evidence-Agenda-on-LGBTQI-Equity.pdf \(whitehouse.gov\)](#)). This Evidence Agenda was mandated by Executive Order 14075; the remaining major requirement of the data section of that EO is for agencies to create "SOGI Data Action Plans," which will lay out agencies' efforts to expand efforts to build evidence to answer the questions laid out in the Evidence Agenda.

EVENTS

Updated IRC Hearing Schedule

White Plains * - Monday, January 30 4:00pm**

Haub School of Law at Pace University

Gerber Glass Moot Courtroom

78 North Broadway

White Plains, New York 10603

Bronx County * - Tuesday, January 31 4:00pm**

(UPDATED LOCATION)

Hostos Community College

Savoy Multi-Purpose Room - D Building/Savoy Manor Building

120 E. 149th Street 2nd Floor

Bronx, New York 10451

New York County * Tuesday, February 7 4:00pm**

Hunter College (CUNY)

Kaye Playhouse

695 Park Avenue

(entrance on 68th Street between Park and Lexington Avenues)

New York, New York 10065

*** Proof of vaccination/negative COVID test within 7 days required.

Richmond County - Wednesday, February 8 4:00pm

(UPDATED LOCATION)

Staten Island Borough Hall

Conference Room 125

10 Richmond Terrace

Staten Island, New York 10301

Kings County * - Wednesday, February 15 4:00pm**

(UPDATED LOCATION)

Medgar Evers College (CUNY)

Founders Auditorium

1650 Bedford Avenue

Brooklyn, New York 11225

*** Proof of vaccination/negative COVID test within 7 days required.

Queens County* - Thursday, February 16 4:00pm**

(LOCATION CHANGE)

York College (CUNY)

Faculty Dining Room

94-20 Guy R. Brewer Boulevard
Jamaica, New York 11451

*** Proof of vaccination/negative COVID test within 7 days required.

Nassau County - Tuesday, February 28 5:00pm

Nassau Community College (SUNY)
College Center Building, Rm 252/253
1 Education Drive
Garden City, New York 11530

Suffolk County - Wednesday, March 1 5:00pm

(UPDATED LOCATION)

Suffolk County Community College
Michael J. Grant Campus
Van Nostrand Theatre
Crooked Hill Road
Brentwood, New York 11717

Summaries of recent state redistricting commission hearings are attached.

Redistricting Institute Resources

The New York Census and Redistricting Institute has archived many resources for the public to view on our Digital Commons Page.

Our Redistricting Resources page contains resources on the John R. Lewis Voting Rights Act. You can access the page

here: https://digitalcommons.nyls.edu/redistricting_resources/

Archived Roundtable Updates can be accessed

here: https://digitalcommons.nyls.edu/redistricting_roundtable_updates/

Please share this weekly update with your colleagues. To be added to the mailing list, please contact Jeffrey.wice@nyls.edu