



July 19, 2021

Mayor James J. Fiorentini
Haverhill City Council
Haverhill City Hall
4 Summer Street,
Haverhill MA, 01830

Re: At-Large Method of Electing Haverhill's City Council and School Committee

Dear Mayor Fiorentini and City Councilors:

Cities across Massachusetts have been steadily moving away from all “at-large” electoral systems for electing their city councils and school committees. Haverhill is one of a dwindling number of cities that maintains such a system. In addition to other policy reasons why a change from an all at-large electoral system is necessary, we write today to highlight that this feature of Haverhill’s current electoral system dilutes the vote of Haverhill’s communities of color in a way that makes it vulnerable to a challenge under the federal Voting Rights Act. For that reason, we encourage the City to immediately take concrete steps to voluntarily change its method of electing the City Council and School Committee.

Lawyers for Civil Rights (LCR) is a non-profit legal organization that fosters equal opportunity and fights discrimination on behalf of people of color and immigrants. As part of that work, we regularly engage in litigation and other advocacy to protect equal voting rights on behalf of our client communities. In Haverhill, we work closely with organizations and individuals representing communities of color, especially the Latino Coalition, an organization whose mission is to inspire and empower Haverhill’s Latinx residents to be active members of the local community.

Prior to the pandemic, we were engaged in critical discussions about Haverhill’s electoral system, including at a well-attended Neighborhood Representation Meeting held at Harbor Place on January 23, 2020. At that time, there was a growing consensus that voluntary change was advisable – with several of you voicing support for such a move. While those conversations were paused when the pandemic hit, now is the time for the City Council to take concrete steps to address this issue.

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Background

As you know, Haverhill's nine-member City Council and seven-member School Committee (six elected to School Committee, plus the Mayor) are both currently elected all at-large. CITY OF HAVERHILL, CHARTER, § C-50; § C-31. This type of electoral system is vulnerable to challenge under the federal Voting Rights Act. 52 U.S.C. § 10301(a). Courts have consistently found that when all of a public body's seats are elected city-wide, that can dilute the vote of communities of color, allowing a majority voting bloc to win 100% of the seats in 100% of the elections and depriving communities of color of equal voting opportunity. *See, e.g., Metts v. Murphy*, 363 F.3d 8, 10 (1st Cir. 2004) (noting that such a system has "an obvious potential to submerge the electoral power of even a substantial and cohesive minority bloc.").

As a result, elected bodies under such systems often fail to reflect the diversity of the community, and issues of importance to communities of color are neglected or ignored.

Evidence That Haverhill's Electoral System Is Diluting the Vote of Communities of Color

There is strong evidence to indicate that this is exactly what is occurring in Haverhill. The City is extremely diverse – and becoming more so with each successive year. Census estimates show that communities of color account for nearly 30% of the City's population, with significant numbers of Latinx residents (23%) in particular – numbers that are likely to increase even further when Census 2020 data is released later this year. The Haverhill Public Schools are even more diverse than the City as a whole, with approximately 50% students of color (40% Latinx).

By contrast, the City Council and School Committee do not remotely reflect this diversity; both bodies are all white and have been so for virtually all of Haverhill's history. Moreover, voting patterns indicate that, were candidates of color allowed to run in ward- or district- based as opposed to city-wide elections, such candidates would win. This in turn would enhance diversity on Haverhill's elected bodies and help ensure the accountability and responsiveness to Haverhill's communities of color that are currently lacking.

As you may know, the City of Lowell, Massachusetts recently settled a federal Voting Rights Act lawsuit brought by our organization on behalf of Asian-American and Latinx voters, which raised nearly identical issues. *Huot et al. v. City of Lowell et al.*, 1:17-cv-10895 (D. Mass. 2017). Like Haverhill, Lowell had an electoral system in which all candidates ran city-wide. Also like Haverhill, Lowell is extremely diverse yet had not seen that diversity reflected in its elected bodies over the years. Although Lowell had been presented with many opportunities to voluntarily change its system, it consistently refused to do so, ultimately forcing communities of color to bring a lawsuit to compel change. After years of costly litigation, the City settled the case in May 2019 and is now in the process of changing to a more fair and inclusive electoral system that will begin with the November 2021 elections. *See* WBUR, *A Lawsuit Challenged Lowell's Voting System. 2 Years Later, the City Agreed to Change It*, May 29, 2019 (available at <https://www.wbur.org/news/2019/05/29/lowell-voting-rights-lawsuit-at-large-system>).

Similarly, the City of Worcester is currently facing a Voting Rights Act lawsuit brought by our organization earlier this year on behalf of Latinx and Black residents regarding its method of electing its School Committee. *Worcester Interfaith et al. v. City of Worcester*, 4:21-cv-40015 TSH (D. Mass.).

Other municipalities have learned from the mistakes of Lowell and have taken proactive steps to change their electoral systems voluntarily. For example, after our organization raised similar concerns to the City of Everett about its at-large electoral system, the City Council voted to change the system without the need for a lawsuit. See BOSTON GLOBE, *How Underrepresented Candidates in Mass. Communities Can Be Squelched By Electoral Systems*, Jan. 26, 2021 (available at <https://www.bostonglobe.com/2021/01/26/metro/how-underrepresented-candidates-mass-communities-can-be-squelched-by-electoral-systems/>). We encourage Haverhill to similarly enact voluntary change. Over time, a more fair and equitable system would be expected to increase the diversity of Haverhill's City Council and School Committee as well as the responsiveness of those bodies to the City's communities of color, thereby strengthening the City as a whole.

In other instances where our organization has sent a demand letter such as this one, we and community allies have subsequently met and spoken with city officials and/or counsel to further discuss our concerns; the potential legal liability; and what concrete steps can be taken towards an acceptable alternative system. If you are interested in having that discussion to explore an expedited and amicable resolution, please let us know by August 6, 2021. We can be contacted by email at osellstrom@lawyersforcivilrights.org or by phone at (617) 988-0608.

Sincerely,

/s/ Ivan Espinoza-Madrigal

IVÁN ESPINOZA-MADRIGAL

Executive Director

OREN M. SELLSTROM

Litigation Director

cc: William Cox, City Solicitor
The Latino Coalition of Haverhill
Representative Andy Vargas